

## **COUNCIL ASSESSMENT REPORT**

Panel Reference	PPSSNH-454
DA Number	LDA2023/0334
LGA	City of Ryde
Proposed Development	Amending Development Application to LDA2022/0390. Amendments include reconfiguration of the ground plane, increased height of the tower building, deletion of Building 3 and internal and external changes to the approved buildings.
Street Address	5 Halifax Street, Macquarie Park, Lot 110 DP 1224238
Applicant/Owner	The Trustee for Lachlan's Line D1 Unit Trust (Landmark)
Date of DA lodgement	21 December 2023
Total number of unique submissions	One submission received objecting to the application
Recommendation	Approval
Regionally Significant Development (Schedule 6 of the SEPP (Planning Systems) 2021)	General development over \$30 million. Cost of works: \$88,460,000 excluding GST
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> <li>• Water Management Act 2000</li> <li>• Environmental Planning and Assessment Act 1979</li> <li>• Environmental Planning and Assessment Regulation 2021</li> <li>• State Environmental Planning Policy (Housing) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• State Environmental Planning Policy (Industry and Employment) 2021</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• State Environmental Planning Policy (Planning Systems) 2021</li> <li>• State Environmental Planning Policy (Sustainable Buildings) 2022</li> <li>• Ryde Local Environmental Plan 2014</li> <li>• Ryde Development Control Plan 2014</li> <li>• Ryde Section 7.11 Development Contributions Plan 2020</li> </ul>
List all documents submitted with this report for the Panel's consideration	Attachment 1: Proposed Architectural Plans Attachment 2: Proposed Landscape Plans Attachment 3: Assessment against ADG & DCP Attachment 4: Recommended Conditions of Consent Attachment 5: Conditions of consent and approved plans for LDA2022/0390
Clause 4.6 requests	None
Summary of key submission issues	<ul style="list-style-type: none"> <li>• Overshadowing</li> </ul>
Report prepared by	Shannon Butler – Senior Town Planner
Report date	31 July 2024

<b>Summary of s4.15 matters</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the Assessment report?	Yes
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	Yes
<b>Clause 4.6 Exceptions to development standards</b> 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?	Not applicable
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (S7.24)?	Not applicable
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	Yes

## 1. EXECUTIVE SUMMARY

This report considers an amending development application under Section 4.15 of the *Environmental Planning and Assessment Act (EP&A) 1979* on land at 5 Halifax Street, Macquarie Park, which is legally described as Lot 110 DP 1224238. This application is classed as integrated development under the Water Management Act 2000 as the construction of the basement will involve dewatering therefore requiring referral to Water NSW.

The consent authority is the Sydney North Planning Panel under the EP&A 1979 as the capital investment value exceeds \$30 million.

The subject amending DA seeks to utilise the provisions of Section 4.17(1)(b) of the EP&A Act such that, at the issuance of a development consent for the subject application, LDA2022/0390 will be amended to ensure that the two Concept DA consents are consistent with each other and may operate simultaneously over the site.

The subject development application (LDA2023/0334) was lodged on 21 December 2023 and seeks consent for alterations and additions to the works approved under Development Consent No. LDA2022/0390 which was granted by the Sydney North Planning Panel on 28 July 2023. The application seeks consent for the following changes from the initial consent:

- Reduction in overall quantum of apartments from 304 to 299 by the provision of larger apartments in response to market demands for housing.
- Deletion of Building 3 and the approved Mews Road and basement entry at the rear of Building 3, and replacement of these elements with landscaping.
- Public domain amendments including relocation of existing driveway crossover from the southern end of the site to centrally along the site frontage,

relocation of existing pedestrian crossing on Halifax Street, including associated amendments to kerb and guttering, linear park and signage.

- Modification to the ground floor design of Building 2 to absorb the substation that was previously in the ground floor of Building 3.
- Various reconfigurations to the basement levels:
  - A new driveway entry into the basement directly from the front boundary
  - Basement levels 1 and 2 now align with the northern alignment of approved basement levels 3 to 5
  - Minor expansion of basement levels 1 to 4 to the east and removal of basement level 5
  - Increase in residential parking provision from 263 spaces to 267 spaces
  - Relocation of all car share spaces to be within the basement.
- Additional half floor plus one full floor to Building 1 (30 storeys in total).
- Reconfiguration of layout of apartments at the eastern end of Building 1 to introduce a more articulated 'stepped' design to the eastern end of the floorplate to achieve an improved amenity outcome and architectural expression for this end of the tower.
- Addition of AC condensers to balconies which are appropriately located so as not to be visible from the public domain.
- Refinement to the facades and architectural expression of the tower.
- Change from a tanked basement to a drained basement.

The following table provides a comparison between the originally approved development and the proposal:

Component	Approved under LDA2022/0390	Proposed in Subject Application
Site Area	6,397m <sup>2</sup>	6,397m <sup>2</sup>
Site Preparation	Earthworks, grading and removal of 16 trees.	Earthworks, grading and removal of 14 trees within the site.
Scale	Building 1: 91.6m (29 storeys) Building 2: 24.53m (6 storeys) Building 3: 20.53m (6 storeys)	Building 1: 96.05m (30 storeys) Building 2: 24.53m (6 storeys)
Floor Space	Building 1: 21,958.8m <sup>2</sup> Building 2: 2,294.2m <sup>2</sup> Building 3: 1,253.4m <sup>2</sup> Total GFA: 25,505.6m <sup>2</sup> Floor Space Ratio: 3.98:1	Building 1: 23,402.1m <sup>2</sup> Building 2: 2,222.2m <sup>2</sup> Total GFA: 25,624.3m <sup>2</sup> Floor Space Ratio: 4.00:1
Basement Parking	Provision of 297 parking spaces contained within five (5) levels of basement and two additional car share spaces on the Mews Road. Car parking comprised:	Provision of 303 parking spaces contained within four (4) levels of basement. Car parking indicated on the plans comprises: <ul style="list-style-type: none"> <li>• Residential: 267 spaces</li> </ul>

Component	Approved under LDA2022/0390	Proposed in Subject Application
	<ul style="list-style-type: none"> <li>Residential: 263 spaces</li> <li>Visitors: 30 spaces</li> <li>Car Share: 6 spaces (comprising 2 spaces external to the building on the Mews road and 4 within the basement).</li> </ul>	<ul style="list-style-type: none"> <li>Visitors: 30 spaces</li> <li>Car Share: 6 spaces (all car share spaces located in the basement)</li> </ul>
Apartments	Total 304 apartments	Total 299 apartments
Dwelling Mix	1 Bedroom: 80 (27%) 2 Bedroom: 197 (65%) 3 Bedroom: 27 (9%)	1 Bedroom: 63 (21%) 2 Bedroom: 204 (68%) 3 Bedroom: 32 (11%)
Communal Open Space Areas	<ul style="list-style-type: none"> <li>3,127.6m<sup>2</sup> of communal open space at ground level.</li> <li>359m<sup>2</sup> of communal open space at podium level on Building 2.</li> <li>223.8m<sup>2</sup> of sky gardens and other communal open space within Building 1</li> <li>Total: 3,710.4m<sup>2</sup> (58%)</li> </ul>	<ul style="list-style-type: none"> <li>3,679m<sup>2</sup> of communal open space at ground level.</li> <li>359m<sup>2</sup> of communal open space at podium level on Building 2.</li> <li>210.9m<sup>2</sup> of sky gardens and other communal open space within Building 1.</li> <li>Total: 4,249.8m<sup>2</sup> (67.7%)</li> </ul>
Tree Removal/Retention	<ul style="list-style-type: none"> <li>One tree within the site to be retained and 14 trees external to the site but in close proximity to be retained and protected during works.</li> <li>16 trees within the site to be removed and 23 trees within the linear park are to be removed as they are located adjacent to the front boundary and are not compatible with a nil front setback.</li> </ul>	<ul style="list-style-type: none"> <li>One tree within the site is proposed to be retained and 14 trees external to the site but in close proximity to be retained and protected during works.</li> <li>14 trees within the site are proposed to be removed and 23 trees within the linear park are to be removed as they are located adjacent to the front boundary and are not compatible with a nil front setback.</li> </ul>
Public Domain Improvements	Works are proposed within the linear park located on the Halifax Street frontage to allow for suitable integration of the development with the park	Works are proposed within the linear park to construct a new driveway crossover through the park and remove the existing crossover for the mews road and reinstate this area to landscaped area. Further, it is proposed to relocate the existing pedestrian crossing to the south to allow for the new driveway crossover.

## Community notification and advertisement

The application was notified and advertised as lodged in accordance with Part 2.1 of *Ryde Community Participation Plan*. The applicant submitted amended documentation and plans in response to concerns raised by Council. It was deemed

that the minor changes outlined in these plans did not necessitate re-notification of the application.

A total of one (1) submission was received during the notification period raising the following key issue:

- *The amending development application results in additional overshadowing of the Civic Quarter (also known as the properties bounded by Wicks Road, Epping Road and the Lachlan's Line precinct. While the logic behind the re-distribution of the buildings' gross floor area is understood, additional amenity impacts on our clients' land holding is of concern. This is the second modification to the development application that will increase overshadowing to the Civic Quarter. With residential development planned for the Civic Quarter, the overshadowing impact resultant of this modification will compromise the solar access and visual amenity for future development. precinct-wide planning is well underway for the Macquarie Park Innovation Precinct, with the Stage 1 rezoning proposal soon to be finalised and the exhibition of Stage 2 expected early this year. The Civic Quarter comprises a critical component of Macquarie Park Stage 2, being a significant landholding in a key, gateway location. Therefore, it is critical to safeguard the amenities of this landholding as to ensure its contribution towards the overall precinct master planning and Transport Oriented Development program.*

#### **Section 4.15 Assessment Summary**

The State Significant Development (SSD) 5093 approval comprised the following:

- The subdivision of the parent lot into 12 development lots, five public open space lots and two public road lots.
- Allocation of a maximum gross floor area to each of the development lots.
- Infrastructure, civil works and landscaping.

The proposal is generally consistent with the requirements set out in the SSD approval. The proposal also complies with the planning requirements under the Ryde Local Environmental Plan (LEP) 2014, except for the floor space ratio control where the maximum gross floor area for the site was set by the SSD approval.

SSD 5093 approved a maximum GFA for the site of 25,626m<sup>2</sup>. The proposal has a GFA of 25,624.3m<sup>2</sup> and therefore complies with the maximum permitted GFA under the SSD approval. It is noted that in accordance with Section 4.24(4) of the Environmental Planning and Assessment Act 1979, a consent authority must determine subsequent applications submitted under Section 4.22(4)(a) consistently with the approved staged consent. The development contravenes Clause 4.4(2) of RLEP 2014, which establishes three maximum floor space ratios for the site being 1.39:1, 3:1 and 3.5:1.

Whilst the applicant provided a precautionary Clause 4.6 request for LDA2022/0390, there has since been a relevant decision in the NSW Land and Environment Court in the matter of *Karimbla Properties (No. 59) Pty Ltd v City of Parramatta Council (2023) NSW LEC 1365*. The Court held that as the determination of a subsequent development application for the detailed proposal of a site cannot be inconsistent with the concept development consent under Section 4.24(2) of the EP&A Act 1979, a

Clause 4.6 request is not required for a development proposal which is consistent with a concept plan approval which already envisages that the standard will be breached. Hence, a Clause 4.6 request is not considered to be necessary in this instance.

Under RLEP 2014, the site is subject to three maximum building height controls being 33m, 75m and 99m. The proposal achieves compliance with the respective building height controls of RLEP 2014.

Detailed consideration of the proposal against the Apartment Design Guide (ADG) is provided within **Attachment 4**, as required by Clause 147(1)(b) of SEPP (Housing) 2021. In the assessment report for LDA2022/0390, non-compliances relating to building depth and building separation were addressed. The subject amending DA does not introduce any new non-compliances and does not exacerbate the non-compliances relating to building depth and building separation.

It is noted that Modification 6 to the SSD consent was approved on 8 July 2024 which increases the GFA cap for the site from 25,626m<sup>2</sup> to 31,646m<sup>2</sup> and the amended documentation submitted with the application suggests that this additional GFA could be delivered by way of an additional seven (7) storey building on the northern portion of the site. In the event of a seven (7) storey building being proposed on the northern portion of the site, this would result in implications on compliance with the ADG in relation to building separation, communal open space, deep soil zones and solar and daylight access. It is noted that a future building would be subject to a separate development application to Council, at which time the impacts of that additional building on the proposed scheme could be assessed.

The proposal satisfies the objectives and controls in the Ryde Development Control Plan 2014. Whilst the North Ryde Station Precinct DCP takes in the subject site, it is of limited relevance as it predates the SSD approval for the precinct. Following the SSD approval, Council developed the Lachlan's Line Urban Design Guidelines (LLUDG) which sets out Council's intent considering the parameters set by the SSD approval. The proposal results in non-compliances with the LLUDG in relation to the deletion of the Mews Road along the northern boundary and replacement with a centralized driveway off Halifax Street and in relation to the eastern boundary setback. These non-compliances are addressed in the report.

