

### COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-581
MOD Number	MOD2025/0005
LGA	City of Ryde
Proposed Development	Modification to Land and Environment Court Consent 2024/54712 (LDA2023/0320) to reconfigure the internal and external design of the approved co-living and student accommodation development
Street Address	169-171 Herring Road, Macquarie Park SP11415 and SP7929
Applicant	Lei Lui – Freecity
Owner	Freecity Mac Park No.1 P/L
Date of DA lodgement	5 February 2025
Total number of unique submissions	No submissions received
Recommendation	Approval
Regionally Significant Development (Schedule 6 of the SEPP (Planning Systems) 2021)	A Section 4.56 modification application to a development with a capital investment value of more than \$30 million.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979;</li> <li>• Environmental Planning and Assessment Regulation 2021.</li> <li>• State Environmental Planning Policy (Planning Systems) 2021;</li> <li>• State Environmental Planning Policy (Sustainable Buildings 2022)</li> <li>• State Environmental Planning Policy (Housing) 2021;</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021;</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021;</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021;</li> <li>• Ryde Local Environmental Plan 2014; and</li> <li>• City of Ryde Development Control Plan 2014.</li> </ul>
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> <li>• Attachment 1: Recommended Conditions of Consent</li> <li>• Attachment 2: L&amp;E Court Judgement and Conditions of Consent (LDA2023/0320)</li> <li>• Attachment 3: Submitted Architectural and Landscaping Plans</li> </ul>
Clause 4.6 requests	N/A
Summary of key submission issues	No submissions received

Report prepared by	Shannon Butler – Senior Town Planner	
Report date	30 April 2025	
<b>Summary of s4.15 matters</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the Assessment report?	Yes	
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	Yes	
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not applicable	
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (S7.24)?	Not applicable	
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	Yes – No objection raised to amended conditions.	

## 1. EXECUTIVE SUMMARY

This Section 4.56 Modification Application is referred to the Sydney North Planning Panel ('SNPP') for determination as required by the *Sydney District & Regional Planning Panels Operational Procedures November 2022 (Operational Procedures Manual)*. The Parent LDA2023/0320 is regionally significant development (over \$30m) and this modification application is submitted under Section 4.56 of the Act.

The application is subsequent to the approved Local Development Consent No. LDA2023/0320 granted by the NSW Land and Environment Court for (as amended) for the demolition of existing buildings and construction of a 19 storey co-living and student accommodation development, comprising 507 rooms with two basement levels and associated landscaping works.

This is a Section 4.56 modification application to LDA2023/0320 seeking a number of internal and external design changes to the development. The proposed internal changes include conversion of the premium co-living units to purpose built student accommodation which increases the development yield from 507 to 528 units, alteration of various standard units to align entry doors with windows, reconfiguration of the fire tank room, communications room, egress corridor, fire pump room, gym and toilet layout on the ground floor and the reconfiguration of the lower ground level plant room and accessible toilet area.

The proposed external changes include the enclosure of the Level 15 terrace, minor façade changes relating to materiality, colour and articulation, reconfiguration of the

Level 15 north-eastern terrace and minor reconfiguration of the entry driveway to facilitate medium rigid vehicles.

The application has been assessed against the relevant State Environmental Planning Policies (SEPP's) and was found to be compliant with the exception of the parking provisions under SEPP (Housing) 2021. The variation is considered in the body of the report and is considered satisfactory on merit. Further, the proposal has been assessed against the provisions of the Ryde Local Environmental Plan 2014 and against the requirements of the Ryde Development Control Plan and is considered satisfactory.

The application has been notified in accordance with the Ryde Community Participation Plan and no submissions were received.

It may be noted that there is a separate Section 4.56 application (PPSSNH-618 and MOD2025/0006) under assessment seeking the amendment of the conditions of consent to permit the issue of staged Construction Certificates. This Section 4.56 application was reported to the Panel for determination on 9 April 2025 and was approved on 16 April 2025.

The application is recommended for approval subject to the amended conditions of consent in **Attachment 1**.

## **2. THIS PROPOSAL**

The proposal involves the modification of development consent No. LDA2023/0320 granted on 22 January 2025 by the NSW Land and Environment Court for the demolition of existing structures and construction of a 19 storey co-living and student accommodation development comprising 507 rooms with two basement levels and associated landscaping and works.

This is a Section 4.56 modification application to LDA2023/0320 seeking a number of internal and external design amendments, detailed as follows:

- a) Internal design modifications
  - Conversion of premium rooms to standard co-living rooms

The proposed modification seeks to convert the previously approved 21 premium co-living units located on Levels 16-18 into 39 standard co-living units, given that the size of standard units are half the size of a premium room. The amendment will result in a net increase of 21 units from 507 units to 528 units. It is to be noted that the proposed change will not result in any changes to the approved building envelope.

