

COUNCIL ASSESSMENT REPORT

SNPP No	PPSSNH-522
DA Number	LDA2024/0158
Local Government Area	City of Ryde
Proposed Development	Demolition of the existing structures, construction of two residential flat buildings, being part 19/20 storeys and part 20/21 storeys respectively, above a podium which includes two retail outlets. The development accommodates 255 apartments, 285 parking spaces within 3 basement levels, and associated landscaping works. The application is Integrated Development under the Water Management Act 2000.
Street Address	15-21 Cottonwood Crescent, Macquarie Park
Applicant/owner	Applicant: Cottonwood Development Pty Ltd Owner: <u>15 Cottonwood Crescent</u> <ul style="list-style-type: none"> • LegPro 41 Pty Ltd • LegPro 53 Pty Ltd <u>17 Cottonwood Crescent</u> <ul style="list-style-type: none"> • LegPro 33 Pty Ltd <u>19 Cottonwood Crescent</u> <ul style="list-style-type: none"> • LegPro 34 Pty Ltd <u>21 Cottonwood Crescent</u> <ul style="list-style-type: none"> • LegPro 35 Pty Ltd • Armek Baghdavarayan & Karine Baghdavarayan • Vera Chong • Yvonne Da Dalto & Aimee Sing • Nicholas Teh • Alpha Yee • Emil Vartanian • Rohan Truscott • Debra Gibbeson
Date of Lodgement	5 August 2024
Number of Submissions	Four (4) submissions received
Recommendation	Approval subject to conditions
Regionally Significant Development Criteria (Schedule 6 of SEPP (Planning Systems) 2021)	General Development over \$30 Million. Estimated Development Cost: \$165,050,000 (excluding GST)
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979; • Biodiversity Conservation Act 2016; • Water Management Act 2000; • Environmental Planning and Assessment Regulation 2021;

	<ul style="list-style-type: none"> • State Environmental Planning Policy (Biodiversity and Conservation) 2021; • State Environmental Planning Policy (Sustainable Buildings) 2022; • State Environmental Planning Policy (Housing) 2021; • State Environmental Planning Policy (Planning Systems) 2021; • State Environmental Planning Policy (Resilience and Hazards) 2021; • State Environmental Planning Policy (Transport and Infrastructure) 2021; • Ryde Local Environmental Plan 2014; • Ryde Development Control Plan 2014; and • Section 7.11 Contribution Plan.
Clause 4.6 Requests	<ul style="list-style-type: none"> • Clause 4.3 – Height of Buildings (7.8% variation) • Clause 4.4 – Floor Space Ratio (5.4% variation)
Summary of Key submissions	<ul style="list-style-type: none"> • Overshadowing. • Building Height. • Issues with the submitted Architectural Design Statement. • Neighbouring property owners not informed of the application. • Devaluation of property.
List all documents submitted with this report for the panel’s consideration	<p>Attachment 1: Draft Conditions. Attachment 2: Architectural and Landscape Plans. Attachment 3: ADG Table of Compliance. Attachment 4: Clause 4.6 request – Height of Buildings. Attachment 5: Clause 4.6 request – Floor Space Ratio.</p>
Report prepared by	Tony Collier - Senior Town Planner
Report date	11 April 2025

Summary of s. 4.15 matters	
Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction	
Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards	
If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes
Special Infrastructure Contributions	
Does the DA require Special Infrastructure Contributions conditions (S7.24)?	No

Conditions	
Have draft conditions been provided to the applicant for comment?	Yes

1. EXECUTIVE SUMMARY

The following report is an assessment of a development application for the demolition of the existing structures, the construction of a residential flat building and a shop top housing development (being part 19/20 storeys and part 20/21 storeys respectively) above a three-storey podium which includes two retail outlets facing Waterloo Road.

The development accommodates 255 apartments and 285 parking spaces within 3 basement levels.

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

Compliance

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

State Environmental Planning Policy (Housing) 2021 (Apartment Design Guide)

- Clause 3D – Communal and Public Open Space.
- Clause 3F – Visual Privacy.
- Clause 4A – Solar and Daylight Access.
- Clause 4B – Natural Ventilation.

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

The assessment of the proposal against the provisions of the Apartment Design Guide are in **Attachment 3** of this report.

Ryde Local Environmental Plan 2014

Clause 4.3 – Height of Buildings

The proposal exceeds the permitted building height under Clause 4.3 by 7.8%. The non-compliances predominantly involve a part storey, roof edges and roof top plant structures.

The request to vary the development standard under Clause 4.6 demonstrates sufficient environmental planning grounds and is supported.

Clause 4.4 – Floor Space Ratio

The proposal exceeds the permitted floor space ratio under Clause 4.4 by 5.4%. The non-compliance predominantly involves the inclusion of corridors into the total gross floor area.

The request to vary the development standard under Clause 4.6 demonstrates sufficient environmental planning grounds and is supported.

These two matters are addressed in detail in **Section 6.10** of this report. The requests to vary the development standards are include at **Attachments 4 and 5** of this report respectively.

Ryde Development Control Plan 2014

Part 4.5 – Macquarie Park Corridor

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

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

Despite the development not meeting the required dimension, the quantum of deep soil is calculated at 1,026m² (i.e. 20%) the locating of the basement beneath the central part of this corner site prevents a consolidated area of 20m x 10m being provided.

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

This matter is supported and addressed in detail in **Section 7** of this report.

Referral Responses

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

The application is Integrated Development pursuant to the Water Management Act 2000 and WaterNSW has issued their General terms of Approval which are included in the draft conditions at **Attachment 1** of this report.

Sydney Metro has provided their concurrence in accordance with section 2.99 of the State Environmental Planning Policy (Transport and Infrastructure) 2021. Conditions are included in the draft conditions at **Attachment 1** of this report.

Public Exhibition and Submissions

The application was publicly exhibited between 7 August 2024 and 8 September 2024. Notification letters were sent to 24 local properties in accordance with Council's Community Participation Plan.

Amended plans received during the assessment were not required to be re-exhibited as the amendments reduced the environmental impact.

As a result of the exhibition, a total of four (4) submissions were received which raise the following issues:

- Overshadowing.
- Building Height.
- Issues with the submitted Architectural Design Statement.
- Neighbouring property owners not informed of the application.
- Devaluation of property.

The issues raised in the submissions are addressed in **Section 10** of this report and do not warrant the refusal of the application.

Recommendation

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

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

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

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

2. APPLICATION DETAILS

Name of applicant: Cottonwood Development Pty Ltd

Owners of the site: 15 Cottonwood Crescent

- LegPro 41 Pty Ltd
- LegPro 53 Pty Ltd

17 Cottonwood Crescent

- LegPro 33 Pty Ltd

19 Cottonwood Crescent

- LegPro 34 Pty Ltd

21 Cottonwood Crescent

- LegPro 35 Pty Ltd
- Armek Baghdavarayan & Karine Baghdavarayan
- Vera Chong
- Yvonne Da Dalto & Aimee Sing
- Nicholas Teh
- Alpha Yee
- Emil Vartanian
- Rohan Truscott
- Debra Gibbeson

Estimated Development Cost: \$165,050,000 (excluding GST)

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

3. SITE DESCRIPTION

The site is located at the south-western corner of Waterloo Road and Cottonwood Crescent.

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

- 15 Cottonwood Crescent (SP 8144): 1,284m².
- 17 Cottonwood Crescent (SP 7630): 1,284m².
- 19 Cottonwood Crescent (SP 7892): 1,284m².
- 21 Cottonwood Crescent (SP 7984): 1,278m².

The site is shown in **Figure 1** below.

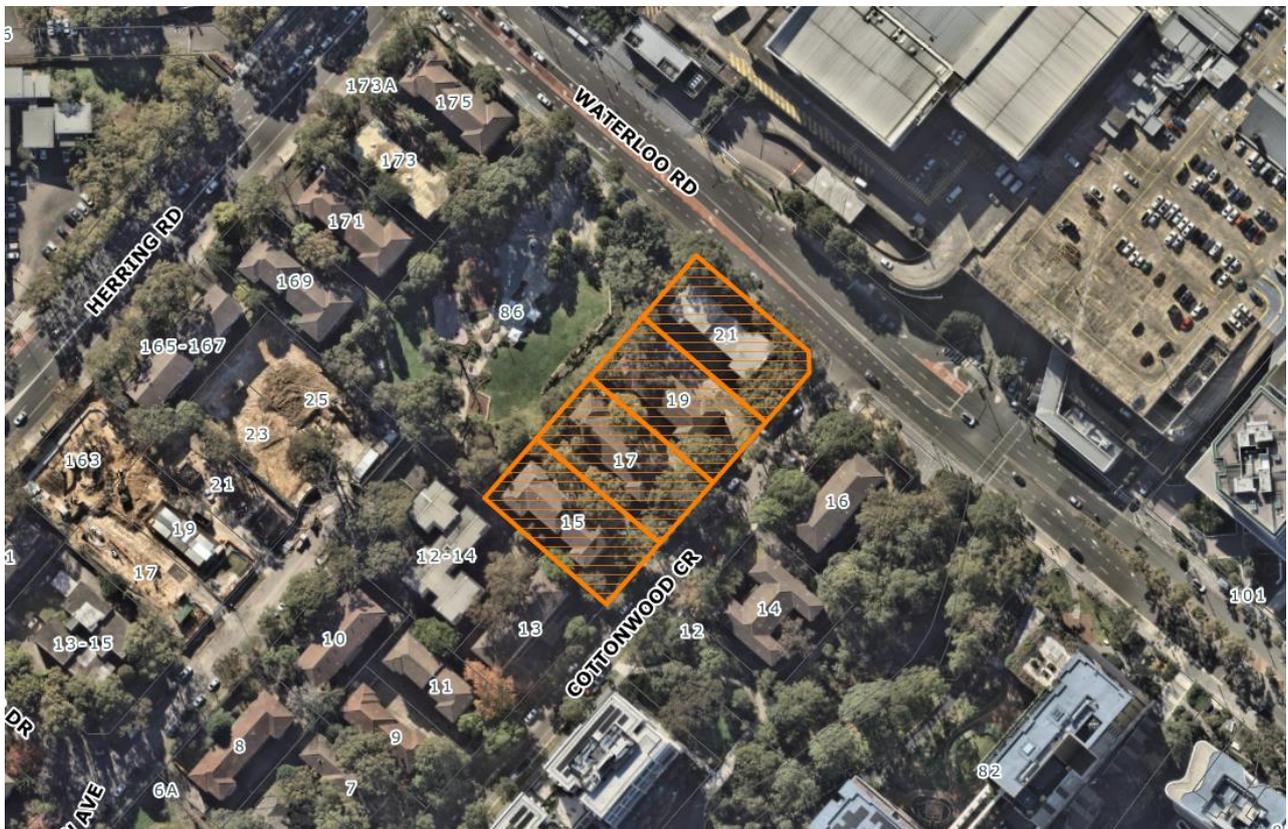


Figure 1 – Location of the site outlined in orange.

The site is generally rectangular in shape and has a frontage of 46.005m to Waterloo Road and a frontage of 97.345m to Cottonwood Crescent (excluding the 5.44m truncation at the corner). The site will have a total surveyed area of 5,130m².

The site accommodates 4 x 3 storey walk-up flat buildings (circa 1960s) with on-site car parking within ground level garages, and landscaping.

The site slopes upward from Cottonwood Crescent to the south-western and western side boundary (abutting Elouera Reserve) by approximately 4.5m noting that the western and southern (abutting 13 Cottonwood Crescent) boundaries include retaining walls of varying height.

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

Surrounding Development

The site is bounded to the north-west by Elouera Reserve, to the south by a 3 storey brick and tile walk-up residential flat building at 13 Cottonwood Crescent, a part 13/part 14 storey mixed-use development to the south-east at 2 Cottonwood Crescent, and a 3 storey brick and tile walk-up residential flat building to the east at 14-16 Cottonwood Crescent.

The area is subject to change with the following nearby developments being approved:

Address	Development Type	Building Height		Floor Space Ratio	
		Permitted	Approved	Permitted	Approved
2 Cottonwood Crescent	Mixed Use	45m	46.22m	4.5:1	4.5:1
14-16 Cottonwood Crescent	Mixed Use	65m	67m	4.5:1	4.49:1
23-25 Lachlan Avenue*	Co-Living	45m	46.5m	4.8:1*	4.8:1
17-21 Lachlan Avenue*	Co-Living	45m	47.4m	4.4:1*	4.4:1

*Note: Floor space ratios for co-living development were subject to bonus provisions under SEPP (Housing).

Table 1 – Approved development in the vicinity of the subject site.

Rail Corridor

The Sydney Metro Rail Tunnel Corridor extends across the Waterloo Road frontage of the site as shown in **Figure 2** below (Cottonwood Crescent is shaded yellow).

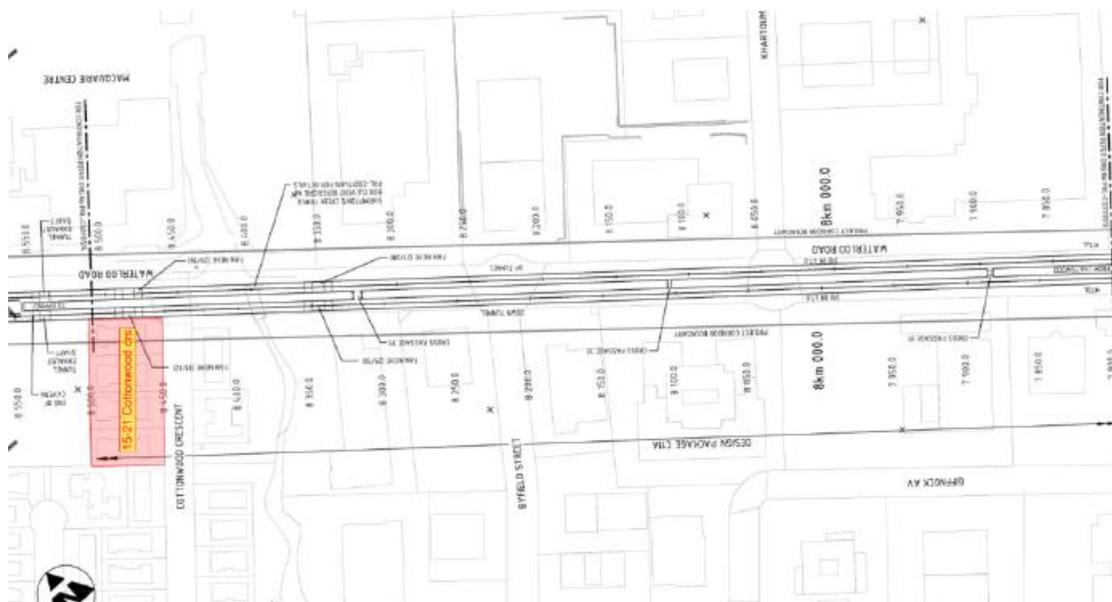


Figure 2 – Proximity of the Sydney Metro tunnel network along Waterloo Road (site shaded in pink).

Flooding

The site is in proximity to flooding along Cottonwood Crescent. The flood pathway is directed along Cottonwood Crescent and south-east towards Shrimpton Creek.

Figure 3 below shows the area subject to flooding (pink = high risk; dark blue = medium risk; light blue = low risk).

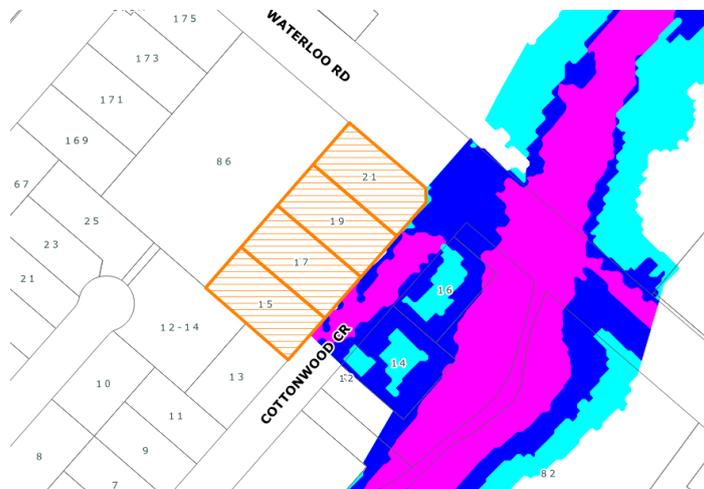


Figure 3 – Proximity of flood prone land to the site.

