

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-763
MOD Number	MOD2025/0114
LGA	City of Ryde
Parent DA	LDA2018/0506 Demolition of existing buildings, excavation and site preparation work, construction of a 20 storey mixed use building comprising retail uses on the ground floor and 132 residential units over five levels of basement parking, construction of a retail building at the Waterloo Road frontage known as the 'Cyclist Cafe' and associated landscape and public domain works.
Proposed Development	S4.55(2) modification to LDA2018/0506 as amended by MOD2024/0012 for: • Increase to the building height from 67.2m to 75.3m (+8.1m) and 19 storeys to 22 storeys. • Increase to the gross floor area from 11,243.5m² to 14,137m² (+2,893.5m²). • Increase to the floor space ratio from 4.49:1 to 5.66:1. • Increase to residential apartments from 101 to 126. • Revision of the ground floor podium and communal spaces. • Redesign of the retail space. • Reconfiguration of apartment sizes and mix. • Amendments to landscape design and water management. • Amendments to basement levels and layouts including an increase to the provision of parking from 133 spaces to 152 spaces.
Street Address	14 to 16 Cottonwood Crescent, Macquarie Park SP 6262 and SP 5906
Applicant	Peter Navratti (c/- Urbis)
Owner	LegPro 31 Pty Ltd
Date of DA lodgement	19 December 2025
Total number of unique submissions	No submissions received.
Recommendation	Refusal
Regionally Significant Development (Schedule 6 of the SEPP (Planning Systems) 2021)	Regionally Significant Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.
List of all relevant s4.15(1)(a) matters	• Environmental Planning and Assessment Act 1979; • Water Management Act 2000; • State Environmental Planning Policy (Infrastructure) 2007; • State Environmental Planning Policy (State and Regional Development) 2011; • State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; • State Environmental Planning Policy No. 55 - Remediation of Land; • State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65): now State Environmental Planning Policy (Housing) 2021; • Ryde Local Environmental Plan 2014; • City of Ryde Development Control Plan 2014; and • Ryde Section 7.11 Development Contributions Plan 2020.

List all documents submitted with this report for the Panel's consideration	- Attachment 1: Submitted Architectural and Landscaping Plans. - Attachment 2: Applicant's Updated Planning Statement and justification to vary development standards. - Attachment 3: Plans approved in MOD2024/0012. - Attachment 4: Plans approved in LDA2018/0506.
Clause 4.6 requests	N/A (Modification) Variations sought: - Clause 4.3 – Height of Buildings: 15.8% - Clause 4.4 – Floor Space Ratio: 25.7%
Report prepared by	Holly Charalambous, Assessment Officer
Report date	10 July 2026

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
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 (modification)
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)?	Not applicable
Conditions Have draft conditions been provided to the applicant for comment?	Yes – No objection raised to amended conditions. The draft conditions are prepared to assist Council if they wish to support the proposed modification.

1. EXECUTIVE SUMMARY

This Section 4.55(2) Modification Application is referred to the Sydney North Planning Panel (SNPP) for determination in accordance with the Sydney District and Regional Planning Panels Operational Procedures – November 2022 (Operational Procedures Manual).

The parent development consent, LDA2018/0506, relates to regionally significant development with a capital investment value exceeding \$30 million. The current application seeks modification of that consent under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*.

The proposed modification results in exceedances of the applicable building height and floor space ratio (FSR) development standards. The proposed variation to building height is 15.8%, while the proposed variation to FSR is 25.7%.

The applicant's justification for the proposed variations relies principally on the following matters:

- the site is constrained by Sydney Metro's zone of influence;
- floor-to-floor heights have been increased by approximately 300mm to 400mm across all levels to improve internal amenity, contributing approximately 8m to the additional building height;
- the building height requires adjustment by approximately 700mm to respond to revised flood levels introduced by Council;
- the proposal results in only one additional floor when compared with the original approval; and
- the proposed height and FSR exceedances do not result in material environmental impacts.