A comparison of the approved and proposed Level 16-18 unit mix is provided below:

Level	Standard Units Approved	Premium Units Approved	Standard Units Proposed	Premium Units Proposed
Level 16	6	7	20	-
Level 17	6	7	20	-
Level 18	6	7	20	-

TOTAL	18	21	60	0
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**Figure 1** – Left: approved level 16-18 floor plan, right: proposed Level 16-18 floor plan

- Reconfiguration of internal layout of some units

The proposed modification also seeks to amend the layout of several standard units across all levels to directly align the entry door with the windows of each unit. The amendments have necessitated amendments to the location of the cabinetry, kitchenette, desk and bathroom within each unit.

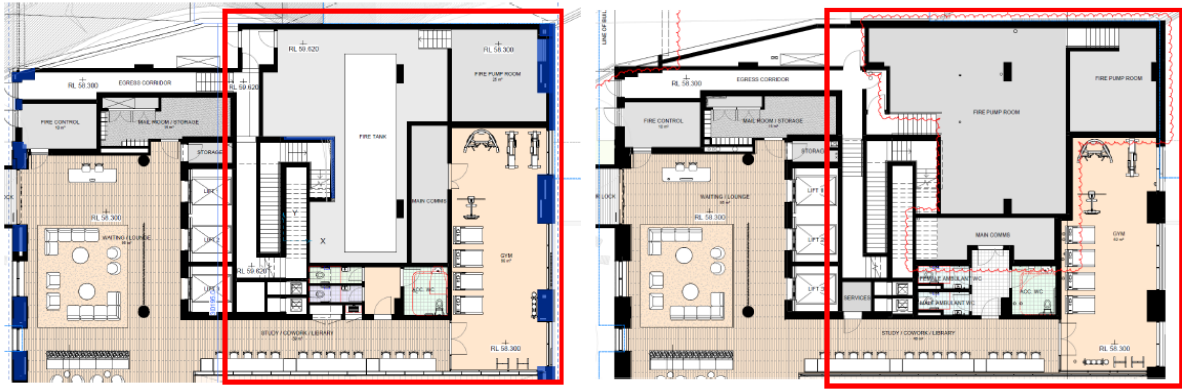
The applicant states that the modification is intended to improve daylight penetration into several standard units.



**Figure 2** – Left: example of approved unit layout, right: example of proposed unit layout

- Ground level layout reconfiguration

A number of minor internal changes are proposed to the Ground Level and generally relate to the reconfiguration of the fire tank room, communications room, egress corridor, fire pump room, gym, service and toilet layout have been proposed on the ground level. The changes associated with the fire tank room and comms room are required as a result of the changes to the Loading Dock head height requirements. The changes have resulted in a minor decrease in the area associated with the gym from 68m<sup>2</sup> to 62m<sup>2</sup> and a minor increase in the area associated with the study/co-work/library space from 39m<sup>2</sup> to 40m<sup>2</sup>.



**Figure 3** – Left: approved ground level layout, right: proposed ground level layout

- Lower ground level reconfiguration

Minor changes are proposed to the Lower Ground Level and relate to the end of trip facilities and plant room. Minor reconfiguration to the toilet is proposed and has arisen as a result of design development. Reduction in plant area is also proposed from 17m<sup>2</sup> to 12m<sup>2</sup> which will also facilitate a clearer MRV swept path into the holding bay used for servicing the building.



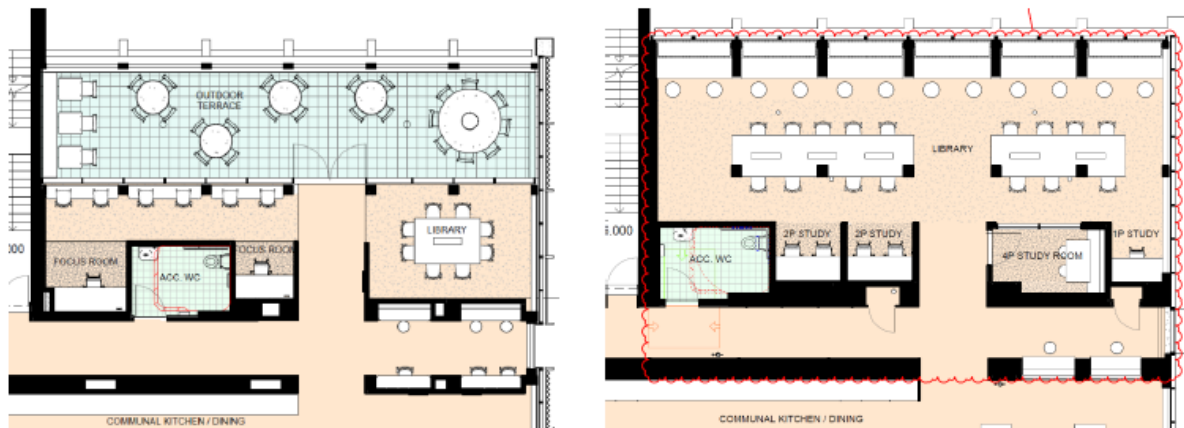
**Figure 4** – Left: approved lower ground floor layout, right: proposed lower ground floor layout



b) External design modifications

- Enclosure of Level 15 terrace

The proposed modifications also seek to enclose the Level 15 outdoor terrace area to increase the area of the library by 40m<sup>2</sup>. The applicant advises that the conversion is the result of ongoing consultation with the operator and to ensure the needs of future occupants are met with there being high demand for greater study space.



