

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSNH-734
<b>DA Number</b>	MOD2025/0070 to LDA2019/0149 (PAN-553647)
<b>LGA</b>	City of Ryde
<b>Approved Development</b>	Demolition of structures, excavation, site remediation and construction of a 10 storey (including mezzanine level) mixed use building comprising a supermarket, 5 retail shops, 2 commercial spaces, 43 residential dwellings and 72 serviced apartments over 4 levels of basement parking and associated works.
<b>Proposed Modification</b>	Section 4.56 application (to LDA2019/0149) to remove the requirements to achieve Association of Australasian Acoustical Consultants (AAAC) standards for acoustic management and replace them with requirements to satisfy the National Construction Code (NCC).
<b>Street Address</b>	155-157 Church Street, Ryde Part Lot 149 DP1278964
<b>Applicant/Owner</b>	<u>Applicant</u> Project A Development Pty Ltd C/o- David Furlong 7 Chudleigh Street, Rydalmer, NSW 2116 <u>Owner</u> Church Street Property Investments Pty Ltd
<b>Date of DA lodgement</b>	22 July 2025
<b>Total number of Submissions</b> <b>Number of Unique Objections</b>	No submissions received
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	4.56 modification application to a development that has an estimated development cost of more than \$30 million
<b>List of all relevant s4.15(1)(a) matters</b>	<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> </ul>

	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>• State Environmental Planning Policy (Housing) 2021</li> <li>• The Apartment Design Guide</li> <li>• Ryde Local Environmental Plan 2014</li> <li>• Ryde Development Control Plan 2014</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	Attachment 1: Amended conditions Attachment 2: Original consent as modified by MOD2023/0021 Attachment 3: Court judgement for LDA2019/0149
<b>Clause 4.6 requests</b>	None
<b>Report prepared by</b>	Gavin Zev- Acting Senior Coordinator Fast Track Development Assessment
<b>Report date</b>	26 September 2025

#### **Summary of s4.15 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 particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

**Yes**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

#### **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?

**Not applicable**

#### **Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

**Not applicable**

#### **Conditions**

Have draft conditions been provided to the applicant for comment?

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

**Yes**

## **1. EXECUTIVE SUMMARY**

This report considers a Section 4.56 application under the Environmental Planning and Assessment Act 1979 (EP&A Act) to modify the approved development at 155-157 Church Street, Ryde.

The consent authority is the Sydney North Planning Panel under the provisions of Schedule 6 of the State Environmental Planning Policy (SEPP) (Planning Systems) 2021.

On 6 September 2021, the Land and Environment Court granted approval to Local Development Application No. LDA2019/0149 for demolition of the existing structures, excavation, site remediation and construction of a 10 storey (including mezzanine level) mixed use building comprising a supermarket, 5 retail shops, 2 commercial spaces, 43 residential dwellings and 72 serviced apartments over 4 levels of basement parking and associated works.

On 22 August 2023 a Section 4.56 Modification MOD2023/0021 (PPSSNH-371) was approved by the Sydney North Planning Panel. This modified consent approved alterations to the pedestrian and vehicular accesses, changes to the internal floor layout, and conversion of commercial floor space into additional serviced apartments to increase the serviced apartments from 72 to 84.

The subject modification application (MOD2025/0070) proposes to remove the requirements to achieve the Association of Australasian Acoustical Consultants (AAAC) standards for acoustic management and replace them with requirements to satisfy the National Construction Code (NCC).

### **Community Notification and Advertisement**

In accordance with Council's Community Participation Plan, this modification application was not required to be advertised or notified. However, in accordance with Section 4.56 of the EP&A Act, the application was notified to all persons who made a submission in respect of the original development application (LDA2019/0149) and the subsequent Section 4.56 modification application (MOD2023/0021), and no submissions were received.

### **Section 4.15 Assessment Summary**

The subject application has been assessed against the relevant provisions of SEPP (Transport and Infrastructure) 2021, SEPP (Housing) 2021, and the Apartment Design Guide, and has been found to be compliant.