The applicant has appropriately responded to the requests for information and the proposal provides an appropriate design response to the issues raised throughout the assessment. Transport for NSW and Water NSW have issued their concurrence in support of the DA.

After consideration of the development against section 4.15 of the EP&A Act 1979 and the relevant statutory and policy provisions, the proposal is considered suitable for the site and is not contrary to the public interest.

The proposed application results in the orderly development of the site, in accordance with the planning strategy approved for the site under the SSD approval.

Consideration of technical matters by Council's engineering and landscaping departments has not identified any fundamental issues of concern, with any matters of concern recommended to be addressed via conditions of consent.

This report concludes that in its context, this development proposal can be supported in terms of the development's broader strategic context, function and overall public benefits. It is recommended that the application be approved subject to the conditions recommended in **Attachment 5**. These conditions have been reviewed and agreed to by the applicant.

## **2. APPLICATION DETAILS**

**Applicant & Owner:** The Trustee for Lachlan's Line D1 Unit Trust (Landmark)

**Capital Investment Value:** \$88,460,000 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. THE SITE AND LOCALITY**

The site is legally described as Lot 110 DP1224238 and is commonly known as 5 Halifax Street, Macquarie Park. The site is located within the Lachlan's Line Precinct, which was approved under a Concept State Significant Development Application (SSD 5093). **Figure 1** shows the site in the context of the Lachlan's Line Precinct.

The site has a total land area of 6,397m<sup>2</sup>. The site is a vacant allotment with a cross fall from the south-eastern corner of the site to the north-western corner of approximately 10.5m. The site contains scattered regrowth vegetation.

The site's eastern boundary is bordered by the M2 Motorway and the surrounding locality has numerous transport connection routes, with local bus stops, metro stations and classified road connecting the site to surrounding localities.

The site's western boundary interfaces Halifax Street and an associated Linear Park. The surrounding lots within the Lachlan Line Precinct are currently all vacant and the scheme represents the second development proposal within the approved concept plan (following the partial completion of the approved mixed-use development at No. 17 Halifax Street to the south of the subject site).

The surrounding locality comprises a range of land uses, with mixed-use developments towards the southwest, commercial core and business parks west, roads and cemeteries east and future residential land uses within the immediate vicinity of the site (north, south and west).

The site is zoned R4 High Density Residential under the Ryde Local Environmental Plan 2014 and is located within the Macquarie Park Corridor.

Photographs of the site and surrounds are at **Figures 1 to 4** below.





**Figure 1** – Location of the site outlined in orange and Lachlan's Line precinct denoted by yellow highlight)



**Figure 2** – View of the subject site from linear park





**Figure 3 – View of linear park looking south-east**



**Figure 4 – Existing driveway/crossover through linear park which is proposed to be removed and replaced with landscaping**

The site was created as part of a Concept SSD application that was approved by the Department of Planning and Environment (DPE). The Concept SSD application formed part of the activation precinct that was announced in 2013 by the then Minister of Planning.

On 6 March 2015, the Executive Director, Infrastructure and Industry Assessments, granted development consent for the Concept Proposal and Stage 1 infrastructure and services application (SSD 5093). The Concept Proposal permitted:

- subdivision of the parent lot into 12 allotments
- allocation of floor space for each of the created lots
- public open space, roads, and infrastructure works

As part of the documentation for the concept proposal, there was a block plan which provided indicative building footprints and heights for each of the lots. It is noted that this plan was not stamped as part of the approval and therefore does not have any significant weight in the assessment.

The Concept SSD and Stage 1 works have been completed, as such detailed Development Applications (DA) consistent with the approved masterplan can be subsequently lodged to Council.

Since the initial SSD consent was granted, it has been modified four times. None of the modifications resulted in any changes which impacted the subject site.

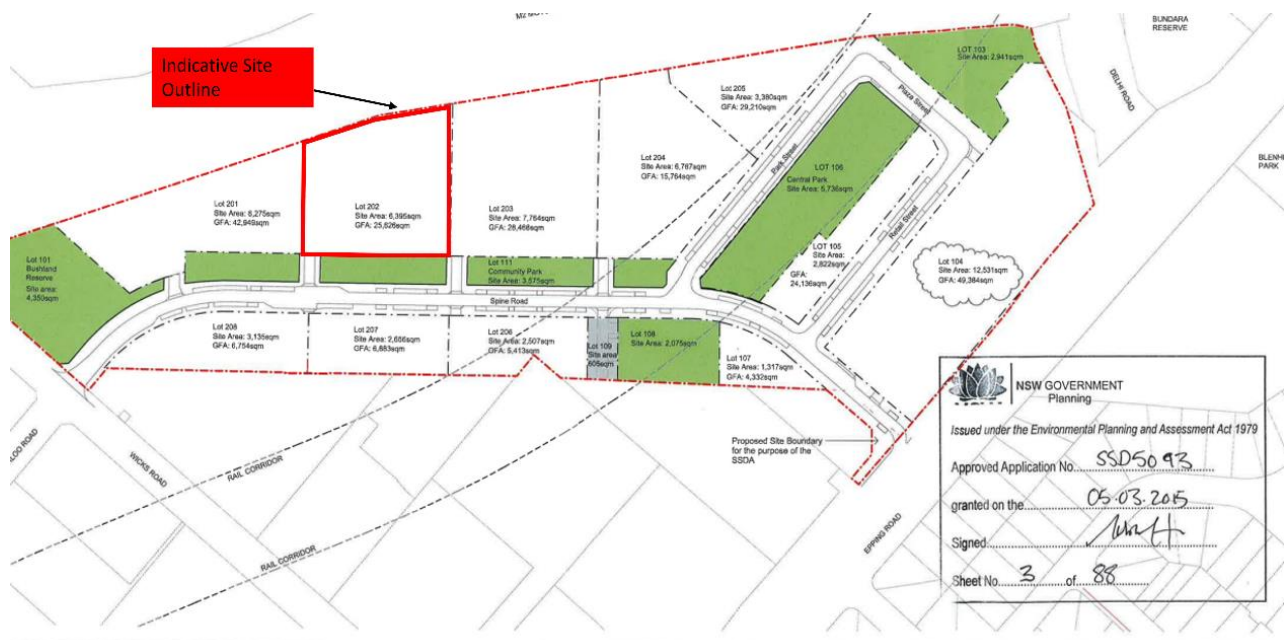


Figure 5 – Approved SSD Concept Plan showing allocated GFA's for each Lot

#### 4. THE PROPOSAL IN DETAIL (as amended)

##### Amending Development Application

The proposal seeks consent as an Amending DA to amend the approved consent on the site relating to the construction of three residential flat buildings with basement car parking (LDA2022/0390).

Section 4.17(1) of the EP&A Act states the following (**emphasis added**):

*4.17 Imposition of conditions (cf previous s 80A)*

*(1) Conditions—generally A condition of development consent may be imposed if—*

- (a) it relates to any matter referred to in section 4.15(1) of relevance to the development the subject of the consent, or*
- (b) it requires the modification or surrender of a consent granted under this Act or a right conferred by Division 4.11 in relation to the land to which the development application relates, or***
- (c) it requires the modification or cessation of development (including the removal of buildings and works used in connection with that development) carried out on land (whether or not being land to which the development application relates), or*
- (d) it limits the period during which development may be carried out in accordance with the consent so granted, or*
- (e) it requires the removal of buildings and works (or any part of them) at the expiration of the period referred to in paragraph (d), or*
- (f) it requires the carrying out of works (whether or not being works on land to which the application relates) relating to any matter referred to in section 4.15(1) applicable to the development the subject of the consent, or*
- (g) it modifies details of the development the subject of the development application, or*
- (h) it is authorised to be imposed under section 4.16(3) or (5), subsections (5)–(9) of this section or section 7.11, 7.12, 7.24 or 7.32.*

The subject Amending DA proposes amended conditions which will function to modify the existing development consent. The Amending DA does not serve to replace or override the existing consent, but to modify the conditions of the existing consent LDA2022/0390 under the provisions of Section 4.17(1)(b) of the EP&A Act.

Accordingly, it is intended that the two consents would operate simultaneously over the site, with the subject Amending DA conditions overriding the applicable conditions under LDA2022/0390. For clarity the unaffected conditions are also included in the recommended conditions (**Attachment 4**) which are relied upon for the Amending DA.

### **Subject Amending DA**

The subject development application seeks consent for alterations and additions to the works approved under Development Consent No. LDA2022/0390 which was granted by the Sydney North Planning Panel on 28 July 2023. The application seeks consent for the following changes from the initial consent:

- Reduction in overall quantum of apartments from 304 to 299 by the provision of larger apartments in response to market demands for housing.
- Deletion of Building 3 and the approved Mews Road and basement entry at the rear of Building 3, and replacement of these elements with landscaping.
- Public domain amendments including relocation of existing driveway crossover from the southern end of the site to centrally along the site frontage, relocation of existing pedestrian crossing on Halifax Street, including associated amendments to kerb and guttering, linear park and signage.
- Modification to the ground floor design of Building 2 to absorb the substation that was previously in the ground floor of Building 3.

- Various reconfigurations to the basement levels:
  - A new driveway entry into the basement directly from the front boundary towards the centre of the site.
  - Basement levels 1 and 2 now align with the northern alignment of approved basement levels 3 to 5.
  - Minor expansion of basement levels 1 to 4 to the east and removal of basement level 5.
  - Increase in residential parking provision from 263 spaces to 267 spaces.
  - Relocation of all car share spaces to be within the basement.
- Additional half floor plus one full floor to Building 1 (30 storeys in total).
- Reconfiguration of layout of apartments at the eastern end of Building 1 to introduce a more articulated 'stepped' design to the eastern end of the floorplate to achieve an improved amenity outcome and architectural expression for this end of the tower.
- Addition of AC condensers to balconies which are appropriately located so as not to be visible from the public domain.
- Refinement to the facades and architectural expression of the tower.
- Change from a tanked basement to a drained basement.

Component	Proposal
Site Preparation	Earthworks, grading and removal of 14 trees within the site and 23 trees within the linear park.
Scale	Building 1: 96.05m (30 storeys) Building 2: 24.53m (6 storeys)
Floor Space	Building 1: 23,402.1m <sup>2</sup> Building 2: 2,222.2m <sup>2</sup> Total GFA: 25,624.3m <sup>2</sup> Floor Space Ratio: 4.00:1
Basement Parking	Provision of 303 parking spaces contained within four (4) levels of basement. Car parking indicated on the plans comprises: <ul style="list-style-type: none"> <li>• Residential: 267 spaces</li> <li>• Visitors: 30 spaces</li> <li>• Car Share: 6 spaces (all car share spaces located in the basement)</li> </ul>
Apartments	Total 299 apartments
Dwelling Mix	1 Bedroom: 63 (21%) 2 Bedroom: 204 (68%) 3 Bedroom: 32 (11%)
Communal Open Space Areas	<ul style="list-style-type: none"> <li>• 3,679m<sup>2</sup> of communal open space at ground level.</li> <li>• 359m<sup>2</sup> of communal open space at podium level on Building 2.</li> <li>• 210.9m<sup>2</sup> of sky gardens and other communal open space within Building 1.</li> <li>• Total: 4,249.8m<sup>2</sup> (67.7%)</li> </ul>



Component	Proposal
Tree Removal/Retention	<ul style="list-style-type: none"> <li>One tree within the site is proposed to be retained and 14 trees external to the site but in close proximity are proposed to be retained and protected during works.</li> <li>14 trees within the site are proposed to be removed and 23 trees within the linear park are proposed to be removed as they are located adjacent to the front boundary and are not compatible with a nil front setback.</li> </ul>
Public Domain Works	Works are proposed within the linear park located on the Halifax Street frontage including the removal of the existing driveway crossing and replacement with landscaping, the construction of a new driveway crossover towards the centre of the site and the relocation of two lighting poles.