**Figure 5** – Left: approved Level 15 terrace/library layout, right: Proposed Level 15 layout

- Minor façade changes

A series of minor façade changes are proposed and have arisen as a result of design development. These include:

- Alterations to the western façade cladding through removal of ‘flipping’ across levels;
- Amendment to the façade colour from mid-pink to pink-brown;
- Replacement of the grey cladding façade material to be aluminium; and
- Replacement of core cladding with concrete painted finish.



**Figure 6** – Left: approved western elevation, right: proposed western elevation

- Adjustments to driveway entry

The proposed modification also seeks minor adjustments to the driveway entry off Herring Road so that the site can be serviced by a medium rigid vehicle (MRV) which are 8.8m in length and 4m wide.

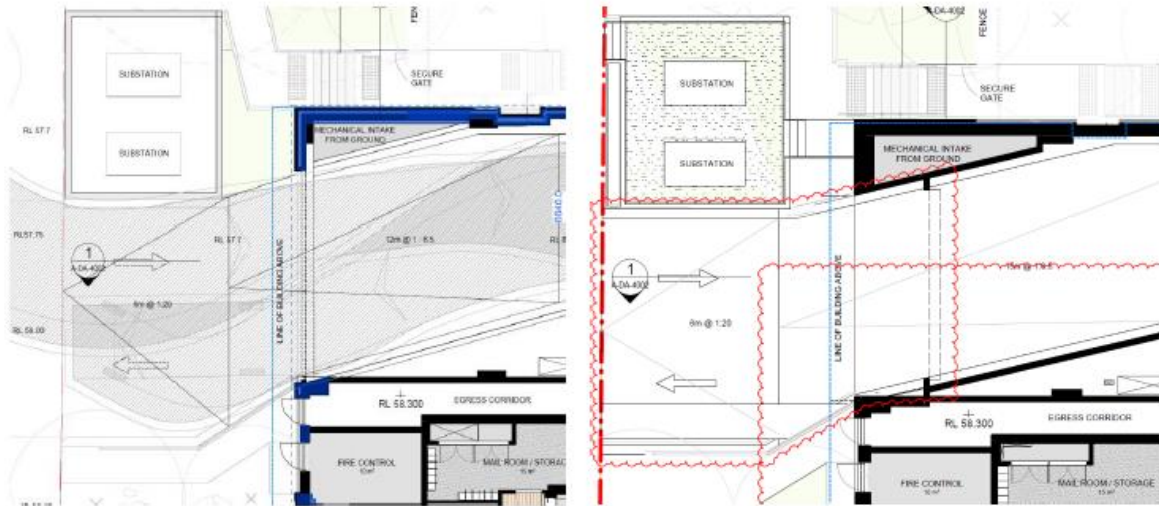


Figure 7 – Left: approved driveway entry, right: proposed driveway entry

- Reconfiguration of Level 15 terrace landscaping

The proposed modification seeks minor changes to the configuration and layout of landscaping located on the Level 15 terrace located within the north eastern portion of the building.