The proposed modification is seeking amendments to acoustic standards only and further assessment against the Ryde Local Environmental Plan 2014 and the Ryde Development Control Plan 2014 is not warranted.

The proposed modifications will not change the external design or appearance of the approved development and are considered to have minimal environmental, social and economic impacts. Accordingly, it is recommended that the Sydney North Planning Panel, as the consent authority, approve the application subject to the amended conditions provided in **Attachment 1**.

## **2. APPLICATION DETAILS**

**Owner:** Church Street Property Investments Pty Ltd  
**Applicant:** Project A Development Pty Ltd  
**Estimated value of works:** \$67,430,261 excluding GST (No change to cost of works compared with MOD2023/0021)  
**Disclosures:** No disclosures with respect to the Local Government and Planning Legislation Amendment (Political Donations) Act 2008 have been made by any persons.

## **3. THE PROPOSED MODIFICATION**

This Section 4.56 modification application seeks to modify the development consent LDA2019/0149 by removing the requirements to achieve the AAAC - Guideline for Apartment and Townhouse Acoustic Rating (GATAR) Version 1.0 standards for acoustic management and replace them with requirements to satisfy the NCC. This proposed modification will necessitate the amendment of conditions 14, 57, 71, 170, 206 and 212. The Statement of Environmental Effects (SEE) states that the proposal will not create any adverse impacts to nearby properties in terms of privacy. Furthermore, the SEE states that the requirement to comply with the 5-star rating based on the AAAC's GATAR version 1.0 is too onerous and that by meeting these requirements it will cause non-compliances with other aspects of the Building Code of Australia (BCA) and relevant Australian Standards.

Acoustic Advice, prepared by Pulse White Noise Acoustics (PWNA) Pty Ltd has concluded that:

*In the event the recommended amendments to the current Conditions of Consent are implemented, PWNA can confirm that the amenity of the future occupants and existing surrounding acoustic environment (i.e. noise to existing surrounding residents) will result in compliance with all NSW and Federal acoustic legislative requirements...*

*Finally, ...adoption of significantly higher levels of acoustic performance will not necessarily result in better acoustic outcomes for the project. Subjectively, lower ambient noise levels will likely result in noise within buildings which are currently NOT an issue to become audibly prominent. Which (sic.) will be likely result in complaint (sic.).*

## **4. THE SITE AND SURROUNDS**

The site is located within the Shepherd's Bay locality and is referred to as Stage A in the Concept Approval for the Precinct (MP09\_0216). The site has frontages to Church Street, Well Street, Parsonage Street and Waterview Street (the loop road). A roundabout connecting Waterview Street and Parsonage Street is located adjacent to the western corner of the site and a roundabout connecting Parsonage Street, Well Street and Porter Street is located adjacent to the northern corner of the site.

The site is generally rectangular in shape with a site area of 3,906m<sup>2</sup>. The site falls by approximately 1.8m from the eastern corner to the western corner. The site previously

accommodated industrial warehouse buildings and associated parking areas which were accessed via Well Street. The approved development is currently under construction as shown in **figures 1 and 2** below.