These matters are considered in detail throughout this report. However, the applicant's justification is not accepted for the reasons outlined below.

The Sydney Metro zone of influence affecting the site has not changed since the original approval. The approved development was previously able to achieve a compliant building height and FSR despite this constraint. Further, the proposal does not seek any extension to the approved building footprint or basement extent. Accordingly, the Sydney Metro constraint is not considered to reasonably justify a vertical increase of 2 to 3 storeys or an additional gross floor area of more than 2,800m².

The applicant's claim that increased floor-to-floor heights account for a substantial proportion of the additional building height is also not supported by the architectural plans and Council's assessment. The approved development, as well as subsequent modifications, generally included floor-to-floor heights of approximately 3.1m to 3.2m for most levels. A review of the current architectural plans submitted for this modification application, confirms that the floor-to-floor heights have not been increased to 3.4m to 3.6m across all floors as suggested.

The revised flood level is acknowledged. Council is generally supportive of amendments necessary to respond to updated flood information. However, Council does not retrospectively require approved developments to adopt revised flood levels. In any event, the adjustment associated with the revised flood level accounts for only a marginal increase in overall building height and does not justify the extent of the proposed height exceedance.

The assertion that the proposal results in only one additional floor is not accepted. Depending on the viewpoint and approved comparison level, the proposal presents as an increase of approximately 2 to 3 storeys. Similarly, the claim that there are no material impacts arising from more than 2,800m² of additional floor area and an increase exceeding 10m above the height standard is not supported.

The application was notified in accordance with the City of Ryde Community Participation Plan. No submissions were received.

The modification also seeks several other minor adjustments to the approved built form. While some of these individual amendments may be capable of support on their planning merits, they are intrinsically linked to the broader proposal, which relies on unacceptable departures from the height and FSR standard. In view of the significant non-compliances associated with the height and FSR variations, it is considered that a revised modification application limited to the minor built form amendments would provide a more appropriate pathway for their future consideration.

Having regard to the extent of the proposed height and FSR variations, the inadequacy of the applicant's justification, and the cumulative built form impacts arising from the additional height and floor area, the modification application is recommended for refusal.

2. THE SITE

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

The site has a L-shape with a narrower frontage to the north-east boundary (Waterloo Road) of 27m, a frontage to Cottonwood Crescent of 79m and a width to Cottonwood Reserve of 39m. The boundary to Shrimptons Creek has a length of approximately 79m but steps in towards Waterloo Road, where the frontage is narrower.

The site comprises two lots and has a total area of 2,499.3m².

The site is located immediately adjacent to the Shrimptons Creek Riparian Corridor which has been identified by the City of Ryde as a significant natural tributary providing diverse native vegetation and animal habitats within the Macquarie Park precinct.

There are a number of existing trees outside the boundary of the site along the street frontages and within the adjacent Cottonwood Reserve. The surrounding streetscape is consistent with the prevailing landscaped presentation within Macquarie Park.



Figure 1 – Location of the site outlined in red and orange.

The development site has two frontages including a primary frontage to Cottonwood Crescent and secondary frontage to Waterloo Road via a Council reserve. The site is bounded on its other two sides by Council reserves including Cottonwood Reserve to the south-west and Shrimptons Creek to the south-east (refer to **Figure 2** below).