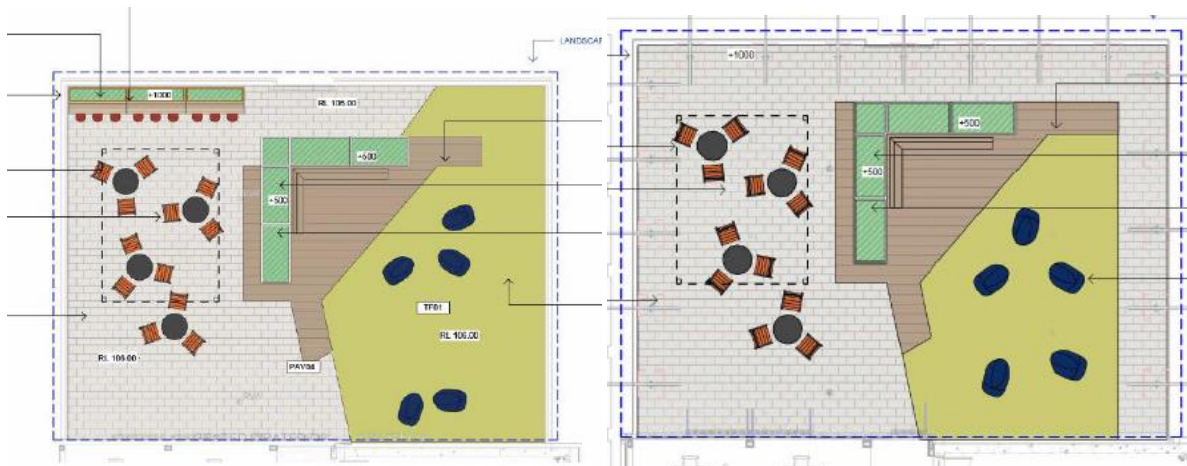


Figure 8 – Left: approved Level 15 terrace, right: proposed level 15 terrace

The applicant also seeks the amendment of Condition No.1 to refer to the revised plans.

### 3. THE SITE

The site is legally described as SP11415 and SP7929 and is known as 169 – 171 Herring Road, Macquarie Park. The Site is approximately 100m from Macquarie



University Metro Station. The Site is located on the south eastern side of Herring Road and it is bounded by Herring Road to the northwest, 173 Herring Road to the northeast, Elouera Park to the southeast and 165-167 Herring Road and 25 Lachlan Avenue to the southwest.

The Site is regular in shape with a combined frontage of 49.71m to Herring Road, an average side boundary of 51.39m, a combined rear boundary of 50.24m and a combined total site area of 2568m<sup>2</sup>. The Site has a fall of approximately 6.61m towards the southeast.

The Site is occupied by two separate allotments. Both lots are identical in their dimensions, facing Herring Road. Each lot previously contained residential flat buildings containing 15 units, however, these buildings have recently been demolished and excavation works are currently underway.

The site is zoned MU1 Mixed Use under the Ryde Local Environmental Plan 2014.

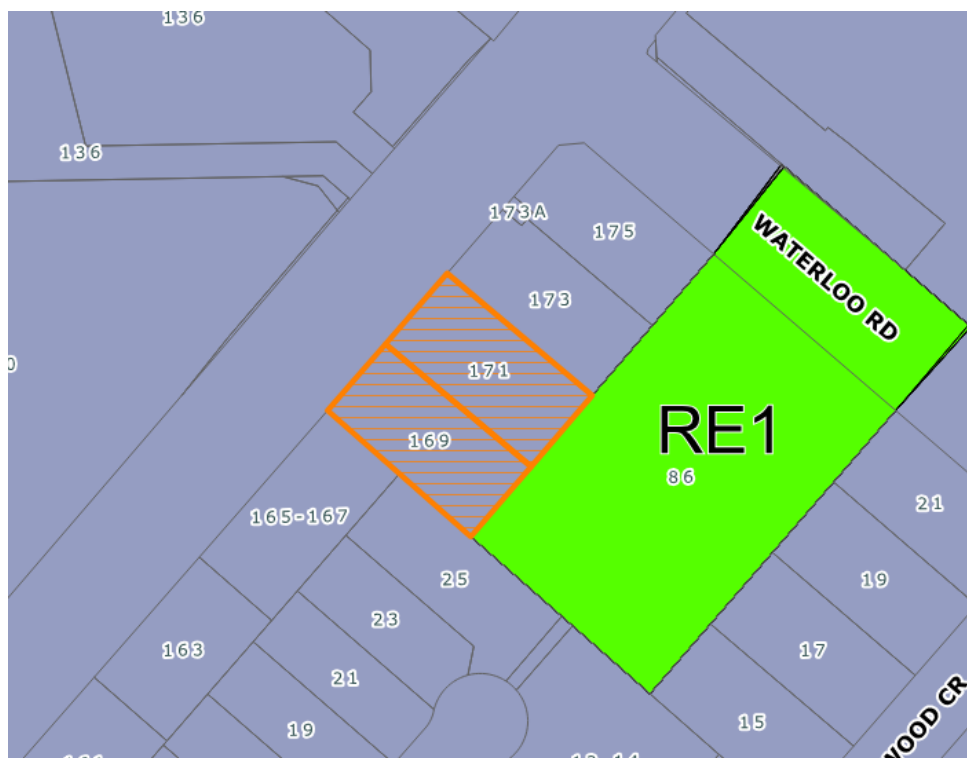
The Site is adjoined to the east by No. 173 Herring Road, which accommodates a four storey residential flat building. The Site is adjoined to the west by No. 165 - 167 Herring Road and 25 Lachlan Avenue. Both properties accommodate four story residential flat buildings. Directly opposite the Site, across Herring Road are older parts of Macquarie University and further to the west are high rise residential buildings of Macquarie Park.