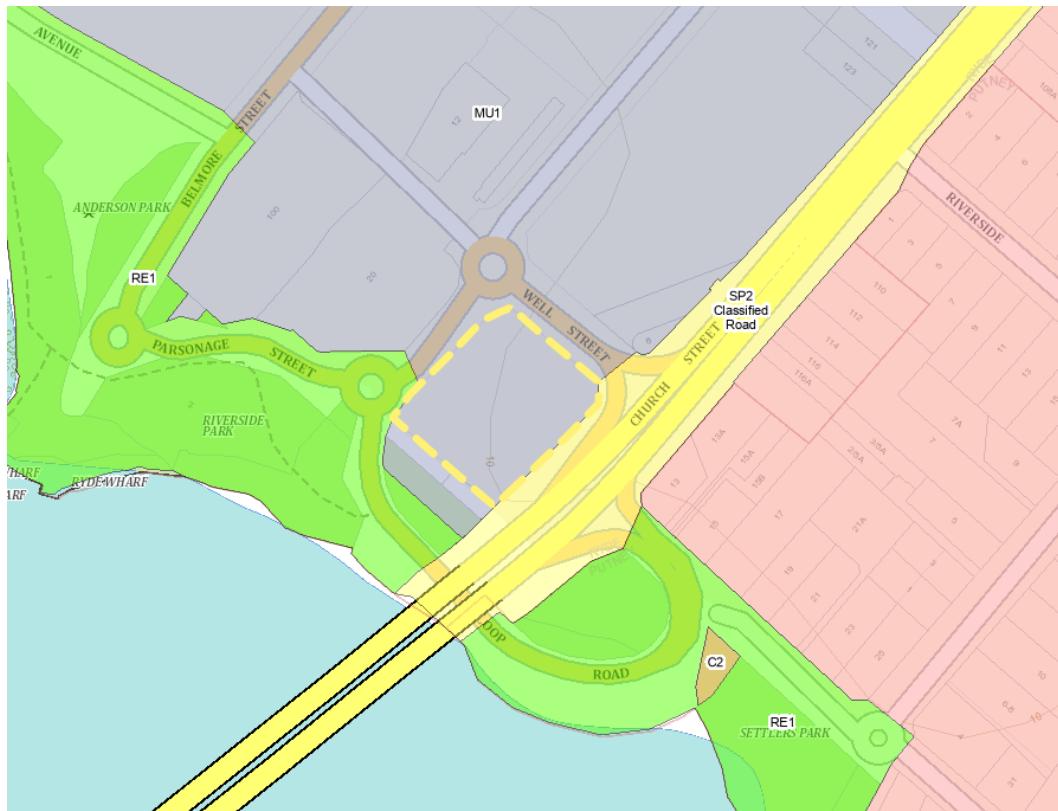


**Figure 1: Aerial photo of the site and surrounds. The development is currently under construction.**

The locality is characterised by shop top housing and residential flat buildings to the north, north-east and north-west on land zoned MU1 Mixed Use, and low density residential development on the eastern side of Church Street on land zoned R2 Low Density Residential. Church Street is a classified road, zoned SP2 Infrastructure. To the south-west of the subject site is Anderson Park, which fronts the Parramatta River foreshore and is zoned RE1 Public Recreation. Ryde Bridge adjoins the south-eastern boundary of the site and is a local heritage item (No. 33 in the Ryde Local Environmental Plan 2014).



**Figure 2- Subject site as viewed from the corner of Church Street and Well Street**



**Figure 3: Zoning Map**

## **5. HISTORY**

- 6 September 2021: Local Development Application LDA2019/0149 was approved by the Land and Environment Court for demolition of structures, excavation, site

remediation and construction of a 10 storey (including mezzanine level) mixed use building comprising a supermarket, 5 retail shops, 2 commercial spaces, 43 residential dwellings and 72 serviced apartments over 4 levels of basement parking and associated works.

- 22 August 2023: Section 4.56 modification application MOD2023/0021 for modifications to LDA2019/0149 for alterations to the pedestrian and vehicular accesses, changes to the internal floor layout, and conversion of commercial floor space into additional serviced apartments to increase the serviced apartments from 72 to 84 was approved by the Sydney North Planning Panel.
- 10 April 2025: Local Development Application LDA2025/0011 for a change of use and fitout from a supermarket to a 24-hour indoor recreation facility, and signage was approved by Council.
- 22 July 2025: The subject Section 4.56 modification application (MOD2025/0070) was lodged with Council.
- 9 September 2025- 25 September 2025: The subject application (MOD2025/0070) was notified to every person who made a submission in respect of LDA2019/0149 and MOD2023/0021. No submissions were received.

## **6. APPLICABLE PLANNING CONTROLS**

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

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Housing) 2021
- The Apartment Design Guide
- Ryde Local Environmental Plan 2014
- Ryde Development Control Plan 2014

## **7. PLANNING ASSESSMENT**

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

#### **(a) Matters for consideration pursuant to Section 4.56 EP&A Act**

##### **Section 4.56(1)(a)**

Under Section 4.56 1(a) the consent authority must be satisfied that the development as modified is substantially the same as was approved in the original consent.