Heritage

The site is in proximity to local Heritage Item 345 (“Macquarie Ice Rink”—Olympic-sized rink and its setting within retail premises, including rink seating and associated rink facilities).

It is noted that, although the entire Macquarie Centre is shaded in Council’s mapping, the ice rink is located at the western side of the Centre facing Herring Road, this being approximately 119m to the north of subject site.

Figure 4 below shows the proximity of the heritage item to the subject site (see also **Figure 12**).

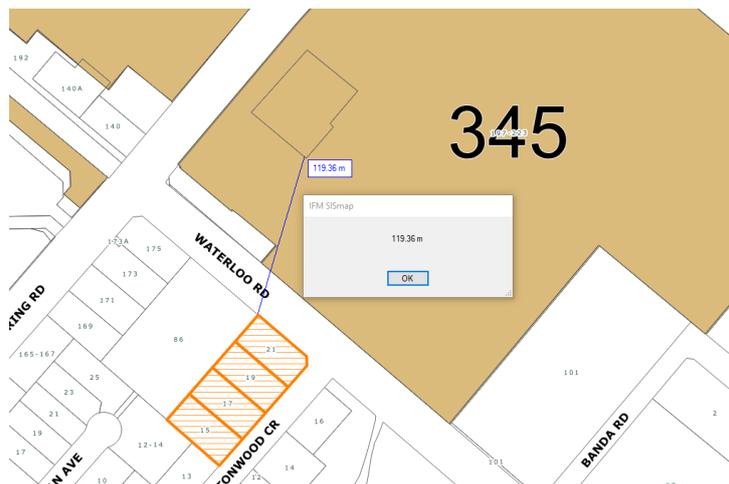


Figure 4 – Proximity of Heritage Item 345 to the north.

Figures 5 to 14 below provide views of the site and its surrounds.



Figure 5 – Long south-west view of the site (from Waterloo Road).



Figure 6 – 15 Cottonwood Crescent (looking west).



Figure 7 – 17 Cottonwood Crescent (looking west).



Figure 8 – 19 Cottonwood Crescent (looking west).



Figure 9 – 21 Cottonwood Crescent (looking west).



Figure 10 – Rear of 19 (right) and 21 (left) Cottonwood Crescent looking east from Elouera Reserve.



Figure 11 – Rear view of 19 Cottonwood Crescent looking south-east from Elouera Reserve.



Figure 12 – Macquarie Centre directly opposite the site on Waterloo Road (to the north).



Figure 13 – Northern elevation of 13 Cottonwood Crescent (to the south).



Figure 14 – Rear view of 12-14 Lachlan Avenue (to the south-west).

The Locality

The site located within the MU1 Mixed Use zone in the Macquarie Park Corridor.

As seen in **Figure 12** above, the northern part of the site (namely 21 Cottonwood Crescent) is located directly opposite the Waterloo Road exit ramp of the Macquarie Centre.

Elouera Reserve abuts the north-western side boundary while Shrimptons Creek Reserve is located to the south-east of 14-16 Cottonwood Crescent (i.e. on the opposite side of Cottonwood Crescent).

Figure 15 below shows the zoning of the site and it's surrounds.

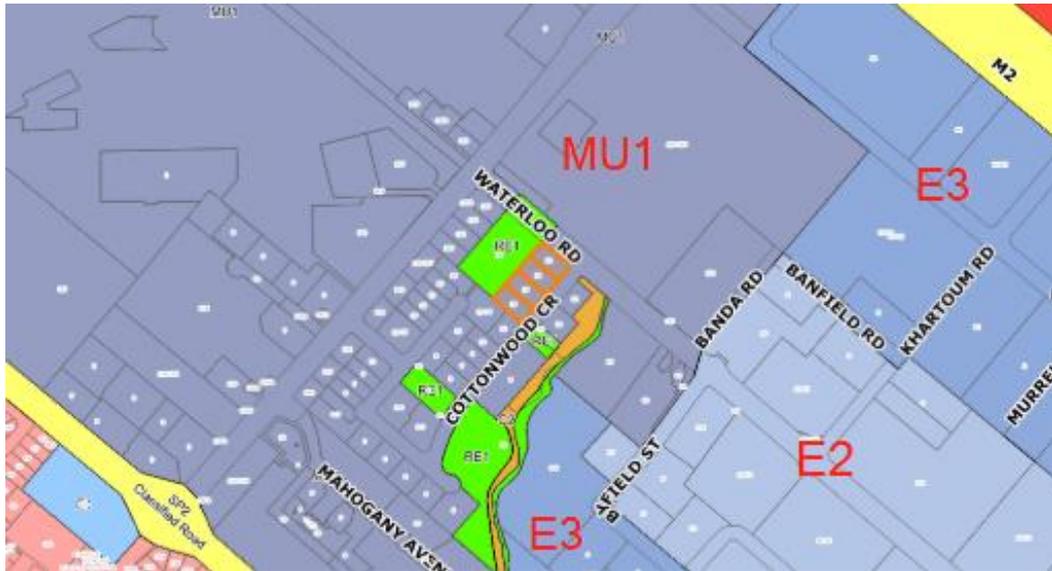


Figure 15 – Zoning of the site (outlined in orange) and surrounds.

4. BACKGROUND

PRL2023/0023

This pre-lodgement meeting was held on 14 September 2023 and sought advice on the demolition of existing buildings and construction of two 20 storey towers over a mixed-use podium including parking, landscaping and ancillary works.

The design of the development was generally the same as that proposed in this subject application although the building height proposed at the pre-lodgement was less than that currently proposed.

The proposal included the following responses to the principal development standards under the Ryde Local Environmental Plan 2014:

Standard	Permitted	Proposed	Variation
4.3 Height of Buildings	65m	<u>Tower A</u> 63m to 68.7m <u>Tower B</u> 61.8m to 68.7m	5.7% (+3.7m) 5.7% (+3.7m)
4.4 Floor Space Ratio (Site Area: 5,130m ²)	4.5:1 23,085m ²	4.47:1 22,935m ²	N/A

Table 2 – Compliance of the proposal at pre-lodgement.

Amongst the advice provided to the applicant, the following was conveyed with respect to building height:

“The future application will require to be supported by a clause 4.6 variation request justifying the breach. Council may be able to support minor breaches associated with

stairs and lift overrun exceedances, subject to the demonstration of sufficient environmental planning grounds”.

Planning concerns were raised at the meeting with respect to the proposed height non-compliance, and the effect of the development on the neighbouring properties to the south with respect to overshadowing and the generally blank appearance of the building (Tower B) at its southern-most elevation.

The applicant was strongly encouraged to maintain a compliant building height to both towers with exceedances only considered via a Clause 4.6 towards roof articulating elements and lift overruns, and to articulate the rear of the development adjacent to 13 Cottonwood Crescent to minimise these impacts.

PRL2023/0032

This pre-lodgement meeting was held on 23 November 2023 and sought further advice from the Urban Design Review Panel.

LDA2024/0158 (this application)

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

The application was publicly exhibited between 7 August 2024 and 8 September 2024. Notification letters were sent to 24 local properties in accordance with Council's Community Participation Plan.

Letters to the Applicant

8 August 2024

On 8 August 2024 a letter was sent to the application which raised an issue regarding the provision of consent from the owners of 21 Cottonwood Crescent.

It was noted that the application had been lodged without the consent being provided by all owners of 21 Cottonwood Crescent, and there was a strata renewal process underway which was anticipated to not be concluded until 31 March 2025 (as outlined in a Deed of Security between Cottonwood Development P/L and Council).

Whilst the Deed outlined that Council is to accept lodgement of the application, it would not be possible for Council to recommend approval of the application in the absence of the full owner's consent pursuant to Clause 23 of the *Environmental Planning and Assessment Regulation 2021*.

Full owner's consent from 21 Cottonwood Crescent was obtained on 27 February 2025 and received on 5 March 2025.

25 September 2024

Following the preliminary assessment of the application, a request for further information (RFI) letter was sent to the applicant on 25 September 2024 which outlined the following issues:

- Proposed height variation.
- Floor space ratio/gross floor area.
- Drainage and flooding.
- Traffic and parking.
- Public domain works.
- Waste management.
- Parks and landscaping.

Comments by Council's Urban Design Review Panel were also included with the letter.

Briefing to the Sydney North Planning Panel

On 27 November 2023 the Sydney North Planning Panel (SNPP) were briefed on the application.

At that briefing, the following key issues were discussed:

- Private open space.
- Balcony size.
- Acoustic and visual privacy (particularly adjoining common walkway).
- Justification of variation to height of buildings (should be for plant rooms and articulation only) and floor space ratio.
- Urban Design Review Panel advice.
- Wind impact in breezeways.
- Form and separation of towers.
- Overshadowing.

The issue of floor space ratio centred around the matter of including enclosed corridor areas as gross floor area rather than open-ended breezeways which were considered to compromise internal building amenity.

At the briefing it was agreed that a variation to floor space ratio via Clause 4.6 resulting from the enclosing of the corridors could be considered.

The meeting established the following next steps:

- RFI response (including amended plans) due 7 February 2025.
- Tentative Panel determination date: Early May 2025.

Meeting (2 December 2023)

On 2 December 2023 a meeting was held between Council and the applicant which focussed on the issue of building height.

Council reiterated its position expressed under the earlier pre-lodgement meeting (PRL2023/0023) whereby Council may be able to support minor breaches associated with stair and lift overrun exceedances, subject to the demonstration of sufficient environmental planning grounds in a Clause 4.6 request.

Amended Plans and Documentation (17 January 2025)

Amended plans and supporting documentation was lodged with Council via the Planning Portal on 17 January 2025. The amendments and documentation include the following:

Architectural

- Reduction to the building heights of both residential towers.
- Enclosure of the corridors at each above-ground residential level.
- Internal reconfiguration and reduction of car parking within basement levels.

Landscape

- Update landscape plan.

Further Information

- Amended Clause 4.6 (Height of Buildings).
- New Clause 4.6 (Floor Space Ratio).
- Updated BASIX Certificate.
- Updated BCA Report.
- Updated Pedestrian Wind Study.
- Updated Landscape Design Statement.

1. THE PROPOSAL

The following describes the proposal as amended on 17 January 2025.

The application seeks consent for the demolition of existing structures, the construction of two residential flat buildings, being part 19/20 storeys (Tower A) and part 20/21 storeys (Tower B) respectively, above a podium which includes two retail outlets fronting Waterloo Road. The development accommodates 255 apartments, 2 x retail outlets, 285 parking spaces within 3 basement levels, and associated landscaping works.

Figure 16 below shows the site layout of the development. **Note:** The submitted documentation refers to Tower A as the 'Waterloo Tower', and Tower B as the 'Cottonwood Tower'. Only Towers A and B are used in this report.

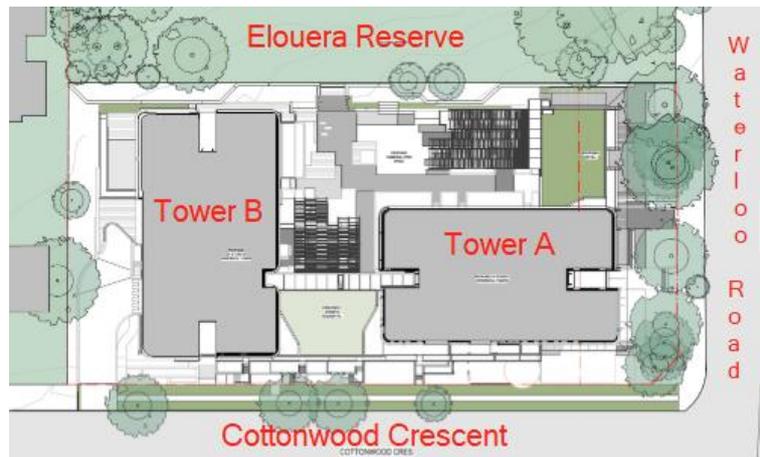


Figure 16 – Site layout.

Tree Removal

The site accommodates a total of 48 trees of which, according to the Tree Assessment Schedule table in the submitted Arboricultural Impact Assessment Report, 23 trees are recommended to be removed which comprise:

Tree No.	Species	Height	Health
1	<i>Agonis flexuosa</i> (Willow Myrtle)	10m	Fair
2	<i>Leptospermum petersonii</i> (Lemon Scented Tea Tree)	6m	Good
3	<i>Photinia</i> sp. (Photinia)	5m	Poor
4	<i>Callistemon viminalis</i> (Weeping Bottlebrush)	6m	Good
5	<i>Callistemon viminalis</i> (Weeping Bottlebrush)	7m	Good
6	<i>Cyathea cooperi</i> (Scaly Tree Fern)	4m	Good
7	<i>Callistemon viminalis</i> (Weeping Bottlebrush)	7m	Poor
8	<i>Eucalyptus sideroxylon</i> (Red Ironbark)	14m	Fair
10	<i>Eucalyptus sideroxylon</i> (Red Ironbark)	7m	Poor
11	<i>Corymbia maculata</i> (Spotted Gum)	13m	Good
12	<i>Eucalyptus sideroxylon</i> (Red Ironbark)	13m	Good
16	<i>Eucalyptus botryoides</i> (Bangalay)	12m	Poor
21	<i>Corymbia maculata</i> (Spotted Gum)	10m	Poor
22	<i>Juniperus</i> sp. (Juniper)	6m	Fair
24	<i>Quercus robur</i> (English Oak)	10m	Fair
29	<i>Corymbia maculata</i> (Spotted Gum)	7m	Poor
45A	<i>Citharexylum spinosum</i> (Fiddlewood Tree)	9m	Fair
53	<i>Brachychiton acerifolius</i> (Illawarra Flame tree)	9m	Fair
54	<i>Banksia integrifolia</i> (Coastal Banksia)	6m	Good
57	<i>Casuarina cunninghamiana</i> (River She Oak)	6m	Good
59	<i>Eucalyptus botryoides</i> (Bangalay)	9m	Fair
60	<i>Acer negundo</i> (Box Elder)	9m	Fair

61	Jacaranda mimosifolia (Jacaranda)	8m	Fair
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Table 4 – Tree removal schedule.

Numerical Comparison

Table 3 below provides a numeric comparison between the original proposal (as lodged) and the amended proposal.

Element	Original Proposal	Amended Proposal	Difference
Building Height			
Tower A	69.9m	69.9m	No change
Tower B	72.9m	70m	-2.9m
Gross Floor Area:			
Residential	22,879.5m ²	24,131.5m ²	+1,252m ²
Retail	191.5m ²	191.5m ²	No change
Total	23,071m²	24,323m²	+1,252m²
Floor Space Ratio	4.5:1	4.7:1	+0.2:1
Unit Mix:			
1 Bedroom	60	65	+5
2 Bedroom	98	101	+3
3+ Bedroom	97	89	-8
Total	255	255	No change
Car Parking:			
Basement 1	79	78	-1
Basement 2	81	80	-1
Basement 3	83	82	-1
Lower Ground Level	45	45	No change
Total	288	285	-3
Deep Soil Area	20% (1,026m ²)	20% (1,026m ²)	No change
Communal Open Space	22% (1,126m ²)	22% (1,126m ²)	No change

Table 3 – Comparison between the original proposal (as lodged) and the amended proposal.

5. PLANNING ASSESSMENT

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

- Environmental Planning and Assessment Act 1979;
- Water Management Act 2000;
- Biodiversity Conservation Act 2016;
- Environmental Planning and Assessment Regulation 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Sustainable Buildings) 2022;
- State Environmental Planning Policy (Housing) 2021;
- State Environmental Planning Policy (Planning Systems) 2021;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- Ryde Local Environmental Plan 2014;

- Ryde Development Control Plan 2014; and
- Section 7.11 Contribution Plan.

6.1 Environmental Planning and Assessment Act 1979

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

Section 7.11 - Development Contributions

City of Ryde Development Contributions Plan 2020

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

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

In this instance, demand credits are calculated on the existing number of residential apartments (which, in this instance comprises 60 x 2 bedroom apartments) being demolished as a result of the development.

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

A Contribution Type	B Contribution Amount
Community Facilities	\$1,185,523.74
Open Space & Recreation	\$2,286,153.46
Transport & Traffic Facilities	\$163,648.91
Plan Preparation & Administration	\$54,529.17
Total Contribution	\$3,689,855.28

The Section 7.11 Contribution of **\$3,689,855.28** has been included in the draft consent.