Directly behind the Site is the Elouera Reserve which is a public recreation area. The surrounding development is predominately high density residential, educational and industrial/commercial land uses. The Site does not contain an item of heritage significance or located in the vicinity of a heritage item or within a heritage conservation area. Parts of Macquarie University are listed as items of local heritage significance.



**Figure 1:** Aerial photograph of the site and locality.





**Figure 2** - Zoning map of surrounding area (purple represents MU1 Mixed Use and green represents RE1 Public Recreation)

#### 4. BACKGROUND

Parent LDA2023/0320 was approved by the NSW Land and Environment Court on 22 January 2025 for the demolition of existing structures and construction of a 19 storey co-living and student accommodation development comprising 507 rooms with two basement levels and associated landscaping and works.

A separate Section 4.56 application (PPSSNH-618 & MOD2025/0006) was lodged on 5 February 2025 and is under assessment, seeking the amendment of the conditions of consent to permit the issue of staged Construction Certificates. This Section 4.56 application was reported to the Panel for determination on 9 April 2025 and was approved on 16 April 2025.

#### 5. STATUTORY PROVISIONS

##### 5.1 Section 4.56 of the Environmental Planning and Assessment Act 1979 Modification of consents granted by the Court

The proposal constitutes an amendment under Section 4.56 of the Act, the consent authority may consider an application to amend a development consent provided that:

- (1)(a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *it has notified the application in accordance with:*

- (i) the regulations, if the regulations so require, and*
  - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
  - (c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*
  - (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*
- (1A) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

In *Tipalea Watson Pty Limited v Ku-ring-gai Council* [2003] NSWLEC 253, J Bignold came to deal with the matter of “substantially the same”, a list of matters or ‘tests’ to consider, being whether the modification involves the following:

- (a) significant change to the nature or the intensity of the use.*
- (b) significant change to the relationship to adjoining properties.*
- (c) adverse amenity impacts on neighbours from the changes.*
- (d) significant change to the streetscape.*
- (e) change to the scale or character of the development, or the character of the locality.*

Accordingly:

- The essence of the development as modified is substantially the same as the development for which consent was originally granted. The building will remain a 19 storey co-living building providing for purpose-built student accommodation. There are no changes proposed to the originally approved building footprint and no increases to building height. The quantum of car, motorcycle and bicycle parking remains as originally approved and the proposal continues to comply with the relevant provisions of SEPP (Housing) 2021, with the exception of car parking which was deemed to be satisfactory in the original application.
- With the conversion of the premium rooms, which accommodated up to two occupants, to the standard rooms, which accommodate a maximum of one occupant, there will be an overall decrease in the maximum occupancy of the building from 570 persons to 548 persons.
- There will be no changes in the relationship of the development with adjoining properties and no greater impacts on adjoining properties.
- There will be a minor change to the streetscape through the fenestration changes, however the changes will not be easily read at street level. There will be no changes to the scale or character of the originally approved development.

- The proposed modifications will not introduce any further environmental impacts or substantially alter the environmental impact of the approved development.
- The application has been notified in accordance with the Ryde Community Participation Plan and to those originally notified and no submissions were received.

#### Subsection (1)(b): Notification

The application was notified in accordance with Council's Community Participation Plan and there were no submissions received.

#### Subsection (1)(d): Submissions

No submissions were received in relation to the application.

#### Subsection (1A): Section 4.15(1) Considerations of Reasons for Granting of the Consent

The proposed modifications do not result in a development that is contrary to the reasons that informed the decision of the Court.

The proposed modification has been assessed against the relevant environmental planning instruments and policies and was found to be acceptable. This assessment report includes consideration of the relevant matters specified in Section 4.15 of the Act.

## **4.2 Section 4.15 of the Environmental Planning and Assessment Act 1979**

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the Act.

### **Environmental planning instruments (s4.15(1)(a)(i))**

The following Environmental Planning Instruments are relevant to this application:

#### **4.2.1 State Environmental Planning Policy (Planning Systems) 2021**

Under the provisions of State Environmental Planning Policy (Planning Systems) 2021, the subject development is categorised as regionally significant development, having an estimated development cost of more than \$30 Million. As the subject application is a Section 4.56 application, seeking modification of a consent granted by the NSW Land and Environment Court it necessitates referral to the Sydney North Planning Panel for determination.