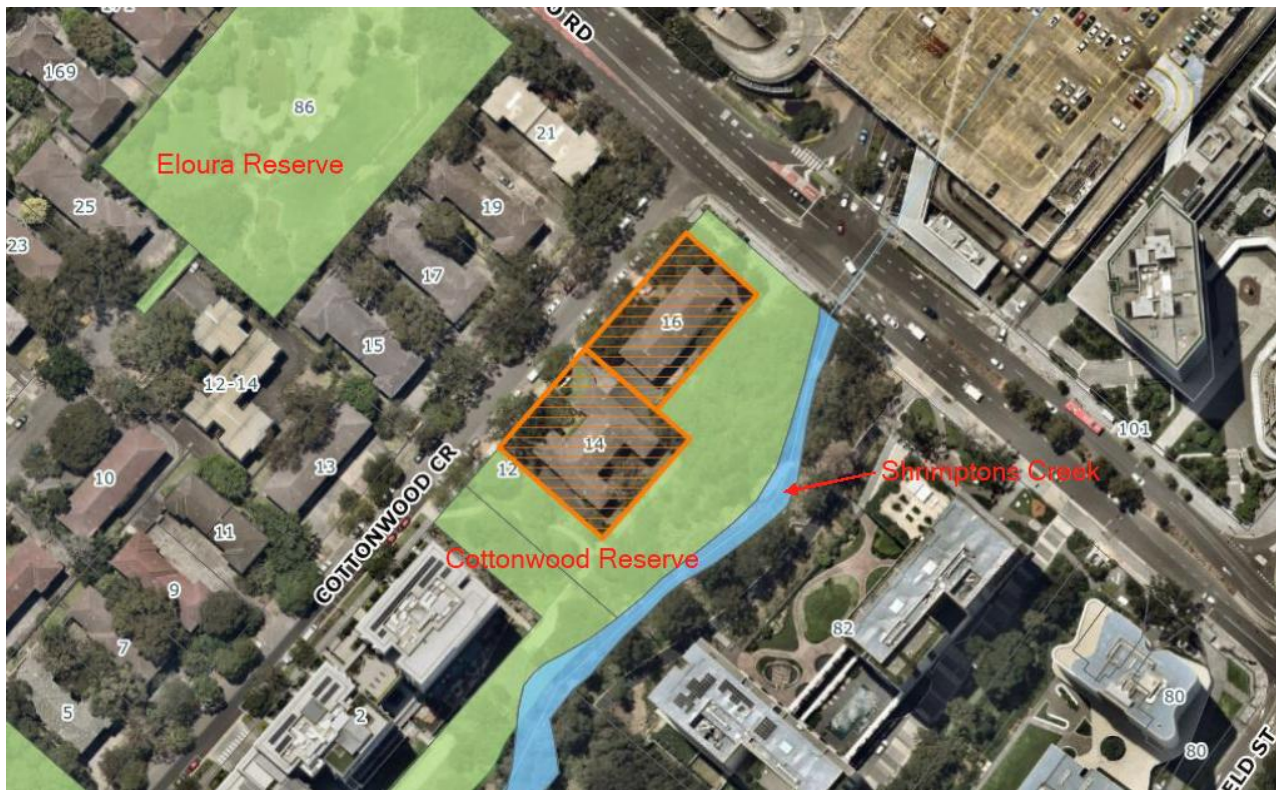


Figure 2 – Proximity of the site to reserves.

The site falls from Waterloo Road towards Cottonwood Reserve to the south-west, with a more significant cross fall from Cottonwood Crescent towards Shrimptons Creek of approximately 5m.

The site comprises two separate three storey walk-up residential flat buildings, both of which are undergoing demolition as part of LDA2018/0506.

3. APPLICATION HISTORY

The site has been the subject of the following relevant applications:

LDA2018/0506

LDA2018/0506 was approved by the Sydney North Planning Panel on 4 November 2020 for *demolition of existing buildings, excavation and site preparation work, construction of a 20 storey mixed use building comprising retail uses on the ground floor and 132 residential units over five levels of basement parking, construction of a retail building at the Waterloo Road frontage known as the 'Cyclist Cafe' and associated landscape and public domain works*. The approved plans are at **Attachment 4**.