Section 7.28 - Housing and Productivity Contribution

Section 7.28(1)(a) requires that, *if a Ministerial planning order requires a housing and productivity contribution in relation to development, a consent authority must impose a condition on a development consent for the development requiring the housing and productivity contribution.*

The *Environmental Planning and Assessment Amendment (Housing and Productivity Contributions) Act 2023* was assented on 13 July 2023 and the *Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024* which was enacted on 30 June 2024.

The applicable Housing and Productivity Contribution (HPC) is imposed as a condition being **\$2,715,130.03** (base component).

6.2 Biodiversity Conservation Act 2016

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

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

It is noted that Brush Turkeys travel between Elouera Reserve (to the north-west of the subject site) and Quandong Reserve (to the south-west of the subject site) and have been observed as occasionally foraging on-route at various locations along Lachlan Avenue. It is unknown if Brush Turkeys frequent the subject site.

The locations of Elouera Reserve, Quandong Reserve and the Brush Turkey nesting mound in relation to the subject site can be seen in **Figure 19** below.

Apart from the nesting mound located on Elouera Reserve, no other nesting mounds were found adjacent to, or on, the subject site and it is therefore considered that the site does not provide a habitat location.

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

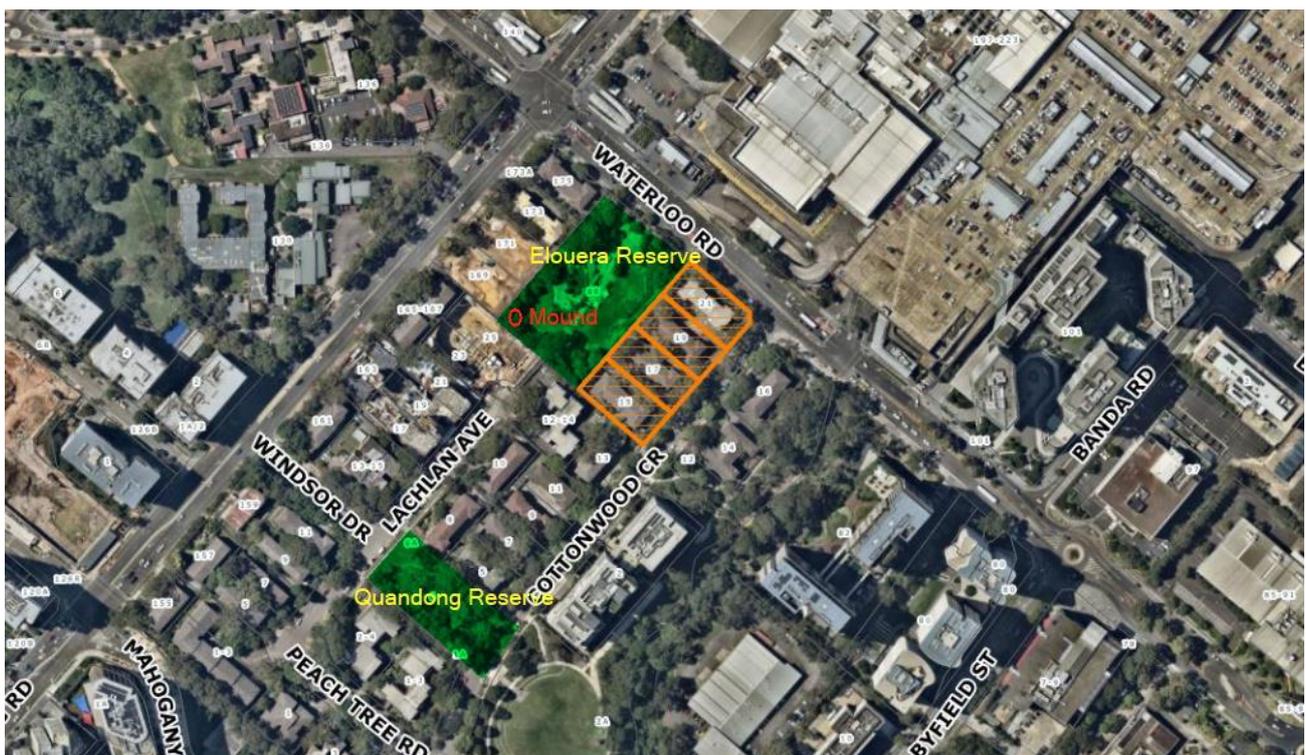


Figure 19 – Locations of Elouera Reserve and Quandong Reserve (subject site in orange).

6.3 Environmental Planning and Assessment Regulation 2021

This application satisfies Division 1 of the Regulation as it is accompanied by the necessary documentation for the development.

6.4 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in Non-Rural Areas

The aims of this Chapter are:

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

This chapter applies to land within the MU1 Mixed use zone and provides approval pathways for the removal of vegetation in non-rural areas and matters for consideration in the assessment of applications to remove vegetation.

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

The application has been considered by Council's Landscape Architect and no objection was raised regarding the removal of vegetation subject to conditions.

The proposal therefore satisfies the requirements of Section 2.6.

Chapter 6 – Water Catchments

Chapter 6 of the SEPP applies to land in the Sydney Harbour Catchment.

The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the SEPP.

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

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

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

6.5 State Environmental Planning Policy (Sustainable Buildings) 2022

The application is accompanied by an updated Multi-Dwelling BASIX Certificate (Certificate No. 1754518M-03 dated 18 December 2024).

The Certificate indicates that the development will achieve the following:

Requirement	Target Score	Provided Score
Water	40	50
Thermal Comfort	Pass	Pass
Energy	63	66
Materials	N/A	-100

Table 4 – BASIX score.

6.6 State Environmental Planning Policy (Housing) 2021

Chapter 4 – Design of Residential Apartment Development

Section 144 – Application of this Chapter

Section 144(2) of the SEPP stipulates that:

This chapter applies to the following:

- a) *development for the purposes of residential flat buildings,*
- b) *development for the purposes of shop top housing,*
- c) *mixed use development with a residential accommodation component that does not include boarding houses or co-living housing, unless a local environmental plan provides that mixed use development including boarding houses or co-living housing is residential apartment development for this chapter.*

Section 144(3) goes on to state that:

This chapter applies to development only if:

- a) *the development consists of:*
 - i. *the erection of a new building, or*
 - ii. *the substantial redevelopment or substantial refurbishment of an existing building,*
or
 - iii. *the conversion of an existing building, and*
- b) *the building is at least 3 storeys, not including underground car parking storeys, and*
- c) *the building contains at least 4 dwellings.*

As previously outlined the development is for the construction of two residential towers above a common commercial podium. The towers are 19 to 21 storeys and accommodate a total of 255 apartments.

As per the provisions of Clause 144 outlining the application of the Policy, the provisions of the SEPP are applicable to the assessment of this application.

Section 29 of the *Environmental Planning and Assessment Regulation 2021* requires the submission of a Design Statement from the building designer at lodgement of the development application. This documentation has been submitted.

Section 147 - Determination of Development Applications and Modification Applications for Residential Apartment Development

Section 147 of the SEPP requires:

Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following:

- a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*
- b) the Apartment Design Guide [ADG],*
- c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.*

The design principles (pursuant to Schedule 9 of the SEPP) are addressed, in conjunction with advice received from Council's Urban Design Review Panel (UDRP) below.

Section 147(a) - Schedule 9 - Design Principles for Residential Apartment Development

The application was referred to the UDRP on 29 August 2024 for consideration.

1. Context and Neighbourhood Character

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

Responding to context involves identifying the desirable elements of an area's existing or future character.

Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.

Consideration of local context is important for all sites, including sites in the following areas:

- a) established areas,*
- b) areas undergoing change,*
- c) areas identified for change".*

UDRP Comment

"The site includes 15-21 Cottonwood Cres. The site has frontage to Waterloo Road (north), Cottonwood Crescent (east) and Elouera Reserve (west). The south-western boundary adjoins 13 Cottonwood Crescent and 12-14 Lachlan Avenue.

The site is in very close proximity to Macquarie Centre and University and the metro station which serves both. Public open space is located immediately adjacent to the site boundary.

The area is in transition from lower scale 3-4 storey walk-up flats to contemporary mixed use and residential towers up to 23 storeys (subject to height controls).

The topography of the site and area around it is sloping from the north-west to the south-east. The landscape qualities of the sites and streetscapes are a predominant feature of the area and should be respected in any proposal.

The changing character of the area is such that an architectural response to the existing walk-up apartments is not necessary, but creation of a lower human scale base to the built form will moderate the massing and assist in maintaining a better short-term response to the remaining existing context. Subject to resolution of detailed comments below the Panel considers the proposal provides a satisfactory response to the context.

Given the exposure of the site with 3 effectively 'public' edges i.e. Waterloo Road, Cottonwood Crescent and the reserve, the way the building touches the ground and interacts with these streets and park-scape will be of paramount importance.

Given the downslope of the land, shadow impacts to both existing and approved development, existing development and public domain open space will also be a significant consideration”.

Planning Comment

The general support of the UDRP of the scheme is noted.

The development is designed to include a part 2/part 3 storey podium which extends along the Cottonwood Crescent and Waterloo Road frontages. This podium is finished in neutrally toned (sand) face brick which provides a human scaled relationship to the remaining three storey walk-up residential flat buildings along Cottonwood Crescent.

The interface between the development and Elouera Reserve is well considered in abutting the communal open space to the eastern edge of the reserve. This preserves the open aspect to and from the reserve.

The application is accompanied by shadow diagrams (see **Figures 23 to 25** later in this report) which demonstrates that the amended scheme does not cause unreasonable overshadowing to adjacent private and public domains, given the permitted 65m building height of the subject site.

2. Built Form and Scale

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

Good design also achieves an appropriate built form for a site and the building’s purpose in terms of the following:

- a) building alignments and proportions,*
- b) building type,*
- c) building articulation,*
- d) the manipulation of building elements.*

Appropriate built form:

- a) *defines the public domain, and*
- b) *contributes to the character of streetscapes and parks, including their views and vistas, and*
- c) *provides internal amenity and outlook”.*

UDRP Comment

“The site benefits from a mixed-use zoning, 65m height control and an FSR of 4.5:1. The DCP imposes a 10m setback to Waterloo Road as a linear park, 5m to Cottonwood Crescent, 5m to Elouera Reserve and 5m to side boundary conditions. An active frontage is required to Waterloo Road.

The Panel supports the overall approach to bulk, scale and proportions of the building. It is noted that the top floor on both buildings exceeds the height limit. The Panel supports the proposed articulation at the top of the towers to provide appropriately scaled articulation and definition of the architectural composition and provide for an interesting skyline. However, the location of the additional height needs to demonstrate no net worsening of offsite impacts on adjacent properties when compared to a compliant scheme. The Panel is suggesting only a redistribution of allowable building mass, not additional building mass - any additional height would need to be balanced elsewhere by lower building heights to provide increased sunlight to adjacent properties.

Cottonwood Crescent Terrace Entrances

The Panel supports the terrace-style dwellings at the ground level. The design has responded to the Panel’s previous comments by removing the large stairs. Further refinement of the Cottonwood Crescent frontage is needed with regard to heights of the walls at the street, fencing.

The brick ‘arches’ that define the terrace need slightly stronger visual strength to carry the scale of the towers above.

Building Entry Corner of Waterloo Road

Re-orientating the entrance to Waterloo Road provides for a more functional and accessible entry

The double-height spaces at the entry provide a generous quality and enable easy navigation to the main ground level.

Waterloo Road – Podium

The podium expression along this street also lack visual strength. In understanding the structural limitations resulting from the metro tunnel under – maybe the splayed columns could be expressed more strongly in the façade – particularly at the building ends.

Junction between towers and podium

Further refinement is needed between the tower forms and the podium. Maybe Level 2 should be amended to form a ‘shadow line’ between the two forms. Depending on how the building entry above is resolved – maybe the tower could come to the ground at the corner”.

Planning Comment

The general support of the UDRP of the scheme is noted.

Although retaining the articulation at the top of both towers and therefore maintaining the architectural composition and visual interest, the height of the development has since been reduced which lessens offsite impact.

With respect to the Cottonwood Crescent terrace entrances, the wall and fencing referred to is at the north-eastern corner of Tower A (near the corner of Cottonwood Crescent and Waterloo Road) and is only indicated on the photomontage (see Plan DA0202) and not on the architectural plans (see Plan DA3101). The photomontage will not be an approved document. The area in question accommodates two substations which are not permitted to be enclosed. Therefore, this matter is not applicable.

The brick 'arches' are rectangular structures which frame and define the residential modules within the podium. It is considered that these frames provide sufficiently strong visual strength by virtue of their verticality to architecturally refer to, and to carry, the scale and verticality of the towers above.

With respect to the Waterloo Road podium, as discussed above, the podium expression along Waterloo Road provides an architectural continuity to the podium expression along Cottonwood Crescent. The effect of this podium treatment is to compliment the tower forms which stand above the podium while maintaining a human scale relationship at the ground level.

With respect to the junction between the two towers, again this is a continuation of the podium level and architecture which forms a strong visual relationship to the remainder of Cottonwood Crescent. To break the visual continuity of the podium into two sections by physical or material means would disrupt this visual relationship.

3. Density

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

Appropriate densities are consistent with the area's existing or projected population.

Appropriate densities are sustained by the following:

- a) existing or proposed infrastructure,*
- b) public transport,*
- c) access to jobs,*
- d) community facilities,*
- e) the environment".*

UDRP Comment

"The proposal seeks to demonstrate it is within the permissible maximum GFA, however the Panel understands that a number of access corridors are proposed to be excluded from GFA calculations given the proposal for natural ventilation.

The Panel would support a proposal that meets the FSR control. Council should satisfy itself that proposed GFA is being correctly accounted for, and if an exceedance is identified, the Panel encourages amendments to bring the proposal within compliance.

Subject to positively addressing the comments and recommendations set out in this report, the Panel offers in principle support for the accommodation of the proposed building form and mass”.

Planning Comment

The issue of corridors verses breezeways and the implication of exceeding the GFA and FSR is discussed in detail under **Section 6.10** of this report.

In summary, it was considered the enclosing of the breezeways to form enclosed corridors results in enhanced internal amenity. It is acknowledged that the enclosing of the corridors does not add to the visual bulk and scale of the development and that the exceedance is supported pursuant to Clause 4.6 of the RLEP.

4. Sustainability

“Good design combines positive environmental, social and economic outcomes.

Good sustainable design includes:

- a) use of natural cross ventilation and sunlight for the amenity and liveability of residents, and*
- b) passive thermal design for ventilation, heating and cooling, which reduces reliance on technology and operation costs.*

Good sustainable design also includes the following:

- a) recycling and reuse of materials and waste,*
- b) use of sustainable materials,*
- c) deep soil zones for groundwater recharge and vegetation”.*

UDRP Comment

“Sustainability measures in the proposal include a combination of active and passive systems that are supported – particularly those that encourage natural ventilation.

Overhangs for shading of windows and natural ventilation – including of common corridors is provided for cooling.

While the Panel supports the natural ventilation of the corridor spaces, these should be reviewed by a wind consultant to ensure that the corridors remain comfortable communal spaces for the occupants when the wind speeds are high.

It is unclear the extent to which the active measures are being committed to as part of this application – we encourage the applicant to commit to measures beyond the minimum BASIX requirements”.

Planning Comment

The breezeways referred to by the UDRP have since been enclosed as corridors. This negates the concern regarding wind impact within these areas.

With respect to a commitment beyond the measures of BASIX, the application is accompanied by an Ecologically Sustainable Design (ESD) report (prepared by JHA and dated 5 July 2024) which includes an overview of the ESD principles and greenhouse gas emissions and energy efficiency measures that will be implemented. The Report includes a section on addresses water efficiency which discusses:

- Water efficient fixtures and fittings.
- Water Sensitive Urban Design.

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

5. Landscape

“Good design recognises that landscape and buildings operate together as an integrated and sustainable system, resulting in development with good amenity.

A positive image and contextual fit of well-designed development is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development’s environmental performance by retaining positive natural features that contribute to the following:

- a) the local context,*
- b) co-ordinating water and soil management,*
- c) solar access,*
- d) micro-climate,*
- e) tree canopy,*
- f) habitat values,*
- g) preserving green networks.*

Good landscape design optimises the following:

- a) usability,*
- b) privacy and opportunities for social interaction,*
- c) equitable access,*
- d) respect for neighbours’ amenity.*

Good landscape design provides for practical establishment and long-term management”.