#### **4.2.2 State Environmental Planning Policy (Housing) 2021**

The application is assessed against the relevant provisions of State Environmental Planning Policy (Housing) 2021, Chapter 3 Diverse housing, Part 3 Co-living housing as follows:

SEPP (Housing) Section	Proposal
<p><u>67 Co-living housing may be carried out on certain land with consent</u></p> <p><i>Development for the purposes of co-living housing may be carried out with consent on land in a zone in which—</i></p> <p><i>(a) development for the purposes of co-living housing is permitted under another environmental planning instrument, or</i></p> <p><i>(b) development for the purposes of residential flat buildings or shop top housing is permitted under Chapter 5 or another environmental planning instrument.</i></p>	<p>Development for the purposes of co-living housing is permissible with consent in the MU1 Mixed Use zone pursuant to the Ryde Local Environmental Plan 2014.</p>
<p><u>68 Non-discretionary development standards</u></p> <p><i>(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of co-living housing that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.</i></p> <p><b>Note—</b></p> <p><i>See the Act, section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with.</i></p> <p><i>(2) The following are non-discretionary development standards in relation to development for the purposes of co-living housing—</i></p> <p><i>(a) for development in a zone in which residential flat buildings are permitted—a floor space ratio that is not more than—</i></p> <p><i>(i) the maximum permissible floor space ratio for residential accommodation on the land, and</i></p> <p><i>(ii) an additional 10% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of co-living housing,</i></p> <p><i>(b) for co-living housing containing 6 private rooms—</i></p> <p><i>(i) a total of at least 30m<sup>2</sup> of communal living area, and</i></p> <p><i>(ii) minimum dimensions of 3m for each communal living area,</i></p>	<p>The proposed changes result in a minor increase in GFA of 54.5m<sup>2</sup>, resulting in a total GFA of 12,708.5m<sup>2</sup> which equates to a floor space ratio (FSR) of 4.948:1 (an increase of 0.0187:1 from 4.93:1 approved). The revised FSR remains within the maximum permissible FSR of 4.95:1 comprising 4.5:1 base FSR (afforded by Clause 4.4) plus 0.45:1 bonus afforded under Section 69.</p> <p>The application (as modified) seeks approval for 528 private rooms which requires 1,086m<sup>2</sup> of communal living area.</p> <p>The proposed development (as modified) provides for 1,087m<sup>2</sup> of communal living area, equating to 2.06m<sup>2</sup> of communal living area per bed and is therefore compliant.</p>



<p>(c) for co-living housing containing more than 6 private rooms—</p> <p>(i) a total of at least 30m<sup>2</sup> of communal living area plus at least a further 2m<sup>2</sup> for each private room in excess of 6 private rooms, and</p> <p>(ii) minimum dimensions of 3m for each communal living area,</p> <p>(d) communal open spaces—</p> <p>(i) with a total area of at least 20% of the site area, and</p> <p>(ii) each with minimum dimensions of 3m,</p> <p>(e) unless a relevant planning instrument specifies a lower number—</p> <p>(i) for development on land in an accessible area—0.2 parking spaces for each private room, or</p> <p>(ii) otherwise—0.5 parking spaces for each private room,</p> <p>(f) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,</p> <p>(g) for development on land in Zone R4 High Density Residential—the minimum landscaping requirements for residential flat buildings under a relevant planning instrument.</p>	<p>The proposed development (as modified) provides for 675m<sup>2</sup> (26.2%) of communal open space and is therefore compliant.</p> <p>The site is located within an accessible area as defined by the SEPP and requires the provision of parking at the rate of 0.2 spaces per room. In the original application there were 507 rooms, requiring 101 car parking spaces. The development provided for 44 car parking spaces. A Clause 4.6 request was submitted with the application and was supported by the Court.</p> <p>In the subject application, it is sought to convert the originally approved premium rooms to standard rooms, resulting in an increase to 528 rooms in total. This increases the car parking requirement under the SEPP to 106 car parking spaces, being a five car parking space increase above the originally approved application. The proposal involves retaining the 44 car parking spaces originally approved.</p> <p>The proposal is considered satisfactory in relation to car parking as the conversion of the premium rooms to standard rooms means that they are more likely to accommodate one person and the site is suitably located in close proximity to the Macquarie Shopping Centre and metro station.</p>
<p><u>69 Standards for co-living housing</u></p> <p>(1) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that—</p> <p>(a) each private room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, that is not more than 25m<sup>2</sup> and not less than—</p> <p>(i) for a private room intended to be used by a single occupant—12m<sup>2</sup>, or</p> <p>(ii) otherwise—16m<sup>2</sup>, and</p> <p>(b) the minimum lot size for the co-living housing is not less than—</p>	<p>The unit sizes are as per those originally approved and the units to be converted from premium rooms to standard rooms have areas matching the remainder of the standard rooms.</p> <p>The lot size was deemed satisfactory in the original DA and there are no changes proposed.</p>