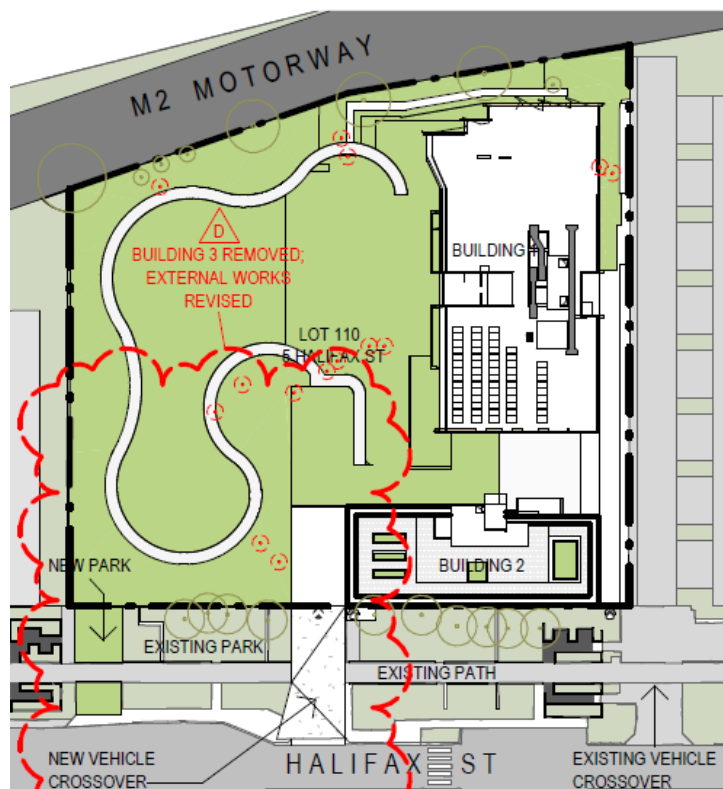


Figure 6 – Proposed site plan



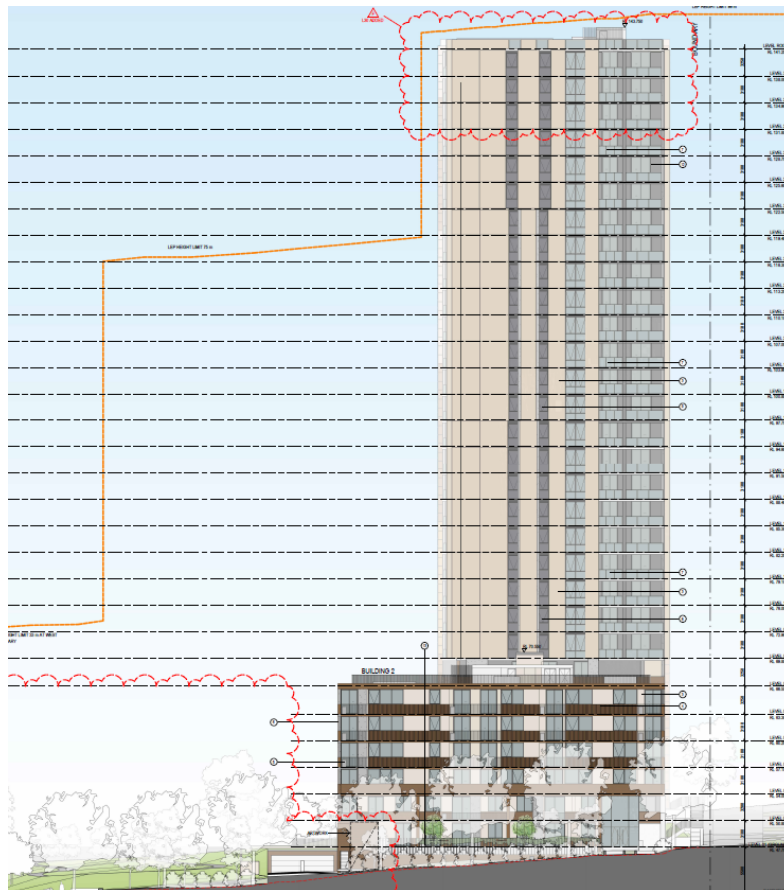


Figure 7 – West elevation

## Development Statistics

Use	Details
Residential	299 apartments
Apartment Mix Total	1 Bedroom: 63 (21%) 2 Bedroom: 204 (68%) 3 Bedroom: 32 (11%)
Apartment Mix In podium and each tower	Building 1: 272 apartments (53 x 1 bedroom, 187 x 2 bedroom, 32 x 3 bedroom)  Building 2: 27 apartments (10 x 1 bedroom, 17 x 2 bedroom)
Adaptable apartments	30 (10%)
Liveable 'Silver' apartments	63 (20%)
Parking	Provision of 303 parking spaces contained within four (4) levels of basement. Car parking indicated on the plans comprises: <ul style="list-style-type: none"> <li>• Residential: 267 spaces</li> <li>• Visitors: 30 spaces</li> <li>• Car Share: 6 spaces (all car share spaces located in the basement)</li> </ul>
Tree Removal/Retention	<ul style="list-style-type: none"> <li>- One tree within the site is proposed to be retained and 14 trees external to the site but in close proximity are proposed to be retained and protected during works.</li> <li>- 14 trees within the site are proposed to be removed and 23 trees within the linear park are proposed to be removed as they are located adjacent to the front boundary and are not compatible with a nil front setback.</li> </ul>

Waste Management and Collection	Dual chute systems, comprising a waste chute and recycling chute are proposed to be installed in each building core with access provided on each residential level. Council will be engaged to collect the residential waste and recycling in accordance with Council's collection schedule. Waste will be collected three times weekly, recycling twice weekly and food waste at least once weekly. On the nominated waste collection day, the building caretaker will be responsible for transporting the 1100L Mobile Garbage Bins (MGBs) and 660L MGBs from the chute discharge room and the 240L MGBs from the Communal Food Waste rooms to the Bin Holding Room. Extra 1100L and 660L service bins are to be placed under the chute to collect discharge while the other bins are being serviced.
Infrastructure and Services	Existing services and connections (electricity, telecommunications, gas, water and sewage) will be extended, expanded, and augmented as required.
Stormwater Management Measures	The proposal includes stormwater quality and quantity measures to address Council's drainage requirements. The proposal includes an OSD system to reduce site discharge, water quality devices to meet Council's pollutant reduction targets and rainwater reuse tanks to irrigate the proposed site landscaping.

## Modification 6 to SSD Concept Consent

Modification 6 to the SSD consent was approved by DPE on 8 July 2024 and results in the following modification relating to the subject site:

- (i) Increase the maximum Gross Floor Area (GFA) assigned to Lot 202 (now Lot 110) from 25,626m<sup>2</sup> to 31,646m<sup>2</sup>.

It is noted that the modification originally sought to increase the permitted GFA on the subject site from 25,626m<sup>2</sup> to 37,153m<sup>2</sup> but this was reduced during the assessment phase to 31,646m<sup>2</sup>. The amended documentation submitted with the application suggests that in the event of the modification being approved, this additional GFA could be delivered by way of an additional seven (7) storey building on the northern portion of the site.

It is noted that any further building on the northern portion of the site would be subject to a separate development application to Council and the impacts of that building on the subject development would be considered as part of the assessment of that further application.

## 5. HISTORY

### 5.1 Site History

The site and precinct have been subject to various approvals in recent years, which can be summarised in the following table:

Date	Application description
5 March 2015	A Concept State Significant Development (SSD) consent was granted by the Department of Planning and Environment (DPE) for the North Ryde Station Precinct. This approval included:

	<p><b>Concept Proposal</b></p> <ul style="list-style-type: none"> <li>• Subdivision of the site into development lots, public open space lots and public road lots.</li> <li>• Allocation of a maximum GFA to each of the development lots (total of 238,919m<sup>2</sup> across the site).</li> <li>• Infrastructure, civil works and landscaping.</li> </ul> <p><b>Stage 1 Development Works</b></p> <ul style="list-style-type: none"> <li>• Site preparation works including demolition, remediation and rehabilitation, bulk earthworks.</li> <li>• Superlot subdivision to create lots for public roads, public reserves and development.</li> <li>• Civil and public domain works including road and intersection construction, open space establishment and embellishment, pedestrian pathways and cycleways, drainage, public domain works and services infrastructure.</li> <li>• Construction of the Delhi Road pedestrian bridge.</li> </ul>
23 October 2015	Modification 1 to the SSD approval was granted by DPE for changes to the alignment of an existing gas main.
12 September 2016	<p>Modification 2 to the SSD approval was granted by DPE for the following elements:</p> <ul style="list-style-type: none"> <li>• To clarify the use of bonus floor space where affordable rental housing is provided.</li> <li>• To alter the final staging of the works.</li> <li>• To incorporate security bonds arrangements.</li> <li>• To allow additional works to enable the construction of the Delhi Road pedestrian bridge.</li> </ul>
25 July 2017	<p>Modification 3 to the SSD approval was granted by DPE for the following element:</p> <ul style="list-style-type: none"> <li>• Changes to Condition E4 to alter the timing for the completion and dedication of the pedestrian and cycle bridge.</li> </ul>
25 September 2018	<p>Modification 4 to the SSD approval was granted by DPE for the following elements:</p> <ul style="list-style-type: none"> <li>• Construction and use of a temporary pre-assembly shed for on-site assembly of the pedestrian bridge.</li> <li>• Removal of an additional 22 trees located in the construction footprint of the approved pedestrian bridge.</li> <li>• Changes to Condition E4 to alter the timing for the completion and dedication of the pedestrian and cycle bridge.</li> </ul>
28 July 2023	Development consent No. LDA2022/0390 was granted by the Sydney North Planning Panel for the construction of three residential flat buildings on the subject site.
7 August 2023	Modification 5 to the SSD approval was granted by DPE to increase the maximum GFA for Lot 117 only for future development which provides 100% affordable housing. The approval permits a total GFA of 10,263m <sup>2</sup> , up from the originally approved 5,413m <sup>2</sup> for this lot on the basis of the provision of 100% affordable housing.
8 July 2024	<p>Modification 6 to the SSD consent was approved by DPE and results in the following modification relating to the subject site:</p> <p>(ii) Increase the maximum Gross Floor Area (GFA) assigned to Lot 202 (now Lot 110) from 25,626m<sup>2</sup> to 31,646m<sup>2</sup>.</p>

	It is noted that the modification originally sought to increase the permitted GFA on the subject site from 25,626m <sup>2</sup> to 37,153m <sup>2</sup> but this was reduced during the assessment phase.
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## 4.2 Application History

21 December 2023	The subject amending DA was lodged with Council.
12 January 2024 until 11 February 2024	The subject application was notified and advertised in accordance with the Ryde Community Participation Plan. One submission in objection was received in response.
22 February 2024	A meeting was held between Council staff, the applicant and Council's Urban Design Review Panel to discuss the proposal.
19 March 2024	A request for additional information letter was sent to the applicant. The letter raised concern in relation to the deletion/relocation of the mews road as it was considered to be inconsistent with the SSD approval, required the amendment of the executed VPA applying to the site and the extent of works proposed within the linear park required Council's owner's consent. The letter also raised concern that the proposal represented an inferior outcome to that approved in LDA2022/0390 and requested that a further justification be provided for the proposed changes. The letter also requested additional information as to why no affordable housing was proposed when the LLUDG require the provision of a minimum of 5% affordable housing. The letter also outlined a number of traffic, waste and public domain issues and outlined comments from Council's Urban Design Review Panel.
18 April 2024	A partial response to Council's request for additional information letter was provided which comprised a covering letter from the applicant's planning consultant and legal advice on behalf of the applicant.
29 April 2024	A further response to Council's request for additional information letter was provided which comprised amended architectural plans, landscaping plans and civil engineering plans plus an addendum traffic impact assessment.
21 May 2024	An email was sent to the applicant advising that the deletion of the mews road and the driveway was not supported and outlining the reasons.
12 June 2024	An on-site meeting was held between Council staff and the applicant to further discuss the proposed deletion of the mews road and relocation of the driveway.
21 June 2024	An email was sent to the applicant outlining two issues raised by Council's Senior Development Engineer in relation to the design of the basement ramp and some car parking spaces.
25 June 2024	Amended civil plans, basement plans and landscaping plans were submitted by the applicant in response to Council's requests.

## **6. STATUTORY PROVISIONS**

### **6.1 Environmental Planning & Assessment Act 1979**

#### **Section 1.3 Objects of Act**

Section 1.3 of the EP&A Act 1979 contains the following relevant objects:

- (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,*
- (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 proposal is consistent with the relevant Objects of the Act. The proposed development provides for an appropriate built form which positively contributes to the overall architectural quality of the Macquarie Park Corridor and fits sensitively into the streetscape. The general nature of the proposed built form was envisaged for the subject site in the approval of the State Significant Development (SSD) for the subdivision.