UDRP Comment

“Central Courtyard

The Panel encourages the intention to co-locate and potentially connect the courtyard with the adjacent Elouera Reserve and Shrimpton Creek. The interface of the site to Elouera Reserve is important to enable visual connection but also security for the future residents. The proposed treatment that provides an open palisade fence and gate.

The proposal continues to refine garden levels along the boundary. The sandstone terracing could provide an edge that provides a more 'natural' condition and allows a bleeding of the courtyard edge and allow protection of the root zones of the existing trees.

The proposal appropriately resolves this boundary condition.

Waterloo Road

The Waterloo Road frontage allows for the retention of the existing trees within the boundary line – which is supported. The setback area provides for a series of terraces / platforms that connected the retail spaces and seeks to resolve the level change in the footpath.

The entrances and accessible paths of travel have been better defined – this provides for a rational series of commercial spaces overlooking the street”.

Planning Comment

With respect to connectivity between the subject site, Elouera Reserve and Shrimptons Creek, connection to Shrimptons Creek is not possible as the creek is located on the opposite side of Cottonwood Crescent and behind 14 Cottonwood Crescent.

The proposal includes a connection path from the communal open space area into neighbouring Elouera Reserve. It is noted (refer to **Figure 10** in this report) that the level difference between the communal open space area and the reserve is defined by a substantial drop which is currently characterised by retaining walls (which effectively cut off the subject site both visually and physically from the reserve). The relationship and connectivity between the reserve and the communal open space area is significantly improved by this development.

6. Amenity

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

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

Good amenity combines the following:

- a) appropriate room dimensions and shapes,*
- b) access to sunlight,*
- c) natural ventilation,*
- d) outlook,*
- e) visual and acoustic privacy,*
- f) storage,*
- g) indoor and outdoor space,*

- h) *efficient layouts and service areas,*
- i) *ease of access for all age groups and degrees of mobility”.*

UDRP Comment

“The Panel continues to commend the rational apartment layouts that provide good amenity for future residents.

Apartments on the Upper Ground level and Level 1 have bedrooms adjacent corridors at the rear that do not have any windows shown. We assume these will be highlight windows. Concern is raised about acoustic impacts and poor outlook from these bedrooms. The lower ground apartments appear to provide separation between the pathway and the windows which is better – if planting can be sustained in this area.

Apartments such as CG01 and WG02 where the windows don't have any opportunity for direct view outside should be redesigned.

Larger windows above the glazed awning could improve amenity to the Level 1 apartments”.

Planning Comment

The apartments at the upper ground level (including apartments CG01 and WG02) have been reconfigured to reassign bedrooms which were formerly adjacent to the communal corridor as studies. These rooms feature highlight windows and planter boxes.

7. Safety

“Good design optimises safety and security within the development and the public domain.

Good design provides for quality public and private spaces that are clearly defined and fit for the intended purpose.

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

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

UDRP Comment

“The Panel considers the proposal generally optimises safety and security within the development. The continued development of the proposal ensures that communal spaces are clearly defined and fit for the intended purpose.

The external spaces provide for a safe and logical transition from public to private space – providing a positive relationship of the proposed development to the public domain”.

Planning Comment

The support of the UDRP of the scheme is noted.

8. Housing Diversity and Social Interaction

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

Well-designed residential apartment development responds to social context by providing housing and facilities to suit the existing and future social mix.

Good design involves practical and flexible features, including:

- a) different types of communal spaces for a broad range of people, and*
- b) opportunities for social interaction among residents”.*

UDRP Comment

“The proposal provides a varied mix of apartments. The two-storey 3 bedroom apartments facing Cottonwood provide for good family apartments close the street with individual entries.

Location of communal rooms have improved and provide a better link to the external communal spaces”.

Planning Comment

The support of the UDRP of the scheme is noted.

9. Aesthetics

“Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure.

Good design uses a variety of materials, colours and textures.

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

UDRP Comment

“The Panel continues to support the architectural strategies for articulating building forms, subject to the adoption of the recommendations made in this report.

The Design Report illustrates refined detailing of the slab edges and notes detailing of brickwork in the podium. The proposed detailing is supported and should be documented as part of the ‘stamped’ approved documents for all elements of the building – to ensure integrity of the design is carried through to construction.

The Panel typically seeks design material to fully describe the design intent at formal lodgement included with annotated large-scale elevations and sections and / 3d views”.

Planning Comment

The general support of the UDRP of the scheme is noted.

Section 147(b) - Apartment Design Guide (ADG)

The development has been assessed as not complying with the following provision of the ADG:

Clause 3D – Communal and Public Open Space

The communal open space area is estimated to comprise approximately 1,058m² at the ground floor level and a 68m² indoor communal room which is located directly off the communal open space area (areas within the Waterloo Road and Cottonwood Crescent frontage are excluded from this calculation). The proposed communal area is 1,126m² which is 156.5m² (12.2%) less than the prescribed amount under Clause 3D. Although not a substitute, the site uniquely benefits from its proximity to Elouera Reserve which affords opportunity for nearby off-site recreation.

This is considered to be an acceptable outcome and the deficiency is supported in this particular instance.

Clause 3F – Visual Privacy

Clause 3F requires the following minimum separation distance from buildings to the side and rear boundaries:

Building height	Habitable rooms and balconies	Non-habitable rooms
Up to 12m (4 storeys)	6.0m <i>(12m)</i>	3.0m <i>(6.0m)</i>
Up to 25m (5-8 storeys)	9.0m <i>(18m)</i>	4.5m <i>(9.0m)</i>
Over 25m (9+ storeys)	12.0m <i>(24m)</i>	6.0m <i>(12.0m)</i>

Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms (see numbers in italics).

Internal

Tower A to Tower B (Combined distances)

Habitable to Habitable	
Balcony to Wall	18m
Wall to Wall	19m
Habitable to Non-Habitable	
Balcony to Wall	18m
Wall to Wall	19m
Non-Habitable to Non-Habitable	-

It is noted that the north-facing balconies at Tower B face towards the southern side of Tower A which includes small secondary windows to bedrooms. These secondary windows are screened to avoid overlooking from the opposing balconies and habitable rooms in Tower B.

External

Tower B to 13 Cottonwood Crescent

It is noted that 13 Cottonwood Crescent is setback approximately 3.5m from the property boundary shared with the subject site.

Habitable to Habitable To Boundary	12.8m 11.7m
Habitable to Non-Habitable To Boundary	12.8m 11.7m
Non-Habitable to Non-Habitable To Boundary	- 11.7m

Tower B to 12-14 Lachlan Avenue

It is noted that 12-14 Lachlan Avenue is setback between approximately 3.5m and 20.8m from the property boundary shared with the subject site.

Habitable to Habitable To Boundary	16.5m 11.7m
Habitable to Non-Habitable To Boundary	16.5 11.7m
Non-Habitable to Non-Habitable To Boundary	- 11.7m

The development achieves a separation of 11.7m from the southern balcony to the southern boundary and 12.8m separation from the nearest apartment to the southern property boundary.

It is noted from the site inspection (see **Figure 14** in report) that 12-14 Lachlan Avenue accommodates a habitable room at the nearest corner to the development and its primary living area and balcony further to the south (facing east). The features are separated from the southern façade of the development by approximately 16.5m to 19.8m respectively.

Although not compliant by 0.3m, it is noted that this element is located at the south-western corner of the site and adjacent to the central communal area of 12-14 Lachlan Avenue and is considered that this would not create any unreasonable impact above that of a compliant scheme with a 12m separation.

The application is accompanied by a by an indicative plan of the development potential of both neighbouring properties if 13 Cottonwood Crescent and 12-14 Lachlan Avenue were to consolidate. The plan indicates that the development of the neighbouring property is

achievable with the required 12m separation on that property to achieve the overall 24m separation (see **Figure 29** in this report).

Clause 4A – Solar and Daylight Access

Clause 4A permits the following (given the 255-apartment yield) between 9.00am and 3.00pm on 21 June:

	%	#
Direct Sunlight	70%	178.5
No Direct Sunlight	15%	38.2

The Solar Compliance diagrams (see Plan DA2905) submitted with the application indicate that development would achieve 70% (178) sunlight access, 5% (13) no solar access, and 25% (64) partial solar access.

However, a review of the Solar Compliance diagrams (see Plan 2905), in conjunction with the ‘View from the Sun’ diagrams (see Plan 2604) indicates that the development would more likely achieve the following:

	%	#
Direct Sunlight	69.4%	177 (-1)
No Direct Sunlight	20.4%	52 (-13.8)
Partial Sunlight Access	10.2%	26

All apartments indicated (and suggested by this assessment) as not receiving, or receiving partial, sunlight access are located at the south-eastern side and south-eastern corner of the development facing Cottonwood Crescent and occurs due to the off-set orientation, narrowness and shape of the site

Given the limitations of the site and the architectural solutions to the redevelopment of the site comparable to other development in the vicinity, it is considered that the non-compliance is supportable.

Clause 4B – Natural Ventilation

Clause 4B permits 153 (60%) apartments to be naturally cross ventilated below 10 storeys).

The Cross Ventilation Compliance diagram (see Plan 2906) indicates that the development will provide 74 (57%) apartments which are naturally cross ventilated and 4 (3%) apartments which are ventilated.

The naturally cross ventilated apartments are located at the corners of Towers A and B whereas the 4 apartments (at Level 8) are deemed to be ventilated by virtue of their height.

Although not compliant, the variation is considered to be acceptable as the 4 apartments in question (located within Tower A) are configured to circulate air through the Living Room and

Bedroom. It is also noted that the depths of these apartments are 7.2m which would afford sufficient ventilation.

The assessment of the proposal against the provisions of the Apartment Design Guide are in **Attachment 3** of this report.

Section 148 - Non-Discretionary Development Standards

Section 148 includes the following Non-Discretionary Development Standards.

Standard	Required	Proposed	Variation
<p>148(2)(a) Car Parking The car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide.</p> <p>Part 3J refers to the provision of resident and visitor spaces as required by the RDCP.</p>	<p><u>Resident</u> Maximum 255 spaces</p> <p><u>Visitor</u> Maximum 26 spaces</p>	<p>Resident: 256 spaces</p> <p>Visitor: 16 spaces</p>	<p>Yes The total required is a maximum within Macquarie Park.</p> <p>Parking below the maximum is permitted and encouraged.</p>
<p>148(2)(b) Internal Dwelling Area The internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide.</p>	<p>1 Bedroom: 50m² 2 Bedroom: 70m² 3 Bedroom: 90m²</p>	<p>51m² to 56m² 75m² to 86m² 102m² to 123m²</p>	<p>Yes Yes Yes</p>
<p>148(2)(c) Ceiling Heights The ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.</p>	<p>Habitable: 2.7m Non-Habitable: 2.4m Ground Floor: 3.3m</p>	<p>Habitable: 2.7m Non-Habitable: 2.4m Ground Floor: +3.3m</p>	<p>Yes Yes Yes</p>

Chapter 5 – Transport Oriented Development

The subject site is not included in the land identified under Section 152.

The NSW Department of Planning & Environment has published an *Accelerated Transport Oriented Development Precincts Rezoning Areas Map* which identifies and rezones the south-eastern section of Macquarie Park as a priority high growth area.

The subject site is not located within this area.

Figure 20 below shows the subject site in proximity to the priority high growth area.



Figure 20 – Proximity of the site (shaded in red) to the priority high growth area (shaded in purple).

6.7 State Environmental Planning Policy (Planning Systems) 2021

As the proposed development has an Estimated Development Cost (EDC) of \$165,050,000 (excluding GST) it is classified as Regionally Significant Development and is required to be determined by the Sydney North Planning Panel (SNPP).

The EDC is confirmed by a Quantity Surveyor’s Cost Report dated 5 July 2024 as prepared by Rider Levett Bucknall NSW Pty Ltd.

6.8 State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

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

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

In response to the above requirements, the applicant has submitted a Preliminary and Detailed Site Investigation prepared by JBS&G Australia Pty Ltd dated 16 July 2024.

The investigation notes that, with regard to contaminants:

“Reported contaminant concentrations present within natural soils were generally within background levels for urban areas published in ASC NEPM (2013). On this basis, there are no issues associated with background soil concentrations that require further consideration”.

With regard to the migration of contaminants via groundwater, dust, etc.:

“The potential for migration of contaminants from the site via dust, surface water erosion potential and groundwater are low based on the lack of contamination identified since the site is surfaced with concrete hardstand and building footprints”.

The Investigation concludes that *“the site is suitable from a contamination perspective for the proposed development”.*

With respect to Section 4.6(1)(c) of the SEPP, no remediation works are deemed necessary.

6.9 State Environmental Planning Policy (Transport and Infrastructure) 2021

Section 2.99 - Excavation In, Above, Below or Adjacent to Rail Corridors

This section applies to development that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land:

- a) within, below or above a rail corridor, or
- b) within 25m (measured horizontally) of a rail corridor, or
- c) within 25m (measured horizontally) of the ground directly below a rail corridor, or
- d) within 25m (measured horizontally) of the ground directly above an underground rail corridor.

As noted earlier in this report (refer to **Figure 2**), the site is located immediately adjacent to a rail corridor, being the dual Sydney Metro tunnel system which runs along the length of Waterloo Road.

The development involves excavation to a depth of 9.5m which is 5.6m horizontally to the south of the Metro Corridor Exclusion Zone.

The application was subsequently referred to Sydney Metro for concurrence under Section 2.99. Concurrence was granted on 9 April 2025.

Section 2.122 – Traffic Generating Development

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

Schedule 3 of the SEPP requires that the following developments are referred to Transport for NSW (TfNSW) as development on a proposed classified road and traffic generating development:

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

Table 5 – Schedule 3 (Traffic Generating Development).

Cottonwood Crescent and Waterloo Road are Local Roads within the NSW Road Network Classification that are under the care and control of Council. The site is not located within 90m of a classified road (the nearest being Herring Road which is 275m from the proposed driveway to the north-west). The development is therefore subject to Column 2.

It is noted that the development includes 191.5m² retail GFA and 255 residential apartments both of which are below the size or capacity to qualify as traffic generating development.

Notwithstanding, the application was referred to TfNSW for comment pursuant to Clause 2.122 of the SEPP who advised, in their response, that “*TfNSW has reviewed the submitted application and raises no objection as the proposed development is unlikely to have a significant impact on the classified road network*”. No conditions were imposed by TfNSW.

Section 2.120 - Impact of Road Noise or Vibration on Non-Road Development

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

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

Notwithstanding, the application is accompanied by an Acoustic Assessment (dated 12 September 2023) as prepared by Acoustic Logic.

The report considered environmental noise impacts (road traffic noise from Waterloo Road) and vibration from the Sydney Metro tunnel to the proposed occupied areas of the development and found that the proposed development is suitable at the site from an acoustic and vibration viewpoint subject to recommendations which include mitigation measures.

The report is included in draft consent as a supporting document.

6.10 Ryde Local Environmental Plan 2014 (RLEP)

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

Clause 2.2 – Zoning

The site is located within the MU1 Mixed Use zone.

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

Clause 2.3 – Zone Objectives

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives for the MU1 Mixed Use are as follows:

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

The development complies with the above relevant objectives. It will be consistent with the desired future character for the precinct by introducing mixed use buildings comprising residential and retail uses.

The subject site is located within walking distance of bus and train services, retail and commercial services, Macquarie University and Macquarie Shopping Centre and is therefore considered to be a suitable location for this development.

The development proposes a mixed-use development which include retail premises and residential flat buildings. All these uses are permitted in the zone and will contribute to the development being characterised as a mixed-use development.

The massing and scale of the development has been assessed by the UDRP as appropriate in terms of the future built environment.

The built form contributes to the character and public domain of the area.

Part 4 – Principal Development Standards

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

The following table details the compliance of the development against the two principal development standards.

Standard	Permitted	Proposed	Variation	Compliance
Height of Buildings				
Tower A	65m	69.9m	7.5% (+4.9m)	No
Tower B	65m	70.1m	7.8% (+5m)	No
Floor Space Ratio				
Site Area 5,130m ²	4.5:1 (23,085m ²)	4.74:1 (24,323m ²)	5.4% (1,238m ²)	No

Table 6 – RLEP Compliance.

As can be seen in the above table, the proposal does not comply with the maximum building height prescribed by Clause 4.3 and the maximum floor space ratio prescribed by Clause 4.4.

In response, the application is accompanied by requests to vary the two development standards pursuant to Clause 4.6 of the RLEP.

Both requests are at **Attachments 4 and 5** of this report.

Clause 4.6 – Exceptions to Development Standards

Clause 4.6 of the RLEP 2014 provides flexibility in the application of planning controls by allowing a consent authority to approve a development application that does not comply with a development standard.