<p>(i) for development on land in Zone R2 Low Density Residential—600m<sup>2</sup>, or</p> <p>(ii) for development on other land—800m<sup>2</sup>, and</p> <p>(iii) (Repealed)</p> <p>(c) for development on land in Zone R2 Low Density Residential or an equivalent land use zone, the co-living housing—</p> <p>(i) will not contain more than 12 private rooms, and</p> <p>(ii) will be in an accessible area, and</p> <p>(d) the co-living housing will contain an appropriate workspace for the manager, either within the communal living area or in a separate space, and</p> <p>(e) for co-living housing on land in a business zone—no part of the ground floor of the co-living housing that fronts a street will be used for residential purposes unless another environmental planning instrument permits the use, and</p> <p>(f) adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant, and</p> <p>(g) each private room will be used by no more than 2 occupants, and</p> <p>(h) the co-living housing will include adequate bicycle and motorcycle parking spaces.</p> <p>(2) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority considers whether—</p> <p>(a) the front, side and rear setbacks for the co-living housing are not less than—</p> <p>(i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument, or</p> <p>(ii) for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument, and</p> <p>(b) if the co-living housing has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide, and</p>	<p>No change from the originally approved plans.</p> <p>No change from the originally approved plans.</p> <p>All rooms are proposed to be single occupant rooms.</p> <p>There is suitable bicycle and motorcycle parking in the basement levels.</p> <p>There are no changes proposed to the originally approved building footprint.</p> <p>There are no changes proposed to the originally approved building footprint.</p>
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<p><i>(c) at least 3 hours of direct solar access will be provided between 9am and 3pm at mid-winter in at least 1 communal living area, and</i></p> <p><i>(d), (e) (Repealed)</i></p> <p><i>(f) the design of the building will be compatible with—</i></p> <p><i>(i) the desirable elements of the character of the local area, or</i></p> <p><i>(ii) for precincts undergoing transition—the desired future character of the precinct.</i></p> <p><i>(3) Subsection (1) does not apply to development for the purposes of minor alterations or additions to existing co-living housing.</i></p>	<p>The proposal results in minor changes that do not impact the character conclusions reached in the determination of the original application.</p>
<p><u>70 No subdivision</u></p> <p><i>Development consent must not be granted for the subdivision of co-living housing into separate lots.</i></p>	<p>The application does not seek consent for any form of subdivision.</p>

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

The original Development Application was assessed against the provisions of State Environmental Planning Policy (Biodiversity) 2021. The subject application seeks a number of internal and external changes to the development and does not result in any implications on the findings during the assessment of the original Development Application in relation to the matters for consideration under this SEPP.

#### **4.2.4 State Environmental Planning Policy (Resilience and Hazards) 2021**

The original Development Application was assessed against the provisions of State Environmental Planning Policy (Resilience and Hazards) 2021. The subject application seeks a number of internal and external design changes to the development and does not result in any implications on the findings during the assessment of the original Development Application in relation to the matters for consideration under this SEPP.

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

The original Development Application was assessed against the provisions of State Environmental Planning Policy (Transport and Infrastructure) 2021. The subject application seeks a number of internal and external design changes to the development and does not result in any implications on the findings during the assessment of the original Development Application in relation to the matters for consideration under this SEPP.

### **4.3 Ryde Local Environmental Plan 2014**

The following is an assessment of the proposed development against the applicable provisions of Ryde Local Environmental Plan 2014 (Ryde LEP 2014).

## **Clause 2.2 – Zoning**

The site is located within the MU1 - Mixed Use zone under the Ryde LEP 2014 and development for the purpose of co-living housing is permissible with consent in the zone. The subject modification application does not alter the permissibility of the development.

## **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 zone 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 proposal seeks to modify a number of internal and external design elements of the development and continues to be satisfactory with regard to the relevant objectives of the zone.

## **Clause 4.3 – Height of Buildings**

Clause 4.3 of Ryde LEP 2014 prescribes the maximum building height for the site as being 65 metres. In the original application a Clause 4.6 request was supported for a maximum height of 67.9 metres. The subject application does not seek to amend the originally approved building height.

## **Clause 4.4 – Floor Space Ratio**

The proposed changes result in a minor increase in GFA of 54.5m<sup>2</sup>, resulting in a total GFA of 12,708.5m<sup>2</sup> which equates to a floor space ratio (FSR) of 4.948:1 (an increase of 0.0187:1 from 4.93:1 approved). The revised FSR remains within the maximum permissible FSR of 4.95:1 comprising 4.5:1 base FSR (afforded by Clause 4.4) plus 0.45:1 bonus afforded under the Section 69 of SEPP (Housing) 2021.



## **Ryde Development Control Plan 2014**

The original Development Application was considered against the relevant Parts of the Ryde Development Control Plan 2014 and was found to be satisfactory by the NSW Land and Environment Court determination. The subject application seeks a number of internal and external modifications to the development and does not result in any implications on compliance with the Ryde Development Control Plan 2014.

### **Section 7.11 Contributions Plan**

The original application was subject to Section 7.11 contributions based on the required rates for boarding houses and the calculation was carried out based on the intended number of occupants, which was calculated at 570 people and generated a total payment amount of \$5,640,667.80.