#### **Section 4.24 of Act – Concept Development Applications**

Section 4.24 of the Environmental Planning and Assessment Act 1979 states the following in relation to the status of concept development applications and consents:

- (1) The provisions of or made under this or any other Act relating to development applications and development consents apply, except as otherwise provided by or under this or any other Act, to a concept development application and a development consent granted on the determination of any such application.*
- (2) While any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site.*



Part E of the Concept approval contains requirements that subsequent Development Applications need to address as outlined in the following table:

Condition in Part E of SSD Consent	Proposal
E1 The determination of any future development applications for Stage 2 is to be generally consistent with the terms of this consent.	The application is generally consistent with the terms of the SSD consent. Internal legal advice received during the assessment phase confirmed the consistency of the proposal with the SSD consent.
E2 Future Development Applications shall demonstrate that the development has been designed in accordance with the requirements of the North Ryde Station Precinct DCP (NRSP DCP) and achieves the vision for the North Ryde Station Precinct as set out in the NRSP DCP.	The development has been designed in accordance with the requirements of the NRSP DCP and the Lachlan's Line Urban Design Guidelines (LLUDG) which supersede the NRSP DCP and reflect the requirements of the SSD consent.
E3 Prior to the issue of any construction certificate for any part of Stage 2, all Stage 1 civil works are to be completed in accordance with this development consent, including all works associated with: <ul style="list-style-type: none"> <li>a) Road construction, site access and intersection upgrades.</li> <li>b) Open space embellishment.</li> <li>c) Pedestrian pathways and cycleways.</li> <li>d) Drainage; and</li> <li>e) Public domain works</li> </ul>	All Stage 1 civil works have been completed in accordance with the SSD consent. Notwithstanding this, the proposal includes works within the linear park associated with the mews road deletion and relocation of the driveway.
E4 The pedestrian/cycle bridge over Delhi Road must be completed in accordance with RMS requirements, dedicated to TfNSW, and open for public use prior to the issue of the first occupation certificate for any residential or commercial development forming part of Stage 2.	The pedestrian/cycle bridge over Delhi Road was opened for public use in May 2020.
E5 Future Stage Development Applications will be required to make Section 94 contributions towards the provision or improvement of public amenities and services as a condition of consent.	A condition of consent ( <b>Condition No. 23</b> ) is recommended requiring the payment of Section 7.11 (formerly Section 94) contributions prior to the issue of a construction certificate. These contributions have been adjusted based on the amended unit mix proposed in this application.
E6 Any planning agreement shall be executed prior to the lodgement of the first Stage 2 Development Application for retail or commercial development.	The applicant has not offered to enter into any Voluntary Planning Agreement for the development.
E7 Prior to the lodgement of the first Stage 2 Development Application to Council for retail or commercial development, a planning agreement in relation to regional transport infrastructure provision must be executed.	N/A – Proposal does not comprise any retail or commercial components.

E8 Prior to the issue of any construction certificate for any part of Stage 2, a parking management strategy for the site developed in consultation with TfNSW and in accordance with NRSP DCP must be submitted to and approved by Council.	A suitable parking management strategy forms part of the submitted Traffic Report which has been included in Condition No. 1 as a supporting document that is required to be complied with.
E9 Future Development Applications shall incorporate work place travel plans and car share scheme to be prepared in accordance with the NRSP DCP.	Conditions of consent are recommended requiring the preparation and submission of a Framework Travel Plan prior to the issue of an Occupation Certificate ( <b>Condition No. 151</b> ) and requiring a car share scheme to be implemented ( <b>Condition Nos. 57 and 150</b> ).
E10 Future Development Applications within the mixed use precinct shall incorporate high profile bicycle parking rate retail nodes and community facilities.	N/A – the site is not located within the mixed-use precinct.
E11 The lodgement of any future Development Applications for the development of the newly created allotments which involve ground penetration above or within 25 metres of the rail corridor shall be accompanied by documentation required by Sydney Trains and require concurrence from Sydney Trains pursuant to Clause 86 of SEPP (Infrastructure) 2007.	The application does include ground penetration but not within 25m of the Sydney Metro corridor.
E12 Future Stage 2 Development Applications must incorporate ESD principles in the design, construction and on-going operation phases of the development, including compliance with the Integrated Water Management Plan for the site.	An Energy Efficiency and Ecologically Sustainable Design Report was submitted with the application and is referred to in <b>Condition No. 1</b> as a document that is required to be complied with.
E13 This approval does not exempt future applications from the need for on-site detention (OSD) provision. Future applicants may seek an exemption from OSD provision as part of future applications, having regard to Ryde Council's requirements for stormwater management.	An on-site detention system is proposed to be incorporated into the development.

## Water Management Act 2000

The application is classed as Integrated Development as the development requires approval by Water NSW under Section 90 of the Water Management Act 2000 due to the proximity of the proposed basement to the groundwater table and the extent of excavation that is proposed. It is noted that Development Consent No. LDA2022/0390 provided for a tanked basement design and that the subject amending DA proposes a drained basement design. Water NSW provided concurrence and General Terms of Approval (GTA) on 16 April 2024. **Condition No. 10** of the recommended conditions of consent requires compliance with the Water NSW GTA's.

## **6.2 Section 4.15 Matters for Considerations - General**

### **(a) The provisions of**

#### **(i) Any environmental planning instrument:**

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

- State Environmental Planning Policy (Planning Systems) 2021;
- State Environmental Planning Policy (Sustainable Buildings) 2022;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- State Environmental Planning Policy (Industry and Employment) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Housing) 2021;
- Ryde Local Environmental Plan 2014;

#### **State Environmental Planning Policy (Planning Systems) 2021 – Chapter 2 State and Regional Development**

This SEPP categorises this proposal as a ‘General Development over \$30 million’ under Schedule 6 Regionally Significant Development. The proposal is required to be determined by the Sydney North Planning Panel in accordance with section 4.7 of the EP&A Act 1979.

#### **State Environmental Planning Policy (Sustainable Buildings) 2022**

State Environmental Planning Policy (Sustainable Buildings) 2022 applies to the development and aims to encourage sustainable residential development.

A BASIX certificate accompanies the development application and demonstrates that the proposal achieves compliance with the BASIX water, energy and thermal efficiency targets.

#### **State Environmental Planning Policy (Resilience and Hazards) 2021 - Chapter 4 Remediation of Land**

This SEPP aims to *‘provide a State-wide planning approach to the remediation of contamination of land.’* Clause 4.6 of this SEPP requires Council to consider whether the site is contaminated, and if so whether it is suitable for the proposed development purpose.

A Preliminary Site Investigation Report, prepared by EP Risk dated 22 November 2022, determined that the site can be made suitable for high-rise residential land use in accordance with this SEPP.

The report identified that the site could contain potential sources of minor contamination from asbestos and construction materials present within fill on the site, due to previous remediation already occurring on the site.

There was also a low potential for the migration of contaminated groundwater from off-site hydraulically upgradient sources, including Rawson Printing, immediately west of the site. However, soil data, and the site history indicated no evidence that significant groundwater contamination is likely to have occurred.

The proposal necessitates the excavation of a basement carpark, which requires waste classification for all off-site disposal of fill along with the management of any unexpected contamination finds during the development under a Construction Environmental Management Plan (CEMP). A condition of consent has been recommended in relation to the preparation of a CEMP (**Condition No. 60**).

Based on the findings of the assessment, and subject to the proposed development proceeding, the site can be made suitable for high-rise residential land use in accordance with the State Environmental Planning Policy (Resilience and Hazards) 2021.

## **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

### Chapter 2 Vegetation in non-rural areas

Chapter 2 of this SEPP provides approval pathways for the removal of vegetation in non-rural areas and matters for consideration in the assessment of applications to remove vegetation. The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation. According to Council's Environmentally Sensitive Areas map the site is not mapped as containing any vegetation of significance.

### Chapter 6 Water Catchments:

This Chapter applies to the whole of the Ryde Local Government Area. The aims of the Plan are to consider the impact on water quality and quantity; aquatic ecology; periodic flooding that benefits wetlands and other riverine ecosystems; and recreational land uses.

Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal. The objective of improved water quality is satisfied as the Proposed Stormwater Plans and Stormwater Management Report that accompany the DA are capable of complying with Part 8.2 Stormwater Management of Ryde DCP 2014.

## **State Environmental Planning Policy (Transport and Infrastructure) 2021**

### Division 17 Roads and Traffic: Subdivision 2 Development in or adjacent to road corridors and road reservations

#### *Clause 2.119 Development with frontage to classified road*

Under Clause 2.119 the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—
- (i) the design of the vehicular access to the land, or
  - (ii) the emission of smoke or dust from the development, or
  - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The site is located adjacent to the M2 Motorway which is a State Classified Road. The primary vehicular access to the site is off Halifax Street, which is a Council road located off Wicks Road. The proposal includes the construction of a driveway off Halifax Street and the deletion of the initially approved mews road. As the proposal includes the provision of vehicular access by way of a road other than the classified road, the requirements of clause 2.119 are satisfied.

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

Before determining a DA for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.

If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq measures are not exceeded:

- In any bedroom in the building – 35 dB(A) at any time between 10pm and 7am
- Anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40dB(A) at any time.

The site is adjacent to the M2 Motorway which is a State Classified Road. The accompanying DA Acoustic Assessment prepared by Acoustic Dynamics includes recommendations to ensure compliance with the appropriate noise levels for residential development, measures relating to the mechanical plant, air conditioning units, kitchen/toilet exhaust fans, residential lifts and car park roller door shutter. **Condition No. 21** is recommended which requires compliance with the measures outlined in the acoustic report.

#### *Clause 2.121 Excavation in or immediately adjacent to corridors*

The proposal includes excavation greater than 3m in depth within the subject site. All excavation works are clear of the adjoining M2 Motorway. The application was referred to Transport for NSW for consideration, and no objection was raised.



## *Clause 2.122 Traffic-generating development*

Under this clause, the consent authority must not grant consent to development on land for residential accommodation for 75 or more dwellings or 50 car parking spaces where the site has access to the road unless it is satisfied that:

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

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

*(b) take into consideration—*

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

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

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

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

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

The application was referred to TfNSW and no objection was raised. TfNSW provided recommended conditions of consent (see **Condition 11**).

## **State Environmental Planning Policy (Housing) 2022**

On 14 December 2023, SEPP No. 65 – Design Quality of Residential Apartment Development was repealed and was replaced with Chapter 4 of SEPP (Housing) 2022. The subject application was lodged on 21 December 2023 and is therefore required to be assessed against Chapter 4.

The Chapter applies to development for the purposes of residential flat buildings that are three storeys in height or greater.

Clause 145 of the SEPP outlines that before determining the development application, the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development.

The following table outlines the comments of Council's Urban Design Review Panel in response to the nine design criteria of the SEPP and the commentary on amendments, as provided by the applicant in response to the comments:

Comments of UDRP	Applicant's and Assessment Officer's comments
<p><b>Context and Neighbourhood Character</b></p> <p>It is understood that this application is a Modification Application of an approved DA which proposes the deletion of Building C and a corresponding redistribution of height into the tower volume.</p> <p>Although the modifications proposed do not significantly alter the approved design proposal, the Panel have concerns with the impact that the adjacent future building to the north will have on the site. In particular -the large open space allotment directly to the north notated as 'Deep Soil area' and considered as part of the communal and public offering of the site.</p> <p>Given the scope, scale and ambitions of the project, as well as its location, a much more detailed urban design analysis should be undertaken, to both understand the potential of the site and immediate urban context, as well as reply most effectively to those conditions, constraints and considerations. Instead of an after-the-fact summary of the proposal itself, the urban design study should act as the formative basis for the eventual responses, from massing, built form and spatial relationships through to access, activation and use. This study should realistically plot the future potential of the site and its interconnectivity within the precinct. This will impact at a minimum - ground plane connections, carparking and sun access into lower level apartments. It could also open up opportunities to connect through at the ground plane to create a better village hub across the two sites.</p> <p>The urban design study should take into account (and clearly illustrate within the documents) both current and future context. This is critical regarding the emerging development in the precinct and expected redevelopment in Macquarie Park. The study should include walkability, cycling, public transport, local retail, recreation and hospitality, educational institutions, etc. and should document what the "local context and character," actually are. These considerations should acknowledge not only form and massing, but also anticipated pedestrian entrances, vehicle and service accessways and through-block circulation zones.</p> <p>The urban design study should incorporate physical context (current and future, as noted above) and the spatial relationships created by the aggregate built form proposed both on and around the site. The study should build on the work of previously completed micro-</p>	<p><b>Applicant's comments</b></p> <p>The Panel must assess the merits of the subject proposal and not a hypothetical or potential future development outcome which does not form part of the subject proposal.</p> <p>A comprehensive Urban Design Study prepared by Bates Smart and Aspect Studios accompanied the original State Significant Development Application for the Lachlan's Line Precinct (SSD 5093).</p> <p>This proposal maintains all of the important elements of the approved development, and the nature of the proposed amendments does not warrant an entirely new urban design study.</p> <p><b>Assessment Officer's comments</b></p> <p>An urban design study is not considered to be warranted for the subject application as it is seeking amendments to the scheme approved in LDA2022/0390 and does not radically depart from what was approved in that application.</p> <p>It is not possible to consider a potential future building on the northern portion of the site as the SSD modification had only just been determined at the time of preparing this report. In the event of any future building being proposed, it would be subject to a separate development application at which time its impacts on the subject development would be considered.</p>