Clause 4.6(3) prescribes the following prerequisites to supporting a variation request:

- (3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:*
 - (a) *Compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) *There are sufficient environmental planning grounds to justify the contravention of the development standard.*

Clause 4.3 - Height of Buildings (Clause 4.6 Variation Consideration)

Clause 4.3 permits a maximum building height of 65m. The development proposes building heights of between 69.9m to 70.1m as noted in **Table 6** above.

The non-compliance equates to a variation of between 7.5% and 7.8%.

The non-compliant elements are illustrated in **Figures 21 to 23** below where it is noted that the development breaches the permitted building height at the uppermost section of the part of a storey, the roof and rooftop plant.

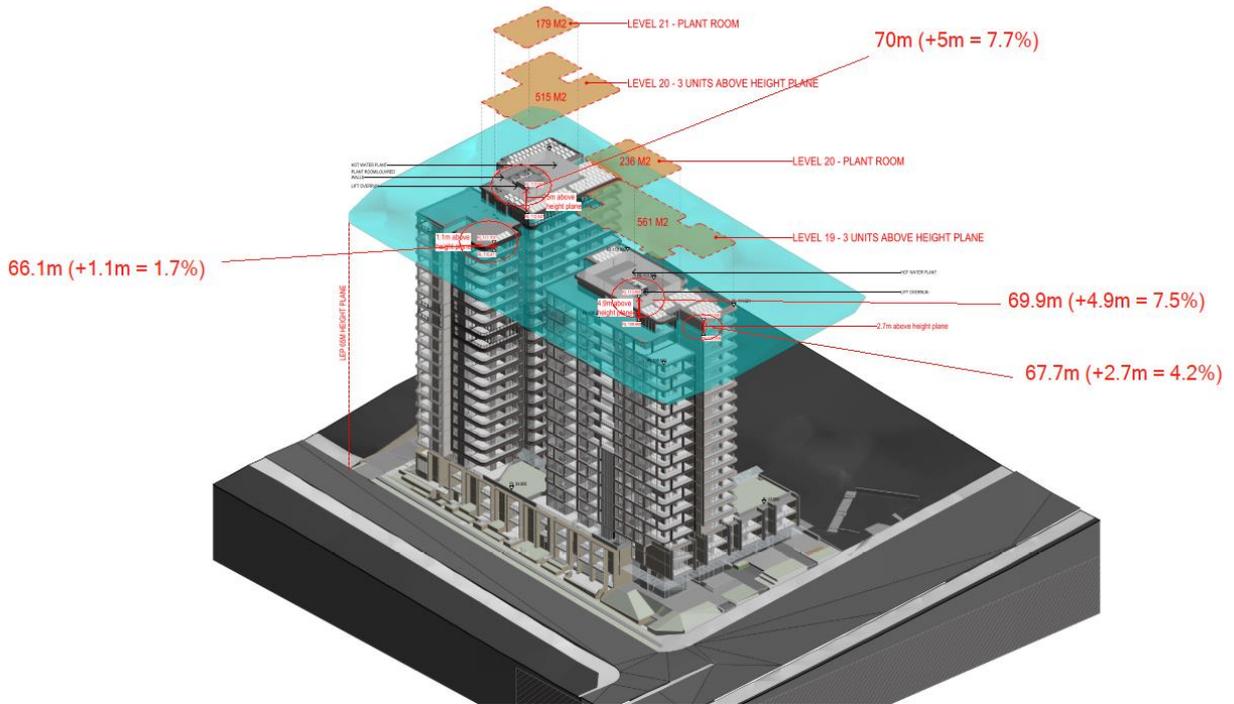


Figure 21 – Permitted 65m height plane (in blue) as viewed from the north-east (Waterloo Road).



Figure 22 – Section showing height non-compliances (shaded in red) from Cottonwood Crescent.

Figure 23 below shows two cross sections through Tower B (looking north-east) to indicate the crossfall of the existing ground level of the site and the subsequent degree of non-compliance.

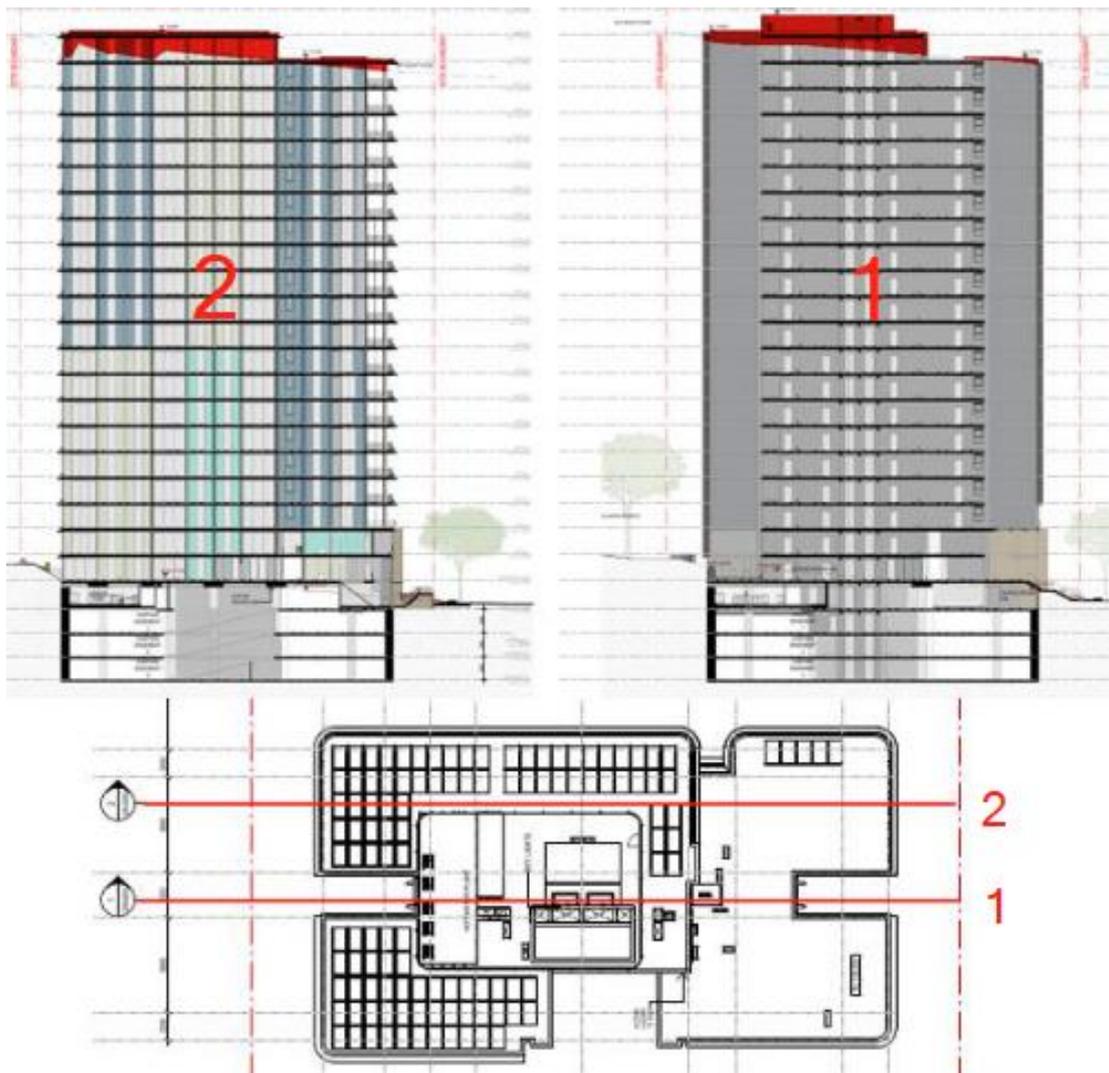


Figure 23 – Cross sections through Tower B showing height non-compliances (shaded in red).

A request to vary the Height of Buildings development standard has been submitted under Clause 4.6 of the RLEP.

In proposing to vary Clause 4.3, the applicant has submitted a detailed Clause 4.6 variation request prepared by Urbis which is addressed against Clause 4.6(3) as follows:

(3)(a) - Unreasonable or Unnecessary

In response to the standards being ‘unreasonable or unnecessary’ the applicant’s main arguments are:

1. Consistency with the Objectives of the Standard.

The applicant’s response to the objectives of the standard are:

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

“This DA seeks approval for a scale of development that is anticipated in the local area and responds to the topography of the site in relation to the bulk and height of the proposed tower forms. The following is noted in this regard:

- The north-western quadrant of the Macquarie Park Corridor (Herring Road Urban Activation Precinct) has emerged as the focal point of a burgeoning high-density residential property market.*
- The visual context for the site and surrounding local area is characterised by high-rise tower forms along Waterloo Road, south of Shrimptons Creek including to the immediate east of the site along either side of the Shrimptons Creek open space corridor.*
- The topography of the site, which is characterised by a shallow slope from the south-west towards the north-east. Accordingly, the height of the proposed development is concentrated towards the south-west of the site where building mass for the Cottonwood Tower is proposed above the permitted building height to a maximum elevation of RL 117.1m. The Waterloo Tower is constructed to a lower maximum elevation of RL 113.9m, which is appropriate to the reduced ground level elevation towards the north-east corner of the site. Both tower forms propose one level of habitable floorspace above the maximum permitted building height. The subsequent extent of the proposed height variation is minor, equating to 7.8% (Cottonwood Tower) and 7.5% (Waterloo Tower) of the standard to be varied. These similar values represent the highest point of each tower form.*
- Macquarie shopping centre and mixed-residential development at 1 Macquarie Place located opposite and along the north side of Waterloo Road, are characterised by long low (bulky 3 to 4 storey podium forms and tall tower forms).*
- The proposed development is generally consistent with the required setbacks to Waterloo Road and Cottonwood Crescent under the RDCP 2014. A streetscape design outcome has been achieved that is anticipated under the local planning framework”.*

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

“The updated Architectural Plans include Shadow Diagrams that show the extent of shadowing that will be cast by the proposed development.

This material has been considered within Section 4.2.1 of the Clause 4.6 Variation request, where it has been demonstrated that:

- The tower forms have been recessed back from the primary façade alignment at the upper levels to minimise the extent of overshadowing that is attributed to the proposed height variation.*
- The proposed extent of overshadowing will not result in an unacceptable reduction to the level of solar amenity afforded to surrounding residential development.*
- As outlined above, this DA seeks approval for a scale of development that is anticipated in the local area, including in relation the bulk and height of the proposed tower forms.*
- The SEE and Design Report have outlined the design rationale for streetscape interface treatments, landscaping, tree planting and the massing approach for the proposed development. The level of amenity afforded to the adjoining streetscapes of Cottonwood Crescent and Waterloo Road will improve from existing.*

- *There will be no unacceptable reduction to solar amenity as a result of shadowing that will be cast by the proposed development, inclusive of the proposed height variation”.*

As noted above, the application is accompanied by the following amended shadow diagrams as detailed in **Figures 24 to 26** below.



Figure 24 – Shadows cast by the development at 9.00am on 21 June.



Figure 25 – Shadows cast by the development at Noon on 21 June.



Figure 26 – Shadows cast by the development at 3.00pm on 21 June.

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

“Section 4.4 of Part 4.5 within the RDCP 2014 promotes the uptake of sustainable transportation modes, including public transport.

The site is immediately adjacent to an existing bus stop that is serviced by a number of high-frequency bus routes. Importantly, the site is located within the walkable catchment of the Macquarie University Metro Station.

The proposed development will achieve significant uplift within a transit-oriented context. This is consistent with the intended effect of Objective (c), including in relation to the finer-grain implementation of this object under the RLEP 2014.

Further, Section 5.8.4 of the SEE demonstrates that a sustainable travel management outcome can be readily achieved by the proposed development. This will be supported by a Travel Plan, which will be prepared in accordance with the Travel Plan Guidelines and supplied to Council before a Construction Certificate is issued”.

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

“Further reference should be made to the following material:

- *Section 4.2.1, of this Clause 4.6 Variation Request demonstrates that the proposed development will not result in any unacceptable adverse reduction to the level of solar amenity afforded to surrounding development and public spaces.*
- *Section 5.11.2 of the SEE demonstrates that the proposed development will not result in any unacceptable reduction to the level of acoustic amenity that is currently afforded to surrounding noise receptors.*

- *The RFI Response material that was submitted to Council in November 2024, which outlines how the proposed development presents a quality interface to Elouera Reserve that will achieve a secure outcome for residents without compromising the level of visual amenity afforded to this public space, as well as vice versa with members of the public utilising public open space.*
- *Section 3 of the SEE provides an outline of the high-quality landscape, façade and boundary treatments that have been incorporated through a carefully considered design approach.*

The proposal is consistent with Objective (d), notwithstanding the proposed height variation”.

e) to emphasise road frontages along road corridors.

“Waterloo Road

The Waterloo Tower podium form presents a well-defined active frontage to Waterloo Road with a ‘Grand Resident Lobby’ towards the corner of Waterloo Road and Cottonwood Crescent. This includes provision for extensive display glazing to two proposed retail tenancies at the Lower Ground Level and Upper Ground Level.

The proposed development incorporates a 10m built form setback from the street interface with stepped terraces and landscaping to deliver on the vision for a ‘Linear Park’ along Waterloo Road under the Waterloo Road Active Street Masterplan (WRM).

The design rationale for the proposed podium form and street wall alignment along the Waterloo Road frontage is outlined in detail within the RFI Response material that was submitted to Council in November 2024.

The proposed development is consistent with Objective (e) as it relates to the Waterloo Road frontage.

*As shown in Figure 5 [refer to **Table 6** in this report above], it is further noted that the numerical extent of the proposed height variation reduces towards the Waterloo Road frontage where the vast majority of pedestrian receptors will observe the proposed development from. As discussed above in relation to Objective (a), the reduced height of development (December 2024) responds appropriately to the undulating topography of the site, which is characterised by a shallow downward slope from the south-west to the north-east.*

Cottonwood Crescent

The prominence of 3-storey street wall and walk-up ‘terrace style’ maisonette dwellings at the Cottonwood Crescent interface is appropriate to the lower volume of pedestrian movement and residential character form along this suburban street. The design approach was adopted following ongoing consultation with Council’s Urban Design Review Panel which assisted towards the achievement of a streetscape design outcome that is appropriate to the transitioning profile of the local area. Further reference should be made to the RFI Response material that was supplied to Council in November 2024, which provides a response to feedback that has been received to date from Council and the UDRP.

Development along the Cottonwood Crescent frontage satisfies the requirement for a 5m built form setback to “all existing and new streets unless otherwise specified” under Part 4.5 of the

RDCP 2014. Terraced landscaping and trees are proposed at this frontage to reinforce the natural profile of the local area. This planting is intended as a buffer to afford an appropriate level of privacy and amenity to the private outdoor terraces of the 3-bedroom maisonette dwellings, whilst still providing an aesthetically pleasing design when viewed from the public domain and for passersby.

The proposed development is consistent with Objective (e) as it relates to the Cottonwood Crescent frontage”.

2. Slab Height & Proximity to the Sydney Metro Corridor

“The proposed excavation works will occur within 20-30m of the existing Sydney Metro Tunnel beneath Waterloo Road. Notwithstanding, the proposed development has been designed in consideration of the Sydney Metro Underground Corridor Protection Technical Guidelines (April 2021).

The excavated depth is expected to be greater than 2m within the ‘Second Reserve’ boundary of the Sydney Metro corridor, as outlined in the Sydney Metro Underground Corridor Protection Technical Guidelines (April 2021). These guidelines indicate that excavations for basements within the second reserve to depths greater than 2m are allowed; but require assessment and approval from Sydney Metro.

In accordance with the Sydney Metro Underground Corridor Protection Technical Guidelines, excavations within the First Reserve of the Sydney Metro corridor are prohibited, while excavations to a depth of 2m (or greater) within the Second Reserve require assessment.

The Ground Level slab height has been constrained by the First Reserve of the Sydney Metro rail corridor and cannot be excavated to a depth below existing natural Ground Level. This has contributed towards the overall height of the Waterloo Tower, which has been reduced in response to site-specific topography”.

Planning Comment

In demonstrating that the application of the standard is unreasonable or unnecessary, the request only needs to include one or more reasons of justification.

Of the above, Point 1 is accepted in that the objectives of the standard are achieved notwithstanding the non-compliance and that compliance with standard is unnecessary in this particular instance.