The proposed amendments to conditions will maintain the approved built form and the approved uses within the building. The amendments result in a development which is in keeping with the original approval and do not adversely impact the occupants of the dwellings and tenancies within the building, the adjoining properties, or the streetscape.

For the reasons outlined above the development as modified is considered to be substantially the same.

### Section 4.56(1) (c)

In accordance with Section 4.56(1)(c), every person who made a submission in respect of LDA2019/0149 and MOD2023/0021 was notified of the subject application between 9 September 2025 and 25 September 2025.

### Section 4.56(1)(d)

In response to the notification of the subject application completed in respect of (c) no submissions were received.

### Section (1A)

Section (1A) also provides that:

*“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.”*

The reasons given by the Court to approve LDA2019/0149 can be found in paragraphs 23 to 29 of the judgement in **Attachment 3**.

The modified development is considered to be consistent with the reasons provided in the judgement. As such, the modified development does not raise any concerns with regards to the original justification for the issuing of the development consent.

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

This proposal is a Section 4.56 modification application as the original development consent was granted by the Land and Environment Court. Pursuant to Section 2 of Schedule 6 of the SEPP (Planning Systems) 2021, as the originally approved development has an estimated development cost of more than \$30 million, the Sydney North Planning Panel is the consent authority for the determination of this proposed development. Furthermore, the *Sydney District & Regional Planning Panels Operational Procedures* dated September 2022 states that *a court granted consent may be modified by a Panel under section 4.56 if it is in relation to regionally significant development*.

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

Clause 2.119(2)(c) of the SEPP (Transport and Infrastructure) 2021 states that:

*The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*

*(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions*

*within the site of the development arising from the adjacent classified road.*

Clause 2.120(3) of the SEPP (Transport and Infrastructure) 2021 states that:

*If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—*

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

With regards to Clause 2.119(2)(c), Council's Environmental Health Officer has confirmed that the requirements of the approved Acoustic Report which are enforced by conditions of consent, will ensure that the development continues to satisfy Clause 2.119(2)(c) and Clause 2.120(3) of the SEPP (Transport and Infrastructure) 2021.

This application was not required to be referred to TfNSW as pursuant to Clauses 2.121 and 2.122, the proposed modifications do not alter the approved excavation, and do not involve a new premises or an enlargement or extension of an existing premises of a development listed in Schedule 3 of the SEPP.

Clause 2.77(1) of the SEPP (Transport and Infrastructure) 2021 states that:

*Before determining a development application for development adjacent to land in a pipeline corridor, the consent authority must—*

- (a) be satisfied that the potential safety risks or risks to the integrity of the pipeline that are associated with the development to which the application relates have been identified, and*
- (b) take those risks into consideration, and*
- (c) give written notice of the application to the pipeline operator concerned within 7 days after the application is made, and*
- (d) take into consideration any response to the notice that is received from the pipeline operator within 21 days after the notice is given.*

The application was referred to Viva Energy Australia who have raised no objections to the proposed modifications.

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

The original proposal was assessed under the applicable SEPP at the time (State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)) and was considered satisfactory subject to conditions of consent.

Clause 147 of the SEPP (Housing) 2021 states that:

*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 proposed changes to the residential component of the building are internal changes relating to acoustic management.

The proposed modifications do not change the quality of the design of the development and continue to demonstrate consistency with the ADG design principles. As there are no changes proposed to the external appearance of the building, the application was not required to be referred to the design review panel.

In accordance with Clause 102 of the Environmental Planning and Assessment Regulation 2021 (Regulation), a design verification statement prepared by a registered architect has also been submitted verifying that *the design continues to achieve the principles set out in State Environmental Planning Policy No. 65- Design Quality of Residential Apartment Development and the Apartment Design Guide and the application does not diminish or detract from the design quality of the original development or compromise the design intent of the original development.*

As required by Clause 102, the statement also verifies that the architect was involved in the proposed modification to the development but did not design or direct the design of the original development.