<p>mobility studies, and include current and anticipated pedestrian, cyclist, micro-mobility, service vehicle and car movement and access both on and around the site.</p>	
<p><b>Built Form and Scale</b></p> <p>The Panel notes that in principle, the deletion of Building C and redistribution of floor space to the tower volume will provide better solar access to ground floor communal space. However, as outlined above, the future potential of the northern site requires an Urban Design and Built Form study to ascertain site impacts.</p> <p>In particular, specific terminology and claims within the design documents needs to be substantiated in an evidentiary basis. Some examples:</p> <ul style="list-style-type: none"> <li>• What activates the “urban backyard?”</li> <li>• Where is the “social interaction?”</li> <li>• Where is the “multi-generational amenity?”</li> <li>• Where does the “communal place life” happen?</li> </ul> <p>The actual internal communal space for the development is poor – just a small room located at the end of a corridor, away from external space, building entries and access points.</p>	<p><b>Applicant’s comments</b></p> <p>A comprehensive Urban Design Study prepared by Bates Smart and Aspect Studios accompanied the original State Significant Development Application for the Lachlan’s Line Precinct (SSD 5093).</p> <p>This proposal maintains all of the important elements of the approved development, and the nature of the proposed amendments does not warrant an entirely new urban design study.</p> <p><b>Assessment officer’s comments</b></p> <p>It is not possible to consider a potential future building on the northern portion of the site as the SSD modification had only just been determined at the time of writing this report. In the event of any future building being proposed, it would be subject to a separate development application at which time its impacts on the subject development would be considered.</p> <p>The communal space room is consistent with that approved in LDA2022/0390 in terms of its location and is actually 3.7m<sup>2</sup> larger than approved.</p>
<p><b>Density</b></p> <p>Based on an understanding of the evolving demographics of area, much greater diversity in dwellings could be achieved including studios, townhouses, work-live units, two storey apartments and larger family sized apartments.</p>	<p><b>Applicant’s comments</b></p> <p>The proposal is for alterations and additions to an approved development and maintains a very similar mix of apartments. This application is not an opportunity for the Panel to reach back in time and retrospectively impose a new requirement in relation to apartment mix.</p> <p><b>Assessment officer’s comments</b></p> <p>The proposed apartment mix is similar to that approved in LDA2022/0390 and is actually an improvement as it increases the number of three bedroom apartments.</p>
<p><b>Sustainability</b></p> <p>ESD was not specifically addressed in the review. The Panel would expect a proposal of this scale and significance to exceed minimum BASIX targets, and to meet or exceed ADG targets for solar access, cross ventilation and sustainability in general.</p> <p>Additionally, the Panel encourages the establishment of ambitious sustainability targets, the potential for residential uses to encourage the</p>	<p><b>Applicant’s comments</b></p> <p>The proposal is for alterations and additions to an approved development and maintains the same approach towards ESD as that which was provided in the approved development.</p> <p><b>Assessment officer’s comments</b></p> <p>The subject amending DA does not dilute any of the sustainability measures approved in LDA2022/0390.</p>

<p>adoption of an 'all-electric' building including provision for EV charging.</p> <p>Large expanses of roof space can be utilised for solar panels and rainwater catchment with particular consideration given to the future running of the building. Additional measures should include rainwater reuse, deep soil planting, greenhouse gas reduction, GoGet car parking, electrical charging stations and ongoing strata commitments for commercial spaces.</p> <p>These commitments should be integrated into the design approach, clearly documented and outlined as part of the broader explanation of design excellence. Considerations for Connecting with Country should also form the underlying principles of the design excellence approach.</p> <p>Much of the sustainability seems outdated, confined to the purely operational, and with modest targets. An integrated sustainability approach should incorporate structural initiatives: shared laundries, recycling/repurposing rooms, shared kitchen/dining, study, workshop, etc. These refinements conserve resources (both energy and materials) by building less from the outset, while also fostering community interaction throughout the development.</p>	<p>It is noted that development consent No. LDA2022/0390 contains the following condition relating to electric vehicle charging which will be retained:</p> <p><b><i>Electric Vehicle Charging Points.</i></b> <i>Prior to the relevant Construction Certificate being issued, amended basement plans are to be submitted to the Principal Certifying Authority depicting Electric Vehicle charging points at a minimum rate of 10% of each category of parking (263 residential, 30 visitor and 6 car share) with a minimum 'Level 2' charging point consisting of single or three-phase point with a power range of 7kW-22kW, as defined by NSW Electric and Hybrid Vehicle Plan, Future Transport 2056 (21 January 2019). Further, capability is to be provided within the switchboards and cabling for all parking spaces to be converted in the future.</i></p> <p><i>(Reason: To ensure that the development adequately caters for owners of electric vehicles.)</i></p>
<p><b>Landscape</b></p> <p>As outlined in Context and Neighborhood Character, careful consideration is to be given to the ground floor communal spaces – particularly in relation to the adjacent potential future context. A range of communal spaces can be provided that activate and enhance this project, providing great amenity for residents. There should be more significant planting in the nominated deep soil area – this could begin to recover some of the idea of the local woodlands.</p> <p>Landscaped rooftop spaces also need to be carefully designed to provide adequate shade and a diversity of spaces. If possible, an area of rooftop communal space could also be provided on the eastern tower volume to ensure equity of communal spaces.</p>	<p><b>Applicant's comments</b></p> <p>The proposal provides for a significant increase in consolidated ground floor external communal open space with access to sunlight which can facilitate a range of recreational activities for residents, as well as a significant increase in deep soil planting. The ground floor communal space is a significant improvement on the approved design and is a highly resolved and well considered design response.</p> <p><b>Assessment officer's comments</b></p> <p>The subject application seeks to increase the extent of ground floor communal open space beyond that approved in LDA2022/0390. This may however change if a subsequent DA is lodged for the additional permitted GFA and this would be assessed as part of a future development application.</p>
<p><b>Amenity</b></p> <p>The proposed massing could be an acceptable change from the UD plan, but it needs to be supported by a highly permeable, accessible and diverse ground plane (in addition to the UD analysis noted above).</p>	<p><b>Applicant's comments</b></p> <p>The proposal is for alterations and additions to the already approved development LDA2022/0390, which was reviewed by the former Design Review Panel and assessed by the Council against the LLUDG and</p>

<p>Overall, the ground plane, including residential amenity, indoor and outdoor spaces, and a diverse range of possibilities, needs to be developed further.</p> <p>The Panel suggest the following items be considered:</p> <ul style="list-style-type: none"> <li>- Potential incorporation of two storey apartments at ground level to ensure better sunlight access and encourage resident connectivity between public and private spaces.</li> <li>- A landscaped buffer between Halifax Road and balcony edges to provide visual privacy.</li> <li>- Carefully designed and useable ground floor communal spaces. Presently the communal space has large carpark exhausts and structures on the northern boundary</li> <li>- The open space needs more structure and infrastructure, so that it can be used extensively: sports equipment, outdoor cinema gear, events infrastructure, and storage for all of this, readily accessible.</li> <li>- Ensure apartments are acoustically treated to ensure cross ventilation yet provide noise control</li> <li>- If possible, reposition apartment doors so they are not opposite lift doors</li> <li>- Review entry lobby and provide greater connection to landscaped spaces</li> <li>- Consider relocating the Communal Room to achieve better solar access and ventilation</li> <li>- Minimise snorkel apartments to ensure ADG compliance</li> <li>- Ensure light and ventilation is provided into all lobby and corridor spaces.</li> </ul>	<p>subsequently recommended by the Council for approval.</p> <p><b>Assessment officer's comments</b></p> <p>The proposal does not depart significantly from that approved in LDA2022/0390 in relation to the ground plane, residential amenity and outdoor spaces.</p>
<p><b>Safety</b></p> <p>No further comments were offered.</p>	
<p><b>Housing Diversity and Social Interaction</b></p> <p>Greater diversity in dwellings could be achieved including two storey apartments, larger family sized apartments.</p>	<p><b>Applicant's comments</b></p> <p>The proposal is for alterations and additions to an approved development and maintains a very similar mix of apartments. This application is not an opportunity for the Panel to reach back in time and retrospectively impose a new requirement in relation to apartment mix.</p>

	<b>Assessment officer's comments</b>  The proposed apartment mix is similar to that approved in LDA2022/0390 and is actually an improvement as it increases the number of three bedroom apartments.
<b>Aesthetics</b>  No further comments were offered.	

### Apartment Design Guide

Detailed consideration of the proposal against the Apartment Design Guide (ADG) is provided within **Attachment 4**, as required by Clause 147(1)(b) of SEPP (Housing) 2021. In the assessment report for LDA2022/0390, non-compliances relating to building depth and building separation were addressed. The subject amending DA does not introduce any new non-compliances and does not exacerbate the non-compliances relating to building depth and building separation.

It is noted that Modification 6 to the SSD consent has been approved which increases the GFA cap for the site from 25,626m<sup>2</sup> to 31,646m<sup>2</sup> and the documentation submitted with the application suggests that this additional GFA could be delivered by way of an additional seven (7) storey building on the northern portion of the site. In the event of a seven (7) storey building being proposed on the northern portion of the site, this would result in implications on compliance with the ADG in relation to building separation, communal open space, deep soil zones and solar and daylight access.

Given the uncertainty at the time of writing this report surrounding whether this additional building would be feasible, it is not possible to consider its impacts as part of this assessment. It is noted that any additional building would be subject to a future development application, at which time the impacts associated with this additional building on the subject development could be considered.

### **Ryde Local Environmental Plan (LEP) 2014**

Under the provisions of the Ryde LEP 2014, the site is zoned R4 High Density Residential and the proposal is for a residential flat building development, defined as follows:

***Residential flat building*** means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing.

Development for the purpose of a residential flat building is permissible with consent within the R4 High Density Residential zone.

The proposal satisfies the relevant objectives of the zone as discussed in the following table:

Objectives of the R4 High Density Residential zone	Comment
To provide for the housing needs of the community within a high density residential environment.	The proposal will contribute to meeting the housing needs of the community and is commensurate with a high density residential environment.
To provide a variety of housing types within a high density residential environment.	The proposal contributes to the provision of a variety of housing types and provides for a suitable mix of one, two and three bedroom units.
To enable other land uses that provide facilities or services to meet the day to day needs of residents.	Whilst the development is only for the purpose of a residential flat building, it is located in close proximity to facilities and services.

The proposal satisfies the relevant provisions of the Ryde LEP 2014 as discussed in the following table:

Ryde LEP 2014	Proposal	Compliance
<b>2.6 Subdivision-consent requirements</b>	No subdivision is sought in this application.	N/A
<b>4.3(2) Height</b> The site is subject to three maximum building height controls being: - 33m - 75m - 99m	Building 1: 96.05m maximum height (30 storeys) Building 2: 24.53m maximum height (6 storeys)	Yes



**Figure 8 – Ryde LEP 2014 Building Height map**



Ryde LEP 2014	Proposal	Compliance
<div data-bbox="576 293 1070 972" data-label="Image"> </div> <p data-bbox="245 992 1378 1048"><b>Figure 9</b> – Building height plane diagram depicting proposed buildings in relation to RLEP 2014 maximum building heights</p>		
<p data-bbox="204 1086 352 1115"><b>4.4(2) FSR</b></p> <p data-bbox="204 1120 692 1182">The site is subject to three maximum FSR controls being:</p> <ul data-bbox="204 1187 304 1283" style="list-style-type: none"> <li>- 1.39:1</li> <li>- 3:1</li> <li>- 3.5:1</li> </ul> <p data-bbox="204 1321 692 1485">However, the GFA allocation under the SSD approval is the applicable GFA control for the proposal. Under the SSD approval, the subject site has a GFA allocation of 31,646m<sup>2</sup>.</p> <p data-bbox="204 1523 692 1982">Whilst the applicant provided a precautionary Clause 4.6 request for LDA2022/0390, there has since been a relevant decision in the NSW Land and Environment Court in the matter of <i>Karimbla Properties (No. 59) Pty Ltd v City of Parramatta Council (2023) NSW LEC 1365</i>. The Court held that as the determination of a subsequent development application for the detailed proposal of a site cannot be inconsistent with the concept development consent under Section 4.24(2) of the EP&amp;A Act</p>	<p data-bbox="716 1086 1018 1120">Building 1: 23,402.1m<sup>2</sup></p> <p data-bbox="716 1124 1002 1158">Building 2: 2,222.2m<sup>2</sup></p> <p data-bbox="716 1162 1023 1196">Total GFA: 25,624.3m<sup>2</sup></p> <p data-bbox="716 1200 1051 1234">Floor Space Ratio: 4.00:1</p>	<p data-bbox="1096 1086 1422 1518">No, however, the proposal complies with the allocated GFA for the subject site under the SSD approval. Subject to the decision in <i>Karimbla Properties (No. 59) Pty Ltd v City of Parramatta Council (2023) NSW LEC 1365</i> a Clause 4.6 request is not necessary in this instance.</p>

Ryde LEP 2014	Proposal	Compliance
<p>1979, a Clause 4.6 request is not required for a development proposal which is consistent with a concept plan approval which already envisages that the standard will be breached. Hence, a Clause 4.6 request is not considered to be necessary in this instance.</p>		
<div data-bbox="252 504 1358 1205" data-label="Figure"> </div> <p data-bbox="533 1211 1091 1238">Figure 10 – Ryde LEP 2014 Floor Space Ratio Map</p>		
<p><b>5.10 Heritage Conservation</b></p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views,</p> <p>(c) To conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p>	<p>The site does not contain an item of heritage significance. However, it is located within the vicinity of the following items of heritage significance listed within Schedule 5 of the Ryde LEP 2014:</p> <ul style="list-style-type: none"> <li>• North Ryde Cemetery (Item No. 44)</li> </ul> <p>The site is at a suitable distance to this item and is separated by the M2 Motorway. Due to this separation; the proposed works are not considered to result in any material or</p>	<p>Yes</p>

Ryde LEP 2014	Proposal	Compliance
	<p>visual impacts on the heritage item.</p> <p>The application was referred to Council Heritage Officer and no objections were raised.</p>	
<p><b>6.2 Earthworks</b></p> <p>(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p>	<p>The proposed site preparation and construction works are not considered to result in any adverse detrimental impacts upon environmental functions and processes or neighbouring uses.</p> <p>The site is not located within close proximity to any cultural or heritage items.</p> <p>The development of the site, given its sloping nature involves appropriate levels of cut and fill which does not adversely impact the amenity of adjoining properties and is considered to be consistent with the provisions of Clause 6.2(3).</p>	Yes
<p><b>6.4 Stormwater management</b></p> <p>(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.</p>	<p>The proposal is consistent with the provisions of Clause 6.4(3) in that the proposal has been designed to maximise the use of permeable surfaces allowing for water filtration and avoids adverse impacts of stormwater runoff on adjoining properties and receiving waters.</p> <p>The proposal has been considered acceptable by Council's Senior Development Engineer.</p>	Yes

## **(ii) Any proposed instrument (Draft SEPP, Planning Proposal)**

There are no relevant proposed or draft instruments for consideration as part of the assessment.