Point 2 is acknowledged as a constraint which influences development within proximity to the Sydney Metro and is considered to be a sufficient environmental planning ground which contributes toward the standard being unreasonable in this particular instance.

On balance, the Clause 4.6 demonstrates that compliance with Clause 4.3 is unreasonable and unnecessary in the circumstance.

(3)(b) – Sufficient Environmental Planning Grounds

In demonstrating sufficient environmental planning grounds, the applicant's main arguments are:

1. "The objectives of Clause 4.3 have been achieved."

*The underlying objectives and purpose of Clause 4.3 have been achieved, notwithstanding the proposed height variation. This Clause 4.6 Variation Request has referenced the 'First Method' that was established through *Wehbe v Pittwater Council* [2007] NSWLEC 827 to demonstrate that compliance with Clause 4.3 of the RLEP 2014 is not reasonable or necessary in this case.*

2. The bulk and height of the proposed development is anticipated within the context of the Macquarie Park Corridor.

Approval is sought under this DA for a scale of development that is anticipated in the local area in relation to the bulk and height of the proposed tower forms. The following is noted in this regard:

- *The emerging high-rise height datum along Waterloo Road.*
- *The reduced height of the Cottonwood Tower, which has prompted the updates reflected in this version of the Clause 4.6 Variation Request for the proposed height variation.*
- *The topography of the site, which is characterised by a shallow slope from the south-west towards the north-east. Accordingly, the height of the proposed development is concentrated towards the south-west of the site where building mass for the Cottonwood Tower is proposed above the permitted building height.*
- *Proposed façade recessions at high-rise levels.*
- *The continued maintenance of an acceptable level of solar amenity for surrounding public spaces and residential dwellings.*

3. The height of development has been reduced in response to the topography of the site.

The topography of the site, which is characterised by a shallow slope from the south-west towards the north-east. Accordingly, the height of the proposed development is concentrated towards the south-west of the site where building mass for the Cottonwood Tower is proposed above the permitted building height to a maximum elevation of RL 117.1m. The Waterloo Tower is constructed to a lower maximum elevation of RL 113.9m, which is appropriate to the reduced ground level elevation towards the north-east corner of the site.

Both tower forms propose one level of habitable floorspace above the maximum permitted building height. The subsequent extent of the proposed height variation is minor, equating to 7.8% (Cottonwood Tower) and 7.5% (Waterloo Tower) of the standard to be varied. These similar values represent the highest point of each tower form. Further, the full proportion of Level 20 (Cottonwood Tower) and Level 19 (Waterloo Tower) is not located above the height plane.

4. The proposed height variation will not result in any unacceptable overshadowing to surrounding development and public open spaces.

With reference to the justification provided in Section 4.2.1, the following is noted in summary:

- *The tower forms have been recessed back from the primary façade alignment at the upper-most levels to minimise the extent of overshadowing that is attributed to the proposed height variation.*
- *The proposed extent of overshadowing will not result in an unacceptable reduction to the level of solar amenity afforded to surrounding residential development. It has been established that the proposal will not restrict the potential for future development to satisfy the solar amenity provisions of the ADG.*
- *A significant proportion of ‘shadowing’ that is attributed to the proposed height variation is contained within the shadow footprints that are already cast by surrounding development.*
- *Approval is sought under this DA for a scale of development that is anticipated in the local area, including in relation the bulk and height of the proposed tower forms.*
- *No overshadowing to Elouera Reserve or Wilga Park is proposed. Cottonwood Reserve and the Shrimptons Creek Corridor are shaded by dense tree canopy, and the vast majority of the modelled shadow footprint for the proposed development that extends over these public spaces is attributed to height-compliant built form.*

5. *The proposed height variation will not result in any unacceptable visual impact.*

- *The Visual Impact Assessment that was submitted at DA lodgement concluded that the proposed development would have an acceptable visual impact at the time of lodgement. The proposed massing refinements that were implemented since the VIA was submitted reinforce the findings of the VIA, which would only be complemented by the amendments that were made in November and December 2024.*

6. *The proposed height variation is necessary to address site-specific constraints.*

- *The Ground Level slab height has been constrained by the First Reserve of the Sydney Metro rail corridor and cannot be excavated to a depth below existing natural Ground Level. This has contributed towards the overall height of the Waterloo Tower, which has been reduced in response to site-specific topography.*

For the reasons above, this Clause 4.6 Variation Request is well-founded. Compliance with Clause 4.3 of the RLEP 2014 is not reasonable or necessary in this instance. This Clause 4.6 Variation Request has established sufficient environmental planning grounds for the proposed height variation in the circumstances of this case”.

Comment

In demonstrating sufficient environmental planning grounds, the request only needs to include one or more reasons of justification.

Of the above, Points 1, 4, 5, and 6 are accepted in that:

- a) The development achieves consistency with the objectives of the Standard.
- b) The development will be in harmony with the evolving character of the area.
- c) The proximity of the site to the Sydney Metro rail corridor influences the marginal height increase of Tower A.
- d) There are no significant or unreasonable impacts on surrounding public areas.
- e) There are no significant or unreasonable impacts on surrounding residences.

Conclusion to Clause 4.6 Consideration (Height of Buildings)

The review of the request to vary the development standard pursuant to Clause 4.6 of the RLEP has demonstrated that, in this particular circumstance:

- a) There are sufficient environmental planning grounds to justify the contravention of the development standard; and
- b) Compliance with the development standard is unreasonable or unnecessary in the circumstances.

Clause 4.4 – Floor Space Ratio (Clause 4.6 Variation Consideration)

Clause 4.4 permits a maximum floor space ratio of 4.5:1 (23,085m²). The development proposes a floor space ratio of 4.74:1 (24,323m²) as noted in the table above. The non-compliance equates to a variation of 5.4% (1,238m²).

As noted earlier in this report, the non-compliant elements comprise the enclosing of the corridors within the residential towers which are considered to improve residential amenity.

Clause 4.6 of the RLEP 2014 provides flexibility in the application of planning controls by allowing Council to approve a development application that does not comply with a development standard.

Clause 4.6(3) prescribes the following prerequisites to supporting a variation request:

- (3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:*
 - (a) *Compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) *There are sufficient environmental planning grounds to justify the contravention of the development standard.*

In proposing to vary Clause 4.4, the applicant has submitted a detailed Clause 4.6 variation request prepared by Urbis.

(3)(a) - Unreasonable or Unnecessary

In response to the standards being 'unreasonable or unnecessary' the applicant's main arguments are:

1. Consistency with the Objectives of the Standard.

The applicant's response to the objectives of the standard are:

a) To provide effective control over the bulk of future development.

"The proposed FSR variation is a result of enclosing the former breezeways, and in effect has no material impacts in relation to the perceived bulk and scale of the built form proposed.

Accordingly, the proposed development (as amended) represents the same appearance on the exterior (albeit a reduction in height) as previously proposed.

It is evident, that the height and FSR controls are acting independently of one another, and an increase in bulk will not occur as a result of the proposal.

Therefore, the bulk and scale proposed is commensurate for the site and will not have any adverse impacts on adjoining sites as discussed throughout this request.

The proposal, in particular the contravention in the development standard, is a technical matter brought about by the proposed amendments to the design. The amendments and the contravention will therefore not impact on the bulk of the proposal and consequently satisfy the objective under the LEP”.

b) To allow appropriate levels of development for specific areas.

“The proposed development is broadly consistent with built form that has been delivered in the Herring Road Precinct within which the site is located. Contextually and to the south-east, the Macquarie Park Corridor is anticipating significant uplift as a consequence of the implementation of the Macquarie Park Place Strategy and TODD SEPP.

The contravention of the development standard is insignificant in relation to this objective, given the design of the proposal has been deemed suitable for the site and locality; and responds appropriately to the character of the area”.

c) In relation to land identified as a Centre on the Centres Map - to consolidate development and encourage sustainable development patterns around key public transport infrastructure.

“The site is identified on the ‘Centres Map’ pursuant to Clause 4.4(1)(c) of the RLEP 2014. Consistent with the objective, the proposal seeks to consolidate four allotments identified between 15-21 Cottonwood Crescent.

The proposal has been designed to include initiatives targeted toward sustainable development solutions and is appropriately located in relation to key transport infrastructure (rail and bus networks).

The north-eastern boundary of the site is required to factor in a 15m setback at the subterranean level of the basement in relation to the Sydney Metro Guidelines, which further reinforces the proposal’s ability to respond to patterns associated with public transport infrastructure, whilst still providing a conducive outcome that allows for development to occur in close proximity to key infrastructure.

Overall, the proposal is capable of satisfying the objective, with the contravention in FSR having very limited affects on the objective given its technical exceedance brought about by the proposed revisions to the design”.

Comment

In demonstrating that the application of the standard is unreasonable or unnecessary, the request only needs to include one or more reasons of justification.

Point 1 is accepted in that the objectives of the standard are achieved notwithstanding the non-compliance and that compliance with standard is unreasonable and unnecessary in this particular instance.

(3)(b) – Sufficient Environmental Planning Grounds

In demonstrating sufficient environmental planning grounds, the applicant's main arguments are:

“There is an absence of environmental harm arising from the contravention of the FSR development standard and sufficient and positive environmental planning grounds to justify contravening the development standard for the following reasons:

- a) *The proposed breezeways were originally proposed following engagement with the Urban Design Review Panel to introduce a natural and innovative design element that would contribute toward improving natural ventilation across the buildings. The breezeways were considered innovative given the function they provide in terms of providing a natural ventilation mechanism as opposed to generating additional power across the site through mechanical ventilation. Furthermore, an organic element was proposed to complement the breezeways, through the integration of internal landscaping planter boxes which would assist in provide a safety barrier, as well as screen potentially windy elements. Accordingly, this approach has since been omitted due to concerns raised by Council in relation to amenity of future occupants; the breezeways enclosed; and, corridors provided, which has resulted in the technical non-compliance with the FSR development standard.*
- b) *Notwithstanding the above, the design proposed will satisfy environmental considerations in relation to the ADG; will not have any amenity impacts on or offsite as a result of the breach in FSR; and will result in a highly functional and operable building once constructed and delivered.*
- c) *The variation request in relation to FSR is in relation to portions of the site that were previously proposed to be excluded from the counting of GFA / FSR, i.e. breezeways. By enclosing the building to have operable corridors that respond to climatic conditions, results in a technical non-compliance to the development standard. Accordingly, the variation will not result in any additional bulk or scale compared to that of the original scheme.*
- d) *The proposed variation will not generate any additional amenity impacts beyond that of a compliant scheme as previously proposed in relation to overshadowing, view loss or privacy. The Architectural Plans prepared by AJC reinforce the generally compliant nature of the proposed development.*
- e) *The variation is in relation to ancillary built form components such as corridors and not directly related to dwellings / apartments; therefore, if the variation was brought about by formally habitable floor area, this may have resulted in further exceedances to the height variation. Notwithstanding, to respond to the topography of the site, the proposed height*

has been reduced and the floor areas associated with the breezeways/corridors included to appropriately respond to the existing conditions of the site.

- f) *Strict compliance with the FSR development standard is considered to unreasonable as it would require the building to further reduce the height and consequently remove apartments / dwellings able to be achieved across the site.*
- g) *Further, a key objective of the proposal is to provide a well-balanced and conducive design outcome that responds to the site conditions; the surrounding environment; existing and proposed development; consideration of accessibility; and maximising of dwellings able to be achieved on a site well-positioned in relation to key points of interest (Macquarie University and the Macquarie Centre) and accessible transport infrastructure (bus and rail networks).*

In accordance with the above, it is considered that there are sufficient environmental planning grounds and merit-based justification in order to support the technical non-compliance and variation sought by this proposal”.

Planning Comment

In demonstrating sufficient environmental planning grounds, the request only needs to include one or more reasons of justification.

Of the above, Points (b), (c), (d), and (e) are accepted in that:

- a) The non-compliance does not result in any unreasonable amenity impacts on or off the site.
- b) The non-compliance improves the internal amenity and functionality of the development.
- c) The non-compliance is necessarily ancillary to the primary purpose of the development and does not result in any noticeable visual or physical increase in building bulk compared to the incorporation of breezeways.

Conclusion to Clause 4.6 Consideration (Floor Space Ratio)

The review of the request to vary the development standard pursuant to Clause 4.6 of the RLEP has demonstrated that, in this particular circumstance:

- There are sufficient environmental planning grounds to justify the contravention of the development standard; and
- Compliance with the development standard is unreasonable or unnecessary in the circumstances.

The written submission from the applicant have adequately demonstrated that the contravention of the Height of Buildings and Floor Space Ratio development standards (as prescribed by Clause 4.3 and Clause 4.4 of the RLEP respectively) are justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

Therefore, it is considered that supporting the non-compliance does not offend the objectives of the standard and is in the public interest through the provision of a compatible scale of

housing which does not create an adverse impact upon surrounding public and private development.

Clause 5.10 - Heritage Conservation

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

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

Clause 6.1 - Acid Sulfate Soils

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

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

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

The nearest acid sulfate soil area (being Class 5) is located 1.9km to the south-east.

In this regard, despite the proposed depth of excavation being between 9.4m and 15.8m, the development would not have any impact such that it would lower the water table below 1 metre AHD in any adjacent acid sulfate soil area.

Clause 6.2 - Earthworks

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

The development includes earthworks required to accommodate the basement car park.

The application is accompanied by a Geotechnical Investigation dated 8 July 2024 as prepared by Douglas Partners. The investigation notes the following:

Groundwater

Groundwater was measured in the wells on the site at depths of between 33.5m to 35.7m. It is expected that the proposed excavation (to approximately 35m) will marginally intercept groundwater and require dewatering.

The Investigation notes *"it is expected that groundwater seepage inflows will occur through joints and along bedding planes within the rock exposed in the basement floor and walls. During relatively dry periods the seepage may be minimal and this may increase temporarily following periods of rainfall"*.

The application was referred to WaterNSW who issued their General Terms of Approval (GTAs) permitting dewatering subject to the applicant obtaining a separate approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development.

The GTAs issued by WaterNSW are included in the draft consent.

Dilapidation Surveys

The investigation recommends that dilapidation surveys be carried out on neighbouring buildings, pavements and infrastructure (including the Sydney Metro tunnel system) that may be affected by the excavation works.

Appropriate conditions are included in the draft consent to address this.

Clause 6.6 - Environmental Sustainability

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

Water Sensitive Urban Design

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

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

The application is accompanied by an Ecologically Sustainable Design (ESD) report (prepared by JHA and dated 5 July 2024) which includes an overview of the ESD principles and greenhouse gas emissions and energy efficiency measures that will be implemented.

The Report includes a section on addresses water efficiency which discusses:

- Water efficient fixtures and fittings.
- Water Sensitive Urban Design.

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

BASIX

The application is accompanied by an updated Multi-Dwelling BASIX Certificate (Certificate No. 1754518M-03 dated 18 December 2024).

The Certificate indicates that the development will achieve/or exceed the required commitments.

6. DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no draft planning instruments related to this site or proposal.

7. DEVELOPMENT CONTROL PLANS

7.1 Ryde Development Control Plan 2014 (RDCP 2014)

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

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

Part 4.5 Macquarie Park Corridor

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

“Macquarie Park Corridor will include new residential communities around the North Ryde and Macquarie University Stations while the Commercial Core will be centred on the Macquarie Park Station and Waterloo Road. Intensive development centred on Waterloo Road is proposed to transition through the Business Park areas to the lower scaled residential areas adjoining the Macquarie Park Corridor.

Planned residential communities centred on the North Ryde and Macquarie University Rail Stations provide for more than 10,000 new dwellings close to transport, employment and education facilities.

Together the Herring Road and North Ryde Station UAPs and this DCP provide for new residential and working communities supported by new infrastructure including new parks, road connections and community facilities”.

The development is considered to compliment this vision through the provision of additional housing within proximity of the transport, employment, and education facilities.