## **7.5 Ryde Local Environmental Plan (RLEP) 2014**

The proposed modification seeks amendments to the acoustic standards only and does not trigger a review or further assessment of any provisions of the RLEP 2014 that has not already been assessed under the original development application (LDA2019/0149) or the subsequent Section 4.56 modification application (MOD2023/0021).

## **7.6 Ryde Development Control Plan (RDCP) 2014**

The proposed modifications do not result in any additional non-compliances with the RDCP 2014 that have not already been assessed under the original development application (LDA2019/0149) or the subsequent Section 4.56 modification application (MOD2023/0021).

## **8. EXTERNAL REFERRALS**

### **Viva Energy Australia**

The application was referred to Viva Energy Australia in accordance with Clause 2.77 of SEPP (Transport and Infrastructure) 2021 as part of the development site is located within the pipeline corridor. Viva Energy Australia raised no objections to the proposed modifications and no Viva Energy Australia conditions are required to be amended.

## **9. INTERNAL REFERRALS**

### ***Environmental Health Officer***

The application was referred to Council's Environmental Health Officer who provided the following comments:

*An Acoustic Advice report has been submitted by Pulse White Noise Acoustics, titled '155 Church Street, Ryde – S4.55 Acoustic Review – Acoustic Conditions of Consent', dated 8 July 2025. The submission assesses Conditions 71 and 206 of the development consent and argues that the requirement to achieve a 5-star rating, as outlined in the Association of Australasian Acoustical Consultants Guideline for Apartment and Townhouse Acoustic Rating Version 1.0 is excessively stringent. Additionally, it contends that compliance with this requirement may result in conflicts with other provisions of the BCA and relevant Australian Standards.*

*While it is acknowledged that the requirements are indeed demanding, the intent of these conditions is to ensure that internal acoustic environments are not adversely affected by adjoining residencies and external noise intrusion (such as traffic especially considering the close proximity of the subject development to the A3). The proposed conditions establish noise criteria that are more rigorous than those specified in the BCA and other applicable guidelines.*

*In regard to the proposed modification to require certification done by a qualified acoustical engineer with eligible membership of the AAAC, this is not accepted. An active membership with the AAAC ensures that the certification of acoustical mitigation measures is carried out in accordance with best industry practices and code of conducts.*

Council's Environmental Health Officer has raised no further objections to the proposed amendments subject to the following amendments to the conditions listed below:

**14. Construction requirements** - All acoustical treatments nominated in the Noise Assessment report prepared by DK Acoustics Pty Ltd with reference number 151209 Rev F dated 31 August 2020 and updated S4.55 Noise Impact Assessment report prepared by Wilkinson Murray (Final version) dated 18 January 2023 (**excluding any requirements, recommendations and treatments for compliance with the Association of Australasian Acoustical Consultants Guideline for Apartment and Townhouse Acoustic Rating**) must be implemented during construction.

**57. Acoustic Requirements.** The recommendations contained in the Acoustic Reports prepared by DK Acoustics dated 26 March 2021 and updated S4.55 Noise Impact Assessment report prepared by Wilkinson Murray (Final version) dated 18

January 2023 (excluding any requirements, recommendations and treatments for compliance with the Association of Australasian Acoustical Consultants Guideline for Apartment and Townhouse Acoustic Rating) are to be demonstrated on the Construction Certificate plans. Details indicating compliance with these requirements are to be submitted to the PCA prior to the relevant Construction Certificate being issued. Prior to the occupation of the development, a suitably qualified acoustic consultant is to verify that the development complies with these recommendations in the above report.

**71. Noise attenuation.** A qualified acoustical engineer **who holds a current member grade with the Association of Australasian Acoustical Consultants (AAAC) or the Australian Acoustical Society (AAS)** must certify that the building has been designed to achieve the noise and vibration requirements as outlined in the **Acoustic Reports prepared by DK Acoustics dated 26 March 2021 and updated S4.55 Noise Impact Assessment report prepared by Wilkinson Murray (Final version) dated 18 January 2023 (excluding any requirements, recommendations and treatments for compliance with the Association of Australasian Acoustical Consultants Guideline for Apartment and Townhouse Acoustic Rating)**. Details of compliance are to be submitted with the plans for Construction Certificate.