## **(iii) Any development control plan**

### **Ryde Development Control Plan (DCP) 2014**

The proposal is subject to the provisions of the following parts of Ryde DCP 2014:

- North Ryde Station Precinct
- Part 7.2: Waste Minimisation and Management
- Part 8.1: Construction Activities
- Part 8.2: Stormwater and Floodplain Management
- Part 8.3: Driveways
- Part 9.2: Access for People with Disabilities
- Part 9.3: Parking Controls
- Part 9.5: Tree Preservation

A detailed assessment of the DCP is provided at **Attachment 3**. The proposal is consistent with the relevant objectives and development controls, with the exception of the following minor items:

#### North Ryde Station Precinct DCP and Lachlan's Line Urban Design Guidelines

The North Ryde Station Precinct DCP is subject to land within the Ryde Station Precinct and provides planning controls which applied prior to SSD 5093 being approved. Therefore, this DCP does not reflect the Concept approval (SSD 5093). The Lachlan's Line Urban Design Guidelines (LLUDG) were developed following the approval of SSD 5093 and set out Council's intent for the development of the precinct. **Attachment 3** details the compliance of the development with the Guidelines.

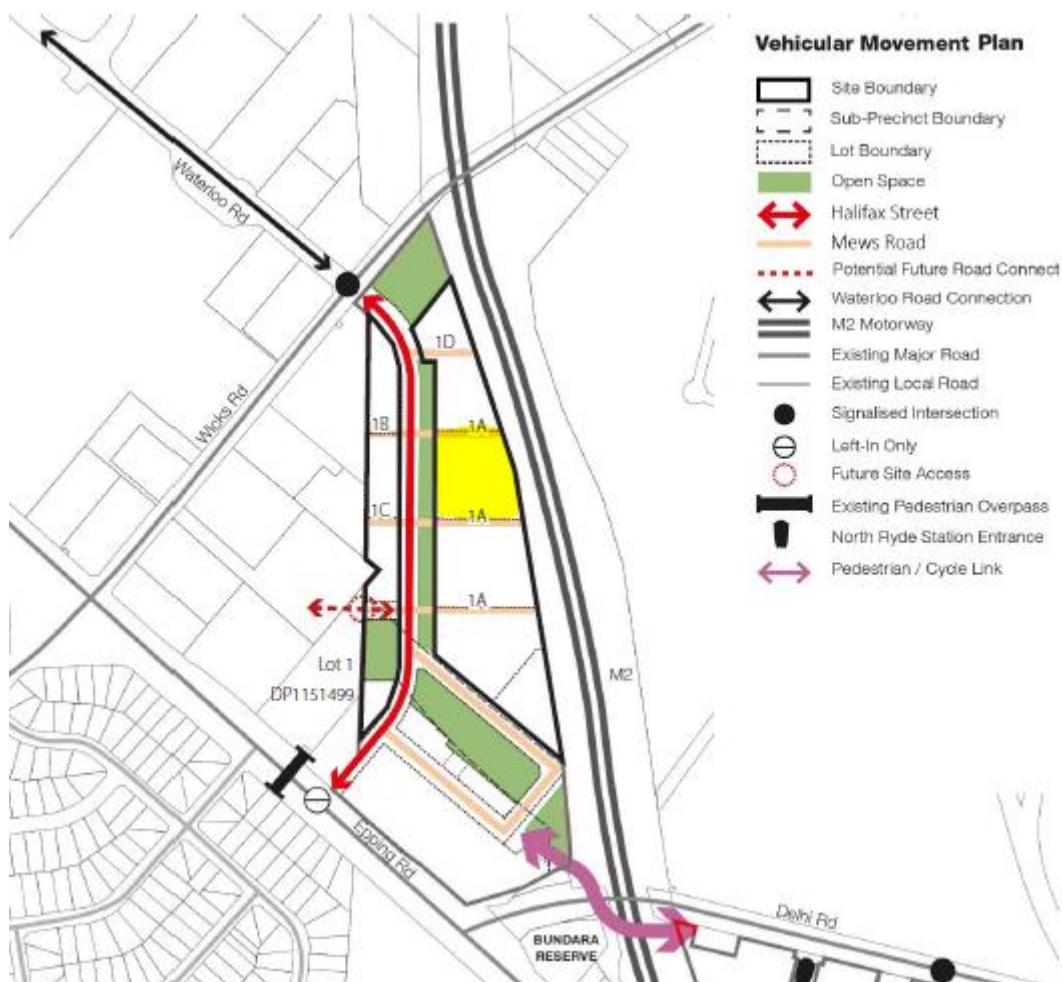
In the determination report for LDA2022/0390, a number of variations to the LLUDG were addressed relating to the length of the required Mews Road, building setbacks (to the northern and southern boundaries and in relation to some of the ground floor apartments fronting Halifax Street being raised more than one metre above the natural ground level. The subject application results in the deletion of the northern most building and therefore removes the northern setback non-compliance. However, the subject application results in the following new non-compliances:

#### **a) Circulation Networks (Mews Roads)**

The guidelines depict a requirement for the construction of Mews Roads on the Indicative Vehicle Movement Plan. These roads are intended to be private roads at the entry point to each individual development lot. They allow for the construction of vehicular access into the site and pedestrian footpaths, parking and entry into basement structures. They are also important in providing building separation between each development lot.

The guidelines contain the following controls relating to Mews roads that are not complied with given the proposed deletion of the Mews Road and replacement with a central driveway access point:

1. *Mews roads are to be included in the applications for the final built form on each development lot.*
2. *Mews roads must be constructed in accordance with the Vehicular Movement Plan as shown in **Figure 11**, which are consistent with the relevant State Significant Development Consent.*
3. *Any proposed modifications to the Vehicular Movement Plan in **Figure 11** must demonstrate that:*
  - i. The proposed changes meet the Objectives for this section;*
  - ii. Adequate vehicular and pedestrian connections can be provided in Lot 109 to the adjoining site (Lot 1, DP1151499);*
  - iii. Emergency access and servicing access are provided.*



**Figure 11 – Vehicular movement plan from LLUDG (the subject site is highlighted in yellow)**

The Guidelines permit modification from the Vehicular Movement Plan in Point 3 above, subject to the changes meeting the objectives of the section and emergency access and servicing being provided. The objectives of this section of the Guidelines are as follows:

- a. To provide for safe, clear and legible pedestrian, cycle and vehicular movements within the site for convenient access to rail infrastructure and surrounding areas.*
- b. To consider and accommodate future connection options to ensure the Precinct is integrated with surrounding areas.*
- c. To provide for a clear street hierarchy incorporating new connector and mews roads.*
- d. To provide continuous physical and/or visual connections within the Precinct to ensure clear legibility.*
- e. To facilitate the development of active street edges.*
- f. To use streets to define the edges between development and open spaces and to provide passive surveillance opportunities of the open space.*

Despite the proposed deletion of the Mews road and replacement with a central driveway, the development will provide for safe, clear and legible pedestrian, cycle and vehicle movements from Halifax Street. The site has convenient access to the North Ryde Metro Station, which is a 700 metre walk from the site or the Macquarie Park Metro Station, which is a 780 metre walk from the site. Being within walking distance of two Metro stations results in the site being well connected to public transport.

There are future connection options in relation to additional bus routes that may be added to the precinct once the allotments are occupied and there is greater demand generated for bus services.

The proposed deletion of the Mews road does not interrupt the street hierarchy as the proposed central driveway will act in a similar fashion to a Mews road in providing suitable access to the development for normal passenger vehicles and also service vehicles.

The proposal still provides for active street edges as it will result in the existing driveway crossing through the linear park being embellished and provided as part of the linear park to compensate for the area to be lost as a result of the location of the new crossing through the park. There will be no net loss to the linear park area because of the proposal.

The communal open space area will have suitable passive surveillance as it will be able to be viewed from a number of the apartments in Building 1 and from the public domain in Halifax Street. Despite the non-compliance, it is considered that the proposal achieves the objectives of the Circulation Networks controls.

The basement level 1 provides access and parking for Council's waste vehicle and another parking space for a medium rigid vehicle. These parking spaces allow for forward ingress and egress for the vehicles. Further, there are two visitor spaces for vans for deliveries or for ambulances or other emergency vehicles. Therefore, the development contains suitable facilities for servicing and emergency access.

## b) Construction of Mews Roads and Vehicular Access

The Guidelines contain the following relevant controls relating to the construction of Mews roads and vehicular access which are not complied with given the proposed deletion of the Mews road and replacement with a central driveway:

1. *Mews roads are private access ways to provide access to each development lot. The location of the mews road presupposes the developer will be required to construct the mews road located primarily on that development lot, even where a part those works may benefit adjoining lots.*
2. *Mews roads can incorporate visitor parking for the development and car share spaces as well as access into basements on elevations other than the Halifax Street frontage.*
3. *The mews road location and notional width through the site is important in providing building separation. Entry lobbies and individual entries to residential units will help activate these roads on the eastern side of Halifax Street.*
4. *Flexibility on the location or inclusion of the entire length of the mews road could be considered where a better outcome can be achieved, which would be considered on a merit basis.*
5. *Driveway widths/grades, vehicular ramp width/grades and passing bays off mews roads are to be in accordance with the relevant Australian Standard. Design of driveway crossings is to be in accordance with Part 8.3 of Ryde DCP 2014 with the paving material to be Bipave 80 coloured 'Fossil - River Gravel' shot blast finish, with aggregate inlay.*
6. *The location and design of access ways to underground parking is to be located away from the Halifax Street elevation; design must also consider residential amenity particularly the location of doors and windows of habitable rooms.*

The proposal is considered satisfactory in relation to these controls for the following reasons:

- Despite the deletion of the Mews road, the proposed central driveway will provide suitable access to the site. The area where the Mews road was previously located is proposed to be landscaped and form part of the communal open space area.
- The visitor and car share parking spaces are proposed to be located on basement level 1 and they will not be visible from the street. They will be able to be accessed by way of an intercom system.
- Whilst the Mews road is proposed to be deleted and won't be in place to guide building separation, the developer is required to comply with the building separation and daylight and solar access requirements of the ADG in relation to proposed developments surrounding the subject development. The entry



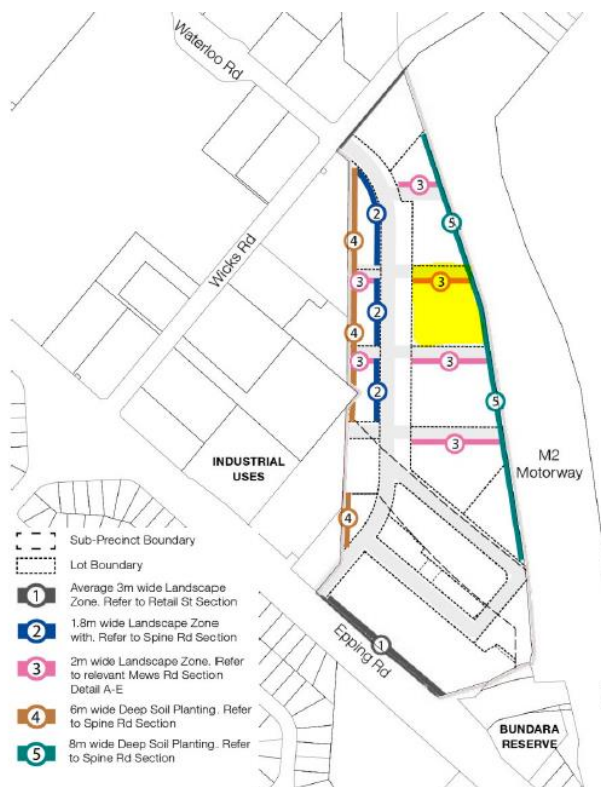
lobby was located on the Halifax Street frontage in the approved plans for LDA2022/0390 and the subject application maintains this arrangement.