Control	Comments	Compliance
4.0 Access Network		
<p><u>Streets</u> Provide new public streets and pedestrian connections in accordance with Access Structure Plan New Streets are to be dedicated to the Council.</p> <p>New streets are to be maintained by the landowner until dedicated to Council.</p>	<p>The site is not located in an area which requires the provision of new streets and pedestrian connections.</p> <p>Figure 27 below is an extract from Figure 4.1.1. in the RDCP which shows the site (shaded in red) in proximity to identified access networks.</p> <p>The dotted red lines indicate footpath networks while the solid orange lines indicate proposed road networks.</p>  <p>Figure 27 – Access Network.</p>	Yes
<p><u>Sustainable Transport.</u> A Framework Travel Plan. (FTP) is required to be submitted to Council for approval for all development that exceeds 10,000sqm new floor space.</p>	<p>A Framework Travel Plan is required to be submitted and is included as a condition in the draft consent.</p>	Yes
<p><u>Parking Rates</u> Bicycle parking and end of trip facilities and parking to be provided in accordance with Part 9.3 Parking.</p>	<p>Clause 2.7 of Part 9.3 stipulates that “<i>in every new building, where the floor space exceeds 600m² GFA, provide bicycle parking equivalent to 10% of the required car spaces or part thereof</i>”.</p> <p>This result in a required provision of 29.5 bicycle parking spaces.</p> <p>The development provides (at the Lower Ground Floor level) 30 bicycle parking spaces and therefore complies.</p> <p>End of trip facilities are limited to toilets at the lower ground level and within apartments.</p>	Yes
5.0 Public Domain		
<p><u>5.1 Open Space Network</u> Provide public open space as shown in Figure 5.1.1 Open Space Network.</p>	<p>The site is not located in an area which requires the provision of additional public open space.</p> <p>Figure 28 below is an extract from Figure 5.1.1. in the RDCP which shows the site (shaded in red)</p>	Yes

Control	Comments	Compliance
	<p>identified open space areas. The '2' adjacent to the site indicates Elouera Reserve.</p>  <p>Figure 28 – Proposed Open Space Network.</p>	
<p>Community Facilities Community facilities are to be provided in accordance with the relevant documentation prepared by Council, particularly the City of Ryde: Social and Cultural Infrastructure Framework. Based on population growth statistics (available 2011) within Macquarie Park Corridor the City of Ryde.</p>	<p>Section 7.11 contributions will be required to be provided with this application which will support the provision of community facilities in the area.</p> <p>A condition is included in the draft consent to address this requirement.</p>	<p>Yes Subject to condition</p>
<p>Art in Publicly Accessible Place Art must be included in all new development with more than 10,000m² new floor space in the amount of 0.1% of the construction cost of the works capped at \$1,500,000. Art must be located within the site so as to be publicly accessible i.e., viewed or experienced from publicly accessible places.</p>	<p>A condition is included in the draft consent which requires the submission of a Public Art Strategy for approval by Council.</p>	<p>Yes Subject to condition</p>
<p>6.0 Infrastructure, facilities and public domain improvement.</p>		
<p>Floor space ratios and building height are to comply with Ryde LEP 2014.</p>	<p>Refer to Clauses 4.3 and 4.4 of the RLEP discussed previously in this report.</p> <p>The application is accompanied by requests to vary the development standard for building height and floor space ratio, which have been considered to satisfy Clause 4.6(3) of the RLEP.</p>	<p>Yes</p>
<p>Access Network and open space network being park are to be dedicated to Council, be designed and constructed in accordance with the Macquarie Park Corridor Public Domain Technical Manual.</p>	<p>The site does not include any features identified in the Access Network (Figure 4.1.1) or Open Space Network (Figure 5.1.1).</p>	<p>Yes</p>
<p>7.0 Built Form</p>		
<p>7.1 Site Planning and Staging.</p>		<p>Yes</p>

Control	Comments	Compliance
Sites are to be planned to allow for the future provision of new street and open spaces in accordance with Figure 4.1.1 Access Network.	No new streets or open spaces are scheduled on or adjacent to the site.	
<u>Activity Centres</u> Macquarie Park Station Macquarie University Station North Ryde Station	The site is located within the Macquarie University Station Activity Centre.	Yes
<u>Active Frontage</u> Continuous ground level active uses must be provided where primary active frontages are shown in Figure 7.3.2. Buildings must address the street or public domain.	The site is located within an Activity Centre. Continuous ground level active uses are provided facing Waterloo Road. The development addresses both street frontages.	Yes Yes
<u>Setbacks and Build to Lines</u> 5m to all new and existing streets.	The development is setback 5.0m to both Cottonwood Crescent and 10m to Waterloo Road. No new streets are required or proposed.	Yes Yes
Underground parking is not permitted to encroach into the front setback areas unless it can be demonstrated that the basement is designed to support significant mature trees and deep root planting. 60% of the street setback area is to be soft landscaping. Existing mature trees are to be retained where possible. Paved areas are to relate to the materials and finishes of the adjacent streetscape.	The basement car parking is designed to comply with the minimum required setback provisions. The setback to Cottonwood Crescent and Waterloo Road includes deep soil zones which comprise a total of 500m ² (i.e. 49.7%). The shortfall of 104m ² is considered to be supportable due to the site being situated at the corner, the topography of the site as it approaches the Cottonwood Crescent frontage and the flood prone aspect of Cottonwood Crescent (resulting in terracing to lift the site above street level), and the provision of ancillary landscape elements outside the street setback area which provides depth (i.e. at the southern side of the site, and at the western side of the site being Elouera Reserve). The site accommodates a total of 48 mature trees of which, according to the Tree Assessment Schedule table in the submitted Arboricultural Impact Assessment Report, 23 (48%) are recommended to be removed. The development will therefore retain 25 (52%) mature trees on the site. Paved areas will relate to the street.	Yes No Supported Yes Yes

Control	Comments	Compliance															
At grade car parking must not be located within this setback.	No at-grade parking is proposed.	Yes															
Figure 7.2.2 Parking is not permitted within required setbacks, allowing for deep soil landscaping along streets	All parking is located within the basement levels.	Yes															
<p><u>Awning and Canopies</u></p> <p>Awnings must be provided where Primary Active Frontages are shown in Figure 7.3.2 Activity Centres Structure Plan and Active Frontage Control Drawing. Entry canopies and discontinuous awnings are encouraged elsewhere in the Corridor.</p>	<p>The site is located within an Activity Centre area defined by Primary Active Frontages.</p> <p>The development includes cantilevered balconies which overhang the ground floor retail frontages and, in turn provide an awning along the Waterloo Road frontage.</p> <p>A glazed entry canopy is situated over the walkway into the main lobby entry off Waterloo Road.</p>	Yes															
<p><u>Rear and Side Setbacks</u></p> <p>Buildings are to be set back 10m from the rear boundary and 5m from a side boundary unless a proposed new road is shown on the site.</p>	<p>The site has a dual frontage (to Waterloo Road and Cottonwood Crescent).</p> <table border="1"> <thead> <tr> <th>Orientation</th> <th>Setback</th> <th>Complies</th> </tr> </thead> <tbody> <tr> <td>Waterloo Road</td> <td>10.0m</td> <td>Yes</td> </tr> <tr> <td>Cottonwood Crescent</td> <td>5.0m</td> <td>Yes</td> </tr> <tr> <td>South (Side/Rear)</td> <td>11.5m</td> <td>Yes</td> </tr> <tr> <td>West (Side)</td> <td>5.0m</td> <td>Yes</td> </tr> </tbody> </table> <p>No new roads are required to be shown on the site.</p>	Orientation	Setback	Complies	Waterloo Road	10.0m	Yes	Cottonwood Crescent	5.0m	Yes	South (Side/Rear)	11.5m	Yes	West (Side)	5.0m	Yes	Yes
Orientation	Setback	Complies															
Waterloo Road	10.0m	Yes															
Cottonwood Crescent	5.0m	Yes															
South (Side/Rear)	11.5m	Yes															
West (Side)	5.0m	Yes															
Buildings are not to be constructed on the locations for proposed new roads. An allowance for a 5m setback from a proposed road should also be made.	The site does not include any new road features identified on the site in the Access Network.	Yes															
Basement car park structures should not encroach into the minimum required rear or side setback zone unless the structure can be designed to support mature trees and deep root planting.	The basement car parking is designed to comply with the minimum required setback provisions.	Yes															
<p><u>Building Separation</u></p> <p>Provide building separation as recommended by the ADG.</p>	This matter is discussed in detail earlier in this report under Clause 3F of the ADG.	Yes															
8.0 Site Planning & Staging																	
<p><u>Site Planning & staging</u></p> <p>Sites are to be planned to allow for the future provision of new streets, pedestrian connections and open spaces in accordance with Figure 4.1.1 Access Network and Figure 5.1.1 Proposed Open Space Network.</p>	The site is not located in areas identified in Figure 4.1.1 and Figure 5.1.1 and is therefore not required to provide new streets, pedestrian connections, and open spaces.	Yes															
<u>Site coverage, DS areas & POS</u>																	

Control	Comments	Compliance
<p>A minimum 20% of a site must be provided as deep soil area. Deep soil areas must be at least 2m deep.</p> <p>For the purpose of calculating deep soil areas, only areas with a minimum dimension of 20m x 10m may be included.</p>	<p>Site Area: 5,130m² Required: 1,026m² (20%) Provided: 1,026m² (20%)</p> <p>Given the redevelopment of the site and its corner location, the available areas of deep soil (i.e. areas with a depth of greater than 2m) are located around the perimeter of the site within the front and side setbacks. The locating of the basement beneath the central part of the site prevents a consolidated area of 20m x 10m being provided.</p>	<p>Yes</p> <p>No Supported</p>
<p>A minimum 20% of the site area is to be provided as Landscaped Area.</p>	<p>Site Area: 5,130m² Required: 1,026m² (20%) Provided: 2,442m² (48%)</p>	<p>Yes</p>
<p>Solar access to communal open spaces is to be maximised. Communal courtyards must receive a minimum of 3 hours direct sunlight between 9 am and 3 pm on the 21st of June</p>	<p>The central communal open space area will receive a minimum of 3 hours direct sunlight between Noon and 3.00pm on the 21st of June.</p>	<p>Yes</p>
<p>Appropriate shading is to be provided so that communal spaces are useable during summer.</p>	<p>The development includes appropriate shading at the ground level communal open space areas.</p>	<p>Yes</p>
<p><u>Topography and Building Interface</u> Level changes across sites are to be resolved within the building footprint.</p> <p>Where buildings are set back from the street boundary, entries are to be provided at street level wherever possible.</p> <p>An accessible path of travel is to be provided from the street through the main entry door of all buildings.</p>	<p>The site slopes upward from Cottonwood Crescent to the south-western and western side boundary (abutting Elouera Reserve) by approximately 4.5m noting that the western and southern (abutting 13 Cottonwood Crescent) boundaries include retaining walls of varying height.</p> <p>The development responds to the topography by stepping the built form and lowering the height of Tower A comparative to Tower B.</p> <p>All main entries are provided at street level.</p> <p>Accessible paths of travel are provided from Herring Road to Lachlan Avenue via the interior of the building and via the external communal open space areas.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p><u>Site Facilities Commercial</u> Vehicular access to loading facilities is to be provided from secondary and tertiary streets where possible.</p> <p>Rubbish and recycling areas must be provided in accordance</p>	<p>Vehicle access to the loading dock (located in the lower ground floor level) is via the proposed 6.0m wide driveway and crossover onto Cottonwood Crescent.</p>	<p>Yes</p> <p>Yes</p>

Control	Comments	Compliance
with Section 6.3 Waste Management. These areas must be integrated with the development;	Waste management has been reviewed by Council's Waste Services who raised no objection to the proposal subject to standard conditions.	Subject to conditions
<p><u>Vehicular Access</u> Vehicular access is not permitted along streets identified as 'Active Frontages' (refer to Section 7.2 Active Frontages).</p> <p>Where practicable, vehicle access is to be from secondary streets.</p>	<p>The site is located within an active frontage zone (Waterloo Road). Vehicular access is not proposed at Waterloo Road.</p> <p>Vehicle access is gained solely from Cottonwood Crescent (being the secondary road).</p>	<p>Yes</p> <p>Yes</p>
Potential pedestrian/vehicle conflict is to be minimised by: limiting the width and number of vehicle access points ensuring clear site lines at pedestrian and vehicle crossings utilising traffic calming devices separating and clearly distinguishing between pedestrian and vehicular access-ways.	The development includes one driveway crossover on Cottonwood Crescent. This effectively consolidates four existing driveways and crossovers into one which benefits pedestrian and vehicle safety in the public domain.	Yes
<p><u>On-site Parking</u> Safe and secure 24-hour access to car parking areas is to be provided for building users. At-grade parking:</p> <p>Parking areas must not be located within the front, side, or rear setbacks. Provide safe and direct access from parking areas to building entry points.</p>	<p>The car parking in the basement levels will be secured over a continual 24-hour period. CCTV cameras are conditioned to be installed within the basement parking levels to ensure ongoing surveillance and safety.</p> <p>The development does not include any at-grade parking.</p>	<p>Yes Subject to condition</p> <p>Yes</p>
<p><u>Basement parking</u> Basement parking areas should be located directly under building footprints to maximize opportunities for deep soil areas unless the structure can be designed to support mature plants and deep root plants.</p> <p>Basement parking areas must not extend forward of the building line along a street. Basement parking should be contained wholly beneath ground level along public streets.</p> <p>Ventilation grills or screening devices of car park openings are to be integrated into the overall</p>	<p>Basement parking is contained predominantly beneath the building footprint with exception to the central area which is located beneath the ground floor communal open space to support the particular use of the development.</p> <p>Deep soil is situated around the perimeter of the basement levels to provide landscaping.</p> <p>Basement areas do not extend forward of the street setback.</p> <p>Ventilation of the car park is subject a standard condition.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

Control	Comments	Compliance
façade and landscape design of the development		Subject to condition
Environmental Performance		
<p><u>Wind Impact</u> Buildings shall not create uncomfortable or unsafe wind conditions in the public domain which exceeds the Acceptable Criteria for Environmental Wind Conditions. Carefully locate or design outdoor areas to ensure places with high wind level are avoided.</p> <p>All applications for buildings over 5 storeys in height shall be accompanied with a wind environment statement. For buildings over 9 storeys and for any other building which may be considered an exposed building shall be accompanied by a wind tunnel study report. Refer to Council for documentation and report requirements.</p>	<p>The application is accompanied by an updated Pedestrian Wind Study (dated 17 December 2024) as prepared by RWDI Australia Pty Ltd.</p> <p>The Study notes the following:</p> <ul style="list-style-type: none"> • <i>For the proposed development the wind speeds at grade and above-grade levels are within the safety limits.</i> • <i>Pedestrian comfort analysis shows varying wind conditions ranging from sitting through strolling use conditions within and around the proposed development.</i> • <i>Wind conditions on the terrace are expected to be suitable for occupant's passive use throughout the year. However, there are a few isolated locations at the north-west corner of Level 1 terrace, and south-east terrace at Level 19 (penthouse) in southwest residential tower are expected to be windy for occupant's passive use. The landscaping features shown in the Level 1 would likely improve the wind conditions for passive occupant's use.</i> • <i>Corridors of both residential towers were assessed, and conditions are expected to be suitable for the occupant's intended use throughout the year.</i> • <i>Balconies, except the southern corner balconies between Levels 6 to 14 on the Cottonwood Tower [Tower B] are well-sheltered, and conditions are expected to be suitable for occupant's passive use at all buildings throughout the year.</i> • <i>For the proposed development wind speeds exceeding the safety limits occur at the southern corner balconies between Levels 6 to 14 on Cottonwood Tower [Tower B].</i> <p>The Study provides the following mitigation strategy to be incorporated into the design of the development:</p> <p><i>"Implement a screen along one aspect of the south-west corner balconies between Levels 6 to 14 on the Cottonwood Tower [Tower B]. RWDI have reviewed the DA Issue drawing package (dated: 3/7/2024) and it has been noted that full height screening has been implemented along the western aspect on the south-west balconies on Cottonwood Tower [Tower B]. With the inclusion of these measures, it is anticipated that the wind speeds exceeding the safety limits on the corner balconies would be eliminated".</i></p>	Yes Subject to condition

Control	Comments	Compliance
	<p>The report concludes that, “RWDI has reviewed the latest drawings (Dated: 16/12/24) and can confirm the following changes in comparison to the previously reviewed and tested model in the wind tunnel:</p> <ul style="list-style-type: none"> • Breezeway corridors on the East and West Towers are noted to be closed off. • West Tower floor plan layout changed on Level 19 and 20. • West Tower reduction in height from 22 Levels to 21 Levels. <p>The closure of the breezeway corridor converts these into an internal space which are not impacted by wind.</p> <p>The addition of the southern balcony located on Level 19 is expected to experience wind conditions suitable for sitting, similar to the recorded wind speeds Location 72.</p> <p>The eastern balcony located on Level 20 of the Western Tower consists of privacy screening along the southern aspect which will assist in providing comfortable wind conditions.</p> <p>The addition of the western balcony on Level 20 is expected to experience wind conditions suitable for sitting, similar to the recorded wind speeds at Location 79.</p> <p>Therefore, the changes to the drawings have been compared with the results obtained previously and the floor plan changes are not expected to impact the occupant comfort and safety and therefore will be suitable for their intended uses”.</p> <p>The Study is included in Condition 1 of the draft consent as a supporting document.</p>	
<p><u>Noise & Vibration</u> An Acoustic Impact Assessment report prepared by a suitably qualified acoustic consultant is required to be submitted with all development applications for commercial, industrial, retail and community buildings, with the exception of applications minor building alterations.</p>	<p>The application is accompanied by an Acoustic Assessment (dated 12 September 2023) as prepared by Acoustic Logic.</p> <p>The report considered environmental noise impacts (road traffic noise from Waterloo Road) and vibration from the Sydney Metro tunnel to the proposed occupied areas of the development, as well as external noise emissions from the operations of the development (activity noise and noise from building services plant/equipment) and found that the proposed development is suitable at the site from an acoustic and vibration viewpoint subject to recommendations.</p>	<p>Yes Subject to condition</p>

Control	Comments	Compliance
	The report is included in Condition 1 of the draft consent as a supporting document.	