**170. Acoustic privacy.** Provide a compliance report from an appropriately qualified acoustic consultant confirming that the recommendations within the DK Acoustics letter dated 13 March 2020 reference number: 200313 updated S4.55 Noise Impact Assessment report prepared by Wilkinson Murray (Final version) dated 18 January 2023 (excluding any requirements, recommendations and treatments for compliance with the Association of Australasian Acoustical Consultants Guideline for Apartment and Townhouse Acoustic Rating) have been installed.

**206. Noise attenuation.** A qualified acoustical engineer **who holds a current member grade with the Association of Australasian Acoustical Consultants (AAAC) or the Australian Acoustical Society (AAS)** must demonstrate compliance with the relevant noise and vibration requirements as outlined in the **Acoustic Reports prepared by DK Acoustics dated 26 March 2021 and updated S4.55 Noise Impact Assessment report prepared by Wilkinson Murray (Final version) dated 18 January 2023 (excluding any requirements, recommendations and treatments for compliance with the Association of Australasian Acoustical Consultants Guideline for Apartment and Townhouse Acoustic Rating)**. Details of compliance must be submitted to the PCA before the issue of any Occupation Certificate.

**212. Acoustic Report.** A report from a qualified acoustical consultant demonstrating compliance with the relevant noise criteria including compliance with the recommendations contained in the **Acoustic Reports prepared by DK Acoustics dated 26 March 2021 and updated S4.55 Noise Impact Assessment report prepared by Wilkinson Murray (Final version) dated 18 January 2023 (excluding any requirements, recommendations and treatments for compliance with the Association of Australasian Acoustical Consultants Guideline for Apartment and Townhouse Acoustic Rating)** must be submitted to the PCA before the issue of an Occupation Certificate.

## **10. LIKELY IMPACTS OF THE DEVELOPMENT**

All relevant issues regarding environmental impacts of the proposed development are discussed throughout this report. The development is considered satisfactory in terms of environmental impacts.

## **11. SUITABILITY OF THE SITE**

The proposed modifications relate solely to the acoustic treatments of the approved development.

The modifications do not increase the overall scale of the development or change the use of the site to what was originally approved. As such, the site is considered to continue to be suitable for the development as amended.

## **12. PUBLIC NOTIFICATION & SUBMISSIONS**

As discussed above, in accordance with Council's Community Participation Plan, adjoining property owners were not required to be notified of the application. However, pursuant to Section 4.56(1)(c) of the Environmental Planning and Assessment Act 1979, Council notified each person who made a submission in respect of the original development application (LDA2019/0149) and the subsequent Section 4.56 modification application (MOD2023/0021) from 9 September 2025 to 25 September 2025.

In response, no submissions were received.

## **13. CONCLUSION**

This report considers a Section 4.56 modification application to amend the approved development for demolition of structures, excavation, site remediation and construction of a 10 storey (including mezzanine level) mixed use building comprising a supermarket, 5 retail shops, 2 commercial spaces, 43 residential dwellings and 72 serviced apartments over four levels of basement parking and associated works.

Having regard to the provisions of Section 4.15 of the EP&A Act 1979, the application is considered to be reasonable in the context of the site and is recommended for approval subject to amended conditions of consent provided in **Attachment 1** of this report.

## **14. RECOMMENDATION**

Pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 the following is recommended:

- A. That the Sydney North Planning Panel grant consent to the Section 4.56 Modification Application No. MOD2025/0070 to modify Local Development Application No. LDA2019/0149 at 155-157 Church Street, Ryde, subject to the conditions of consent in **Attachment 1** of this report.

**Report prepared by:**

Gavin Zev  
Acting Senior Coordinator Fast Track Development Assessment

**Report approved by:**

Sohail Faridy  
Manager- Development Assessment