- The proposed driveway off Halifax Street has been considered by Council's Traffic and Public Domain teams and is considered satisfactory subject to the required infrastructure adjustments, pedestrian crossing relocation and landscaping works being undertaken at the applicant's cost.

#### c) Building Setbacks (East)

The Guidelines contain the following control relating to the required setback to the eastern boundary which is not complied with:

5. *The Landscape Setbacks are shown on **Figure 12** and are measured from the lot boundary of each development lot to any part of the basement podium protruding above ground level.*



**Figure 12** – Figure from the LLUDG displaying the required landscape setbacks (the subject site is highlighted in yellow)

Building 1 is proposed to have a number of point encroachments into the eight metre landscaped setback area on the eastern side of the site. The building setback reduces to 5.05 metres at the lowest point. **Figure 13** below depicts the proposed point encroachments.





**Figure 13 – Extract of Level 2 plan showing point encroachments into the eight metre landscaped area. The extent of encroachment is consistent for all levels above Level 2**

The point encroachments are considered satisfactory as the building and its associated courtyards will occupy only 31% of the length of the eastern boundary, or 27 metres. The remainder of the site along the east will be occupied by communal open space. Further, there are a number of established trees located between the M2 Motorway and the subject site, in the road reserve. These trees will provide a visual buffer between the building and the M2 Motorway and will supplement the landscaping proposed as part of this application. Accordingly, the proposed eastern setback is considered satisfactory on merit.

#### d) Building Design and Materials

The Guidelines contain the following control relating to building design and materials which is not complied with:

4. *Driveways and car park entries should not be located along the primary street frontage and should not constitute more than 20 per cent (maximum 8 metres) of the secondary street frontage.*

The proposal involves the driveway and car park entry being located along the primary street frontage (Halifax Street). It is noted that the car park entry will be set back 15 metres from the front boundary and the ramping to the basement will commence at this point, therefore, the car park entry will not be highly visible from the public domain. Further, there is a landscaped linear park located between Halifax Street and the subject site which will soften the appearance of the development and the driveway entry to the site. Therefore, the proposal is considered satisfactory in relation to building design and materials.

## City of Ryde Section 7.11 Development Contributions Plan 2020

Council's current Section 7.11 Development Contributions Plan 2020 effective 1 July 2020 requires a contribution for the provision of various additional services required as a result of increased development density. The contribution is based on the revised unit mix proposed in the development. The contributions payable with respect to the increase housing density on the subject site (being for residential development within the Macquarie Park Area) are as follows:

<b>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural Facilities	\$1,849,715.58
Open Space & Recreation Facilities	\$3,169,873.45
Roads & Traffic Management Facilities	\$252,781.71
Plan Administration	\$85,030.76
<b>The total contribution is</b>	<b>\$5,753,679.43</b>

**Condition No. 23** on the payment of Section 7.11 Contribution of \$5,753,679.43 has been included in the draft notice of determination attached to this report.

### **(iiia) Any planning agreement**

No Planning Agreement is required or has been offered to be entered into with Council.

### **(iv) The regulations**

#### Environmental Planning and Assessment Regulation 2021

The Regulation underpins the day-to-day operation of the NSW planning system. The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning and others. Standard conditions are recommended relating to compliance with BCA and AS.

The proposal is consistent with the Regulation. Clause 69 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). These matters have been addressed via standard conditions of consent regarding compliance with the BCA and Australian Standards.

The proposal is consistent with Clause 61 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2001. A standard condition is imposed requiring the person having the benefit of this consent to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken.

### **(c) The likely impacts of the development**

The assessment demonstrates that the proposal will not have any significant adverse impacts upon any adjoining properties or the environment in general due to the nature of the development. All relevant issues regarding environmental impacts of the development are discussed within this report.

## Tree Removal/Retention

The proposal includes the removal of 14 trees within the site and 23 trees within the linear park are proposed to be removed as they are located adjacent to the front boundary and are not compatible with a nil front setback.

One tree within the site is proposed to be retained and 14 trees external to the site but in close proximity are proposed to be retained and protected during works. **Figure 14** depicts the locations of the trees to be removed and retained.



**Figure 14** – Plan depicting trees proposed to be removed (in red outline) and trees to be retained (in green shading)

The trees proposed to be removed in the linear park comprise one Lilly Pilly, two Trident Maples and 20 Weeping Lilly Pillies. These trees are located on the eastern edge of the linear park and are adjacent to the front boundary of the subject site. As a result of the construction of the basement car park, which has a nil setback to the front (western) boundary, and as a result of the provision of a pedestrian access point from Halifax Street, there will be a major unsustainable impact on the Tree Protection Zone and Structural Root Zone of these trees. It is noted that the LLUDG permits and envisages a nil front (western) setback for the basement and ground floor private open space areas and the development complies with this intent. It is considered that the trees on the eastern edge of the linear park were poorly located given the intent of the controls in allowing for a nil setback to the linear park.

**Condition No. 63** has been recommended which requires replacement plantings within the linear park at a ratio of 1:1 comprising 75 Litre pot sizes. The condition states that the exact planting details (species) are to be approved by Council's Manager Development Assessment prior to the issue of any Construction Certificate. Council's Senior Coordinator Parks Planning has been consulted on this recommended condition and is satisfied in relation to its wording.

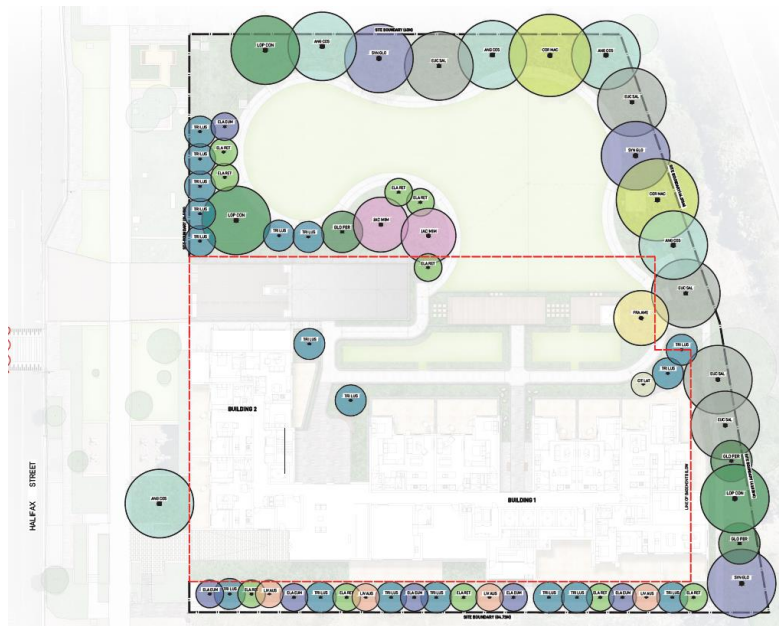


**Figure 15** – View of some of the trees on eastern edge of linear park to be removed

The 14 trees within the site to be removed comprise regrowth vegetation including five Black Wattles, five Swamp Oaks and four Sydney Golden Wattles. These trees are located within the building footprint and their retention is unsustainable. Given that these trees all comprise regrowth vegetation, no objection is raised to their removal subject to the proposed replacement plantings.

The landscaping plans outline a number of replacement tree plantings within the site and within the adjoining linear park as depicted in **Figure 16**.





**Figure 16 – Proposed advanced replacement tree plantings**

The proposed extent of tree removal is considered satisfactory given the extensive amount of plantings detailed in the landscaping plans and as required by **Condition No. 63**.

The development is considered satisfactory in terms of environmental impacts.

#### **(d) Suitability of the site for the development**

The site is zoned R4 High Density Residential and benefits from the State Significant Development approval for the subdivision which includes the allocation of gross floor area for the site. This proposal is for improvements for the site which delivers a complementary land use in the form of 299 x 1 to 3 bedroom residential apartments.

The site is located in close proximity to a number of modes of public transport and has a high level of road access.

The proposal positively contributes to the overall architectural quality of the Macquarie Park Corridor and fits sensitively into the streetscape.

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

#### **(e) Any submissions made in accordance with this Act or the regulations**

The application was notified and advertised as lodged in accordance with Part 2.1 of *Ryde Community Participation Plan* to the owners and occupants of surrounding properties between 12 January 2024 and 11 February 2024. In response, one submission was received objecting to the proposal.

The issue raised in the single submission received was as follows:

**A. Overshadowing.** *The amending development application results in additional overshadowing of the Civic Quarter. The additional extent of overshadowing is shown at 9am and 10am. While the logic behind the re-distribution of the building's gross floor area is understood, additional amenity impacts on our clients' land holding is of concern. This is the second modification to the development application that will increase overshadowing to the Civic Quarter. With residential development planned for the Civic Quarter, the overshadowing impact resultant of this modification will compromise the solar access and visual amenity for future development on Lot 10 DP 1046090, Lot 1 DP1151499 and Lot 1 DP 1060926.*

*We note and generally support consolidating the broader role of the Lachlan's Line and Macquarie Park precinct as a location well suited to a higher density, mixed-use neighbourhood. The deletion of Building 3 and the re-allocation of that floor space to Building 1 is aligned with design principles for the Macquarie Park precinct in its broader context—specifically for higher densities to be positioned near open space.*

*However, precinct-wide planning is well underway for the Macquarie Park Innovation Precinct, with the Stage 1 rezoning proposal soon to be finalised and the exhibition of Stage 2 expected early this year. The Civic Quarter comprises a critical component of Macquarie Park Stage 2, being a significant landholding in a key, gateway location. Therefore, it is critical to safeguard the amenities of this landholding as to ensure its contribution towards the overall precinct master planning and Transport Oriented Development program.*

*Ultimately, the documentation submitted has not considered in sufficient detail the potential impact of the increase in density and height at this location on the adjoining established land uses—and more importantly, the role of the Civic Quarter in the Macquarie Park Innovation Precinct Place Strategy.*

Council response: The objector is referring to the properties located to the west of the Lachlan's Line precinct and bounded by Wicks Road and Epping Road. This area is referred to as Wicks Road South in the Macquarie Park Innovation Precinct Place Strategy (**Figure 17**) and is identified as a future commercial core.



**Figure 17** – Proposed Structure Plan for the Wicks Road South Precinct – the area referred to is circled in red

Shadow diagrams have been submitted by the applicant (**Figure 18**). Due to the placement of a tall, slender tower in the southern portion of the site, the shadow is fast moving and ensures good levels of solar amenity to the communal open space located in the centre of the site (to the north of the tower). While there is some additional shadow impact to the Wicks Road South Precinct, it will only occur between 9am and 10am and will be unaffected by the proposed development during the remainder of the day. The development will result in a significant extent of overshadowing on the adjoining site to the south (possible future school site) during most hours of the day between 9am and 3pm on June 21 but there will be no point during the day when this entire site will be overshadowed by the proposed development. It is noted that detailed solar heat mapping has been undertaken of adjoining sites, including the adjoining site to the south. The analysis demonstrates that this site, if built in accordance with the assumed envelopes in the LLUDG, can achieve adequate levels of solar access, in accordance with the ADG (if it is developed for the purpose of residential flat buildings).

The additional overshadowing impact on the Wicks Road South precinct is considered to be minor and occurs only between 9am and 10am on 21 June. As a result, the objectors concerns are considered to be suitably addressed.



**Figure 18** – Submitted shadow diagrams based on June 21 (winter solstice)



## **(f) The public interest**

The public interest is best served by the consistent application of the requirements of relevant Environmental Planning Instruments and by Council ensuring that any adverse effects on the surrounding area and the environment is minimised. The proposal has been assessed against the relevant planning instruments and is considered to be acceptable. The proposed residential flat building development does not significantly or unreasonably affect surrounding sites.

The proposal introduces residential apartments which positively contribute to the high quality housing stock and provides housing diversity in the Macquarie Park Corridor. Commercial premises are also provided which enhance the liveability and activation of the site.

The proposal also provides for the protection of remnant trees, the provision replacement tree planting and new landscaping, and a high quality built form which is in keeping with the uplift of this locality. The overall design of the proposed development offers a high quality development outcome which is not contrary to the public interest.

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

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

## **7. REFERRALS**

### External Referrals

**Transport for NSW (TfNSW):** The application was referred to TfNSW under the provisions of Clauses 2.121 and 2.122 of SEPP (Transport and Infrastructure) 2021. TfNSW provided correspondence dated 1 February 2024 and do not raise any objection to the proposal and consider that it will have a negligible impact on the surrounding state road network. The TfNSW conditions of consent recommended for LDA2022/0390 will continue to be applicable to the development.

**WaterNSW:** The application was referred to WaterNSW under Section 90 of the Water Management Act 2000 given that the proposal requires a dewatering licence. It is noted that in LDA2022/0390, a tanked basement design was approved and as part of the subject application, a drained basement design is proposed. Water NSW provided General Terms of Approval (GTA's) dated 16 April 2024. A revised condition of consent has been recommended requiring compliance with the GTA's, see **Condition No. 10**.