As a result of the proposed conversion of the premium units to standard units, this reduces the capacity of these units from two occupants to one occupant and therefore reduces the total number of occupants from 570 to 548. Condition No. 49 is proposed to be amended to reflect the revised contribution amounts based on the reduced number of occupants. The revised total figure is \$5,429,994.72.

### **Housing and Productivity Contribution (HPC)**

During the NSW Land and Environment Court proceedings for the original Development Application an understanding was reached that the development was not subject to the Housing and Productivity Contribution. The applicant has since made contact with the Department of Planning, Housing and Infrastructure who confirmed that the contribution was in fact applicable. Condition No. 49a is recommended outlining the requirement for the payment of the HPC, being a total figure of \$84,593.96.

## **5 LIKELY IMPACTS OF THE DEVELOPMENT**

All relevant issues regarding environmental impacts of the proposed development are discussed throughout this report.

The modifications proposed by this application will not exacerbate any environmental impacts already approved under LDA2023/0320.

The development is considered satisfactory in terms of environmental impacts.

## **6 SUITABILITY OF THE SITE**

The modification does not increase the scale of the development to what was originally approved and will not adversely impact upon the local road network.

As such, the site is considered to continue to be suitable for the development, as amended.

## 7 REFERRALS

The following section outlines the latest response from each of the internal and external referrals in relation to this application:

### Internal

#### City Infrastructure (Public Domain)

The application was assessed by Council's City Infrastructure (Public Domain) team and the following comment was received:

*The proposed changes to the previously approved plans do not affect the Public Domain Works. All of the proposed changes (including the driveway) are within the site boundaries.*

#### City Infrastructure (Waste)

No objections were raised subject to the amendment of Condition No.89 to reflect the modification plans and amended waste management plan and amended architectural plans.

#### City Infrastructure (Traffic)

The application was assessed by Council's City Infrastructure (Traffic) team and the following comment was received:

*The subject Section 4.56 modification seeks reconfiguration of the internal and external design of the approved co-living and student accommodation development. The modification involves:*

- *Conversion of the premium co-living units to purpose-built student accommodation, resulting in an increase of the total development yield from 508 to 528 units; and*
- *Minor reconfiguration of entry driveway to facilitate Medium Rigid Vehicles.*

*The parking provision on the site is not proposed to be changed and will be the same as the approved development (i.e. 44 car parking spaces).*

*Swept path plans, as shown in the Transport Assessment report prepared by JMT Consulting dated 26 November 2024, illustrates that on-site manoeuvring of MRV trucks in and out of the loading dock and the access driveway is satisfactory.*

*The proposal increases the total development yield by 20 units while no additional parking provision is proposed. This modification application is not expected to result in any variations to the traffic generation assessed as part of the previously approved development application. As such, the proposal is not expected to result in any traffic impacts beyond what has been previously assessed as part of the current consent.*

*In conclusion, Traffic Services Department has no objection to the Section 4.56 modification.*

#### Development Engineer

The application was assessed by Council's Senior Development Engineer and no objections were raised and no changes were recommended to engineering related conditions of consent.

## **8 PUBLIC NOTIFICATION & SUBMISSIONS**

Notification of the application was undertaken in accordance with Council's Community Participation Plan from 10 February until 26 February 2025. It is noted that all the properties notified of the original Development Application were notified for the subject application. No submissions were received for the subject application nor the original Development Application.

## **9 PUBLIC INTEREST**

Having regard to the assessment contained in this report, it is considered that approval of the modified development is not contrary to the public interest. The application has been notified in accordance with Section 4.56 of the Environmental Planning and Assessment Act 1979 and in accordance with the Ryde Community Participation Plan and no submissions were received.

## **10 CONCLUSION**

The application has been assessed under the matters for consideration of Section 4.15 of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions.

The proposal continues to be suitable for the site and is not contrary to the public interest.

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

- The modification satisfies the provisions of Section 4.56 of the Environmental Planning and Assessment Act 1979.
- The modification is substantially the same as the original approval.
- The development continues to be a permissible use, is consistent with the zone objectives and the objectives of height of buildings and floor space ratio development standards under RLEP 2014.

## **11 RECOMMENDATION**

That MOD2025/0005 to modify the consent for Local Development Application No. LDA2023/0320 on land at 169-171 Herring Road, Macquarie Park be approved subject to the amended conditions in **Attachment 1**.

**Report prepared by:**

**Shannon Butler  
Senior Town Planner**

**Report approved by:**

**Holly Charalambous  
Senior Coordinator Development Assessment**

**Sohail Faridy  
Acting Manager Development Assessment**

## **ATTACHMENTS**

Attachment 1: Recommended Conditions of Consent

Attachment 2: L&E Court Judgement and Conditions of Consent (LDA2023/0320)

Attachment 3: Submitted Architectural and Landscaping Plans