Table 7 – RDCP Compliance.

Part 9.3 – Parking Controls

The table below provides detail of the level of compliance achieved by the development.

Use	Requirement	Required #	Provided #	Compliance
Residential				
1 Bedroom (65)	0.6/dwelling	39		
2 Bedroom (101)	0.9/dwelling	90.9 (91)		
3 Bedroom (89)	1.4/dwelling	124.6 (125)		
Total (255)		254.5 (255)	256	+1
Visitors (255)	1/10 dwellings	25.5 (26)	16	-10
Car Share	1/50 proposed spaces	5.1 (6)	6	Complies
Retail (191.5m²)	1/25m ² GFA	7.6 (8)	7	-1
Total		295	285	-10

Table 8 – Car parking compliance.

Clause 2.2 – Residential Parking

Clause 2.2 requires the residential and visitor components of development in Macquarie Park to provide parking at maximum rates.

As noted in the table above, the residential component includes a surplus space above the prescribed maximum rate while the retail component is deficient by one space.

Council’s Development Engineer has reviewed the proposed parking allocation and recommends that the allocation of visitor spaces be maximised given the high occupancy of on-street parking in the area, the limited number of on-street spaces surrounding the site and the reduced influence parking provision has on the mode of transport for visitors.

It is advised that 10 resident spaces be reallocated as additional visitor spaces. A condition is included in the draft consent to address this.

Clause 2.3 – Non-Residential Parking

The deficiency of one space to the retail component is not considered to be problematic in this location given that the retail activities proposed within the development would not be destination outlets (unlike the Macquarie Centre on the opposite side of Waterloo Road) and the proximity and accessibility of the site to key transport nodes.

Clause 2.7 – Bicycle Parking

Clause 2.7 requires development, where the floor space exceeds 600m² GFA provide bicycle parking equivalent to 10% of the required car spaces or part thereof. This result in a required provision of 29.5 bicycle parking spaces.

The development provides (at the Lower Ground Floor level) 30 bicycle parking spaces and therefore complies.

8. LIKELY IMPACTS OF THE DEVELOPMENT

(i) Environmental

The environmental impacts of the proposed development on the natural and built environment are addressed under the Water Management Act 2000, the Biodiversity Conservation Act 2016, SEPPs and RDCP sections of this report.

It has been found that the development would not have a detrimental impact on any ecological communities or flora or fauna species of any national conservation significance nor upon the surrounding built environment.

(ii) Social

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

The location and design of the development responds to the evolving social context of the area as a result of ongoing regeneration. The development provides a mix of apartments and facilities which suit different demographics, living needs and household budgets.

Opportunities for social interaction among residents are available through the provision of substantial, centrally located communal open space which is situated adjacent to an established reserve.

(iii) Economic

The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the existing and mixed-use nature proposed land use, including the development potential of neighbouring properties as discussed below:

Development Potential of Neighbouring Properties

The southern side of the site abuts 13 Cottonwood Crescent and 12-14 Lachlan Avenue. Both neighbouring sites are located within a 45m building height zone and a 4:1 floor space ratio zone.

The property at 13 Cottonwood Crescent has an area of approximately 1,105m², a depth of 25.91m and a length (parallel to Cottonwood Crescent) of 42.67m.

In order to develop to full potential, it is anticipated that 13 Cottonwood Crescent would need to amalgamate with a neighbouring property, the most obvious being 12-14 Lachlan Avenue. This format would be highly consistent with other recent developments in the area (see **Table 1** in this report), particularly at 23-25 Lachlan Avenue to the north-west which applies an identical pattern of consolidation to accommodate a 14 storey boarding house currently under construction.

The application is accompanied by an indicative plan of the development potential of both neighbouring properties if 13 Cottonwood Crescent and 12-14 Lachlan Avenue were to consolidate (see **Figure 29** below).

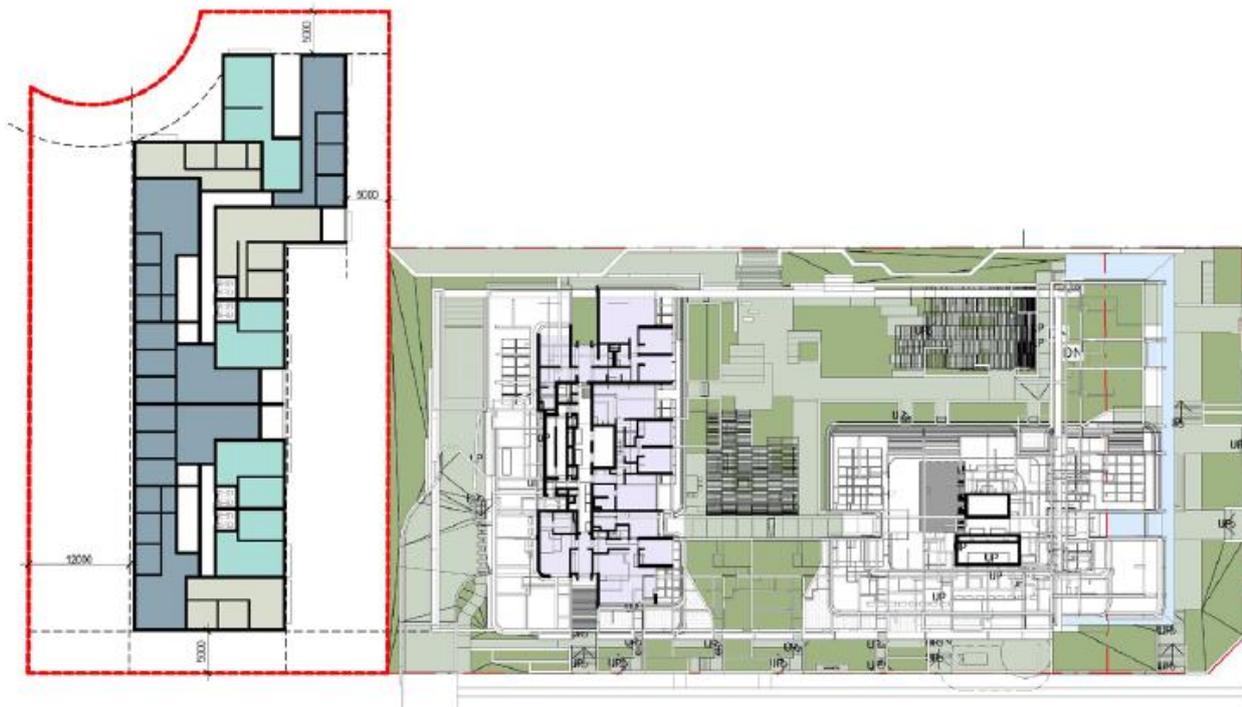


Figure 29 – Indicative future development potential at 13 Cottonwood Crescent and 12-14 Lachlan Avenue (outlined in red as a consolidated site).

Although conceptual, **Figure 29** indicates that the consolidation of 13 Cottonwood Crescent and 12-14 Lachlan Avenue would enable the development of both sites to achieve their maximum potential while maintaining satisfactory levels of compliance.

Therefore, the future development potential of 13 Cottonwood Crescent is not considered to be compromised.

9. REFERRAL RESPONSES

External Referrals

WaterNSW

The application was referred to WaterNSW who raised no objection to the proposal subject to their issued General Terms of Approval (GTAs) which are included in the draft conditions of consent.

Sydney Metro

The application was referred to Sydney Metro who raised no objection to the proposal subject to their issued conditions which are included in the draft conditions of consent.

Transport for NSW (TfNSW)

The application was referred to TfNSW who raised no objection. No conditions were imposed.

Ausgrid

The application was referred to Ausgrid who raised no objection subject to conditions which are included in the draft conditions of consent.

NSW Police

The application was referred to NSW Police. No response was received within the statutory timeframe however, appropriate conditions have been included in the draft conditions which address Crime Prevention through Environmental Design (CPTED) for this type of development.

Internal Referrals

City Infrastructure - Drainage

The application was referred to the Drainage section in Council's City Works Department who raised no objection to the proposal subject to conditions which are included in the draft conditions of consent.

City Infrastructure - Traffic

The application was referred to the Traffic section in Council's City Works Department who raised no objection to the proposal subject to conditions which are included in the draft conditions of consent.

City Infrastructure - Public Domain

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

City Infrastructure - Waste

The application was referred to the Resource Recovery section in Council's City Works Department who raised no objection to the proposal subject to conditions which are included in the draft conditions of consent

Development Engineering

The application was referred to Council's Development Engineer who raised no objection to the proposal subject to conditions which are included in the draft conditions of consent.

Landscape

The application was referred to Council's Landscape Architect who raised no objection to the proposal subject to conditions which are included in the draft conditions of consent.

Tree Management

The application was referred to Council's Tree Management Officer who raised no objection to the proposal subject to conditions which are included in the draft conditions of consent.

Environmental Health

The application was referred to Council's Environmental Health Department who raised no objection to the proposal subject to conditions which are included in the draft conditions of consent.

City Spaces

The application was referred to Council's City Spaces Department who raised no objection to the proposal subject to conditions which are included in the draft conditions of consent.

Parks (Natural Areas)

The application was referred to the Natural Areas section of Council's Parks Department who raised no objection to the proposal subject to conditions which are included in the draft conditions of consent.

10. PUBLIC NOTIFICATION AND SUBMISSIONS

The application was publicly exhibited between 7 August 2024 and 8 September 2024. Notification letters were sent to local properties in accordance with Council's Community Participation Plan.

The application was also advertised in the Weekly Times on 14 August 2024.

Amended plans received during the assessment were not required to be re-exhibited in accordance with Council's Community Participation Plan as the amendments did not result in additional environmental impact.

As a result of the exhibition, a total of four submissions were received which raise the following issues:

- **Overshadowing**

Concern is raised that the development would cast shadow over the neighbouring properties to the south and south-west.

Further, it is claimed that the application has not considered overshadowing impact to the property at 12-14 Lachlan Avenue.

Comment

This issue has been discussed in detail under **Section 6.10** of this report (see **Figures 24, 25 and 26**) where it was considered that, while the development by virtue of its location and permitted building height, would unavoidably overshadow properties to the south-west (9.00am), south (Noon), and to the south-east (3.00pm) on 21 June, the degree of overshadowing was acceptable in that the design of the development would permit sunlight access to 13 Cottonwood Crescent and 12-14 Lachlan Avenue in the afternoon which is essentially achievable in this location due to the undevelopable area of Elouera Reserve.

The shadow diagrams submitted with the application include 12-14 Lachlan Avenue (see **Plan DA2602** included in **Attachment 2**, and **Figures 24, 25 and 26** in this report).

This issue does not warrant the refusal of the application.

- **Building Height**

Concern is raised regarding the excessive building height.

Comment

Submissions received which raised this issue referred to the original scheme. The amended scheme was not renotified as the height of the building was reduced.

The matter of building height compliance is discussed in detail in **Section 6.10** of this report where it was considered that the amended scheme achieved greater visual congruity with surrounding already approved surrounding development (see **Table 1** in **Section 3** of this report).

Additionally, the application is accompanied by a Clause 4.6 request to vary the Height of Buildings development standard which has been found to satisfy the objectives of the zone and the respective development standards, is consistent with the scale anticipated on the site, and will read favourably in the context of the redevelopment of neighbouring sites in the future.

This issue does not warrant the refusal of the application.

- **Issues with the submitted Architectural Design Statement**

Issues with specific items in submitted documentation were raised, specifically:

- a) Page 28 of the Architectural Design Statement includes a diagram which does not reference any solar impact on 12-14 Lachlan Avenue and it is assumed that, due to this, that the development does not consider impact on that property.

- b) Page 88 of the Architectural Design Statement includes a diagram showing the amalgamation of 13 Cottonwood Crescent and 12-14 Lachlan Avenue, and it is suggested that this misrepresents (i.e. lessens) the shadow impact on a configuration which does not exist.
- c) Page 107 of the Architectural Design Statement refers to Clause 3B-2.3 which includes comments appearing to be administrative notes which imply that 13 Cottonwood Crescent and 12-14 Lachlan Avenue have been listed for joint sale, and which notes that “*the area undergoing densification and additional overshadowing impacts on the lower heights will occur*”.

Comment

With respect to (a), the diagram in question is a depiction of solar orientation of the site only and is not a depiction of solar access to neighbouring properties (this is provided in the submitted shadow diagrams).

With respect to (b), the depiction of the amalgamated properties is provided to demonstrate the development potential of the amalgamated sites and the solar access which would be available should that configuration occur in the future. This approach is a requirement to ensure that any future development potential of neighbouring properties is not unreasonably diminished.

With respect to (c), although contained within supporting documentation, the comments indicated above do not form a defining component of the application, nor do they affect the assessment of this application as this is conducted, as required, against the applicable legislative controls.

This issue does not warrant the refusal of the application.

- **Neighbouring property owners not informed of the application**

Some submissions from neighbouring strata developments claim of not being notified of the proposal.

Comment

The postal notifications of the application were checked and confirmed that the respective neighbouring property owners were notified in writing on 7 August 2024 and in accordance with the requirements of Council’s adopted Community participation Plan which (under Clause 1.2.1) states:

“If the land is a lot within the meaning of the Strata Schemes (Freehold Development Act 1973), a written notice to the owners’ corporation is considered to be a written notice to the owners and occupiers of each lot within the strata scheme”.

This issue does not warrant the refusal of the application.

- **Devaluation of property**

Concern is raised that the development will devalue neighbouring property.

Comment

Property value is not a matter for consideration under the *Environmental Planning and Assessment Act 1979* and therefore, cannot be utilised as reason to refuse the application.

This issue does not warrant the refusal of the application.

11. CONCLUSION

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

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

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

- The applicant's Clause 4.6 written requests to vary Clause 4.3 and Clause 4.4 under the RLEP 2014 are acceptable as the proposal satisfies the objectives of the zone and the respective development standards, is consistent with the scale anticipated on this site and will read favourably in the context of the redevelopment of neighbouring sites in the future. Compliance with these development standards is considered to be unreasonable or unnecessary in this particular circumstance; and there are sufficient environmental planning grounds to justify contravening the standards.
- The issues raised in the submissions do not warrant the refusal of the application and have been adequately addressed in this report.
- The proposed development does not create unreasonable environmental impact to development in the immediate vicinity.
- The site is considered suitable for the proposed development.
- The development is in the public interest through the provision of accommodation and associated services to meet the demands of the growing population in this diverse precinct and the growth of the local community generally.

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

12. RECOMMENDATION

- 1) That the Sydney North Planning Panel accepts the Clause 4.6 written requests to vary Clause 4.3 and Clause 4.4 of the Ryde Local Environmental Plan 2014 which have adequately addressed the matters in sub-clause (3) and will be in the public interest as it is consistent with the objectives of the respective standards and the MU1 Mixed Use Zone.
- 2) That the Sydney North Planning Panel grant consent to development application LDA2024/0158 for the demolition of existing structures, construction of two residential flat buildings, being part 19/20 storeys and part 20/21 storeys respectively, above a podium which includes two retail outlets, accommodates 255 apartments, 285 parking spaces within 3 basement levels, and associated landscaping works at 15 to 21 Cottonwood

Crescent, Macquarie Park, subject to conditions of consent in **Attachment 1** of this report.

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

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