**Sydney Water:** The application was referred to Sydney Water under Section 78 of the Sydney Water Act 1994 given that the proposal includes over 100 residential units. Sydney Water provided correspondence dated 8 February 2024 and does not raise any objection to the proposal. Sydney Water provided information for the purpose of assisting with planning the water, wastewater and recycled water servicing needs of the development. No conditions of consent were recommended by Sydney Water with

the standard Sydney Water conditions being recommended. See **Condition Nos. 62 and 131**.

**Ausgrid:** The application was referred to Ausgrid under the provisions of Clause 2.48 of SEPP (Transport and Infrastructure) 2021. Ausgrid provided a response dated 29 January 2024 raising no objections subject to requirements relating to overhead and underground powerlines in the vicinity of the site. See **Condition No. 12**.

**NSW Local Police:** The Crime Prevention Officer of the NSW Local Police Ryde Local Area Command has reviewed the proposal and does not raise any objection given the proposal satisfies the principles of Crime Prevention through Environmental Design (CPTED). The Police recommended a number of conditions of consent which have been addressed in the revised **Condition No. 13**.

#### Internal Referrals

**Senior Development Engineer:** Council's Senior Development Engineer reviewed the proposal and raised no objection subject to the amendment of **Condition Nos. 27, 28, 91 and 160** as detailed in **Attachment 4**.

**City Works – Public Domain:** Council's Activation and Compliance Officer reviewed the proposal and provided the following comments:

- *The previously approved LDA 2022/390 was referred to as part of this LDA assessment*
- *Following a site meeting on Wednesday 12/06/24 with the applicants consultants and Councils Public Domain, Traffic and City infrastructure staff, the decision to transfer the location of the access driveway towards the centre of the development has been supported.*
- *The applicant was required to resubmit plans to demonstrate the closure of the existing Mews Road access driveway by reinstating the area to match the adjacent Linear Park theme. The old driveway must be converted to match the adjacent linear park street scape.*
- *Revised plans will need to be addressed prior to CC for the approval of relevant Council teams to overlook the Linear Park Design.*
- *A special Condition to be inserted to ensure the land title is amended on the existing driveway land parcel and the proposed driveway location. The proposed driveway needs to be amended so its access is via the Road Reserve.*
- *In order to protect the public infrastructure on Halifax Street, the following will be required:*
  - *A pre and post construction dilapidation report will be required to be submitted to Council; and*
  - *A security bond will be required to be paid.*
  - *The public domain will require restoration to its pre-construction state. A compliance certificate will be issued by Council upon the satisfactory finalisation of the restoration works.*
- *A security bond for public infrastructure restoration works will be required to be paid prior to Construction Certificate issued and only released once the*

*works are determined to be satisfactory to Council's Public Domain Team after the expiry of the 12 months defects liability period.*

*From a Public Domain perspective there are no objections to approval of this application subject to the recommended conditions.*

**See Condition Nos. 14, 15, 16, 50, 51, 52, 53, 63, 64(a to h), 71, 72, 73, 75(b to d), 98, 140, 141, 142, 143, 144, 145, 146 and 155 (a to j).**

**City Works – Traffic:** Council's Traffic Engineer reviewed the proposal and raised no objection. The following comments were provided:

*Traffic Generation and Implications:*

*The proposed alterations and additions will lead to a decrease in the total number of residential apartments by five (5) compared to the approval granted under LDA2022/390. Consequently, the overall generation of trips due to these proposed modifications will be lower than that anticipated in the approved development application. Therefore, the proposal is not anticipated to cause any substantial traffic impacts beyond what was previously evaluated as part of the existing consent.*

*Access Driveway:*

*The key change to the car parking arrangements is relocation of the proposed access driveway, such that the existing Mews Road is no longer utilised and instead, a new access driveway is proposed more centrally on the Halifax Street site frontage. The location of the new access driveway may create potential safety implications due to the close proximity of the new access driveway to the existing raised pedestrian crossing on Halifax Street.*

*As a result, it is proposed that the existing raised pedestrian crossing be relocated approximately 17m southward to ensure adequate space between the new access driveway and the raised pedestrian crossing is provided.*

*Traffic Services Department has no objections to the proposed relocation of the existing raised pedestrian crossing at the site frontage.*

*New Pedestrian Crossing:*

*As indicated above, the existing raised pedestrian crossing at the site frontage is proposed to be relocated approximately 17m southward to provide adequate space between the new access driveway and the raised pedestrian crossing.*

*The Traffic Consultant Access Relocation Letter (TCARL) prepared by PDC Consultants dated 24 June 2024 states that this separation is considered adequate as traffic volumes southbound along Halifax Street are currently low and forecast to continue to be low in future. As such, there would be ample gaps in southbound traffic for right turning vehicles to enter the site without causing queuing of over 17 metres. The TCARL also notes that the separation ensures that a 12.5-metre HRV can left turn out of the site to travel southbound along Halifax Street and dwell wholly within the roadway before then giving way to any potential pedestrians on the crossing. It is noted that the relocation of the pedestrian crossing has required the removal of two indented on-street parking spaces. This is considered acceptable as it supports*

*Council's broader intent to promote sustainable travel and a shift away from private vehicles.*

*As a result, Traffic Services Department has no objections to the proposed location of the new raised pedestrian crossing.*

*Existing Bus Stop on Halifax Street:*

*The location of the new access driveway may also create potential conflict between existing bus stop adjacent to the new access driveway to the north and vehicles using the proposed driveway.*

*To resolve this issue, it is proposed that a draw-out taper be provided via pavement line markings in advance (to the north) of the access driveway to ensure that vehicular manoeuvring to and from the vehicle access is not compromised whilst encouraging buses to drive in a manner which provides separation between buses and the vehicle access.*

*The provided swept path plans for a 12.5m HRV also show that left and right turns of a 12.5m HRV into and out of the site via the relocated vehicle access will not encroach upon the bus stop.*

*To achieve the desired bus stop dimensions under the former DA, the three existing on-street parking spaces on the eastern side of Halifax Street to the north of the existing bus stop is required to be shortened in length. This shortening in length is retained under the amended engineering plans and all three car spaces are still retained while the shortened parking spaces comply with requirements of the Australian Standard AS 2890.*

*Conclusion:*

*In conclusion, based on the above discussion, Traffic Services department can support the approval of this application subject to the recommended conditions.*

**See Condition Nos. 22 (a & b), 54, 55, 64(j & k) 72, 74, 75, 97, 147, 148, 149, 150, 151 and 161.**

**City Works – Waste:** Council's Waste Officer reviewed the proposal and provided the following comments:

- *The applicant has made all relevant changes for waste including a sensitivity swept path analysis with a heavy rigid vehicle. However, the only change not made was the inclusion of a food organics bin in every chute cupboard on each residential level.*
- *A condition of consent is recommended requiring an updated waste management plan prior to the issue of a Construction Certificate.*

**See Condition Nos. 35, 36, 37, 64(a to d), 99, 100, 121(a), 152, 153, 154 155(k), 159 and 174 to 181.**

**Heritage Officer:** The following comments were provided by Council's Heritage Officer:

### ***Heritage details***

- *European heritage:*
  - the development site is not a heritage item of Ryde LEP.
  - the development site is within the vicinity of a heritage item, being the Northern Suburbs Cemetery(#44).
- *Aboriginal heritage:*
  - the AHIMS/ Heritage Office database held by Council indicates there are no known Aboriginal Sites and Places on the site. The HIS refers to two archaeological impact reports undertaken for the development site by Artefact in 2014 and 2016 (for the SSD), which indicates low potential for archaeological remains associated with agricultural use of the site and lands nearby only.

### ***Site details***

- *The site falls to the west (Halifax Street), therefore highest point on M2 boundary side – closest to the HI/ Cemetery.*
- *Between the site and the heritage item (#44) is the M2 Motorway.*
- *Views to the site from the M2 Motorway are limited to the boundary of the site and trees.*
- *Views from the site and the M2 Motorway to the heritage item (#44) is of the landscape mound (18m wide) and its mature plantings, that runs generally the length of the boundary adjoining the M2 Motorway (661m).*
- *The site is zoned: R4 High Density Residential. The site is not in urban town centre or special character area (Ryde DCP 2014). The site is part of an Urban Activation Precinct (UAP) instigated by DPE (Landcom), for which there is a UPA DCP (high density precinct site) and an SSD approval (#5093) - no heritage mitigation measures nominated in the SSD approval.*

### ***Heritage assessment***

#### *1. HIS by consultant. Is of the view that:*

- (a) The buildings to be built on the development site will have moderate visual impact (from height/ scale) on the Cemetery and at the design/ DA stage the materials and finishes of the buildings should be considered to soften the visual impact on the cemetery. This has been addressed via the general assessment of the proposal with Panel comments incorporated into updated material and finishes in the latest amended plans. The view is supported.*

- (b) *Views from HI/ Cemetery towards the development site don't contribute to the significance of the HI. This view is supported, and the Cemetery's perimeter planning acts to focus internal views and setting to support the Cemetery's usage.*
  - (c) *The development site's existing plantings to the M2 boundary (with Cemetery on other side), to be retained to contribute to a 'visual barrier' to the cemetery. Additional plantings with are planned to add to the existing plantings on the M2 boundary, see the amended Landscape Plan.*
  - (d) *The significance of the HI/ Cemetery's relates to historical association with its early establishment, social association with its use, aesthetic association with its landscaped grounds. As noted above, the statement of significance is amiss and being located for posting to the SHI Registry. However, the view on the significance of the HI/Cemetery is supported. – it's one of the earliest new-age landscaped cemeteries, along with the North Suburbs Crematorium nearby.*
2. *The most relevant matters for the proposal and the heritage item (#44) in the vicinity of the development site is the height of buildings and any potential impact that height may have on the Cemetery i.e. visual. The tallest of the three (3) buildings, Building 1 is a tower (28 storeys) and will have a height of RL 138m and will be located in the north-east corner of the site, with a side façade (shorter) presenting to the M2 Motorway. The other two buildings will be located on the southern side of the site and present to Halifax Street, Building 2 (6 storeys), height of RL 70.7m and Building 3 (6 storeys), height of RL 65.6m.*
  3. *Given the slope of the development site (highest point on M2 boundary, the plantings buffer on the M2 boundary, the buffer of the M2, the landscape batter on the HI/ Cemetery boundary with the M2 and the development concept of the SSD approval (high density) it is considered that there will be no adverse impact of the proposal on the likely historical, social and aesthetic values of the HI/ Cemetery. The focus of the Cemetery's landscape setting design is the internal landscape setting for burials services and commemoration by visitors, reinforced with permitter plantings planted to screen out and ameliorate noise.*

*In conclusion, the proposal will have no adverse impact on the value of heritage item in the vicinity of the heritage item and is supported on heritage grounds subject to a recommended Condition. See **Condition No. 22.***

**Environmental Health Officer:** Council's Team Leader Environmental Health has reviewed the proposal and advised that no objection was raised and no changes to conditions of consent was required. See **Condition Nos. 21, 58, 59, 60, 61, 78, 110, 128, 129, 130, 155, 164, 165, 166, 167, 168, 169, 170, 171 and 172.**

**Landscape Architect:** Council's Landscape Architect reviewed the final Landscape Plans and supports the proposal, with no amended or additional conditions of consent recommended. **See Condition Nos. 63, 64, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121 and 123.**

## **8. CONCLUSION**

This development application has been considered in accordance with the requirements of the EP&A Act and Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the likely impacts identified in this report, it is considered that the application can be supported, subject to conditions.

The likely impacts as outlined in this report have been resolved satisfactorily through amendments to the proposal and in the recommended draft conditions at **Attachment 5**. Therefore, it is recommended that the application be approved for the following reasons:

- The proposed residential flat building development is consistent with the objectives and development standards for land zoned R4 High Density Residential.
- This proposal positively contributes to the overall architectural quality of the Macquarie Park Corridor and fits sensitively into the streetscape.
- The issue raised in the submission does not warrant the refusal of the application and has been adequately addressed in the Assessment report.
- The proposed development does not create unreasonable environmental impact to existing adjoining development.
- The proposal is not contrary to the public interest.
- The site is considered to be suitable for the proposed development.

## **9. RECOMMENDATION**

- A. That the Sydney North Planning Panel, as the consent authority, grant development consent to Development Application No. LDA2022/0390 for a residential flat building development at land at 5 Halifax Street, Macquarie Park, subject to the draft conditions contained in **Attachment 4**.
- B. That Transport for NSW, Water NSW, Ausgrid and Sydney Water be advised of the decision via the NSW Planning Portal.
- C. That those who made a submission be advised of the decision.



**Report prepared by:**

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**Report approved by:**

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Senior Coordinator Development Assessment**

**Carine Elias  
Manager Development Assessment**

## **ATTACHMENTS**

Attachment 1: Proposed Architectural Plans  
Attachment 2: Proposed Landscape Plans  
Attachment 3: Assessment against ADG & DCP  
Attachment 4: Recommended Conditions of Consent  
Attachment 5: Conditions of Consent and Approved Plans for LDA2022/0390