MOD2024/0012

Section 4.55(2) application was lodged to modify LDA2018/0506 in the following manner:

- Reduction of the approved building height from 20 storeys to 19 storeys.
- Reduction to the approved gross floor area and floor space ratio.
- Internal reconfiguration to include:

MOD2025/0114

- Relocation of lift cores.
- Rearrangement of car parking spaces and access/egress in the basement.
- Reconfiguration of ground floor retail space.
- Reduction of the number of apartments from 132 to 101 units.
- Change to apartment mix.
- Provision of roof top open space areas.
- Rearrangement and locating of communal open space areas.
- Redesign of the façade treatment.

The application satisfied the referral criteria for delegation under the *Sydney District and Regional Planning Panels Operational Procedures* (November 2022) and was subsequently approved by Council on 18 March 2025. The approved plans are at **Attachment 3**.

4. THE PROPOSAL

The proposal (MOD2025/0114) is lodged under Section 4.55(2) of the EP&A Act 1979 and seeks to modify Local Development Application No. LDA2018/0506.

As shown in the proposed plans at **Attachment 1**, the proposal seeks the following modifications (beyond that approved under MOD2024/0012):

- Increase to the building height from 67.2m to 75.3m (+8.1m) and 19 storeys to 22 storeys.
- Increase to the gross floor area from 11,243.5m² to 14,137m² (+2,893.5m²).
- Increase to the floor space ratio from 4.49:1 to 5.66:1.
- Increase to residential apartments from 101 (MOD2024/0012) to 126 (+25).
- Reconfiguration of apartment sizes and mix including 20 x one bedroom, 44 x two bedrooms, 60 x three bedrooms and 2 x four bedrooms.
- Revision of the ground floor podium and communal spaces.
- Relocation of retail space to proposed lower ground level, increase the retail space by 10m² and reduction of associated outdoor terrace.
- Amendments to landscape design and water management.
- Amendments to basement levels and layouts including an increase to the provision of parking from 133 spaces to 152 spaces.

The above changes are detailed in the comparison tables below.

Comparison Tables

The following tables provide a comparison between the approved development under LDA2018/0506, MOD2024/0012 and the subject modification (**note**: differences are indicated between MOD2024/0012 and the current application):

Feature	LDA2018/0506	MOD2024/0012	MOD2025/0114	Difference
Site Area	2,499m ²	2,499m ²	2,499m ²	No change
Building Height	67m (LEP Height 65m)	67.2m	75.3m	+8.1m
Storeys	20	19	22	+3
Gross Floor Area	11,245m ²	11,243.5m ²	14,137m ²	+2,893.5m ²
Floor Space Ratio	4.5:1	4.49:1	5.66:1	+1.17:1
Retail	Cyclist Cafe 115m ²	Retail 71m ²	Retail 81m ²	+10m ²
Apartment Mix				
Studio	10 (7.6%)	0 (0%)	0 (0%)	No change
1 Bedroom	29 (22%)	0 (0%)	20 (15.9%)	+20

Feature	LDA2018/0506	MOD2024/0012	MOD2025/0114	Difference
2 Bedroom	79 (59.8%)	59 (58.4%)	44 (34.9%)	-15
3 Bedroom	14 (10.6%)	18 (17.8%)	60 (47.6%)	+42
4 Bedroom	0	24 (23.8%)	2 (1.6%)	-22
Total	132 (100%)	101 (100%)	126 (100%)	+25
Car Parking				
Residential	115	114	136	+22
Residential Visitors	14	12	13	+1
Car Share	3	3	2	-1
Retail	2	4	1	-3
Total	134	133	152	+19
Motorbike Parking	0	14	10	-4
Bicycle Parking	14	14	16	+2
Communal Open Space	941m ² (37.7%)	630m ² (25.2%)	676m ² (27.1%)	+46m ²
Deep Soil	438m ² (17.5%)	515.9m ² (20.6%)	837m ² (33.5%)	+321.1m ²
Solar Access	70.4%	70.3%	87.3%	+17%
Cross Ventilation (9 storeys)	66.67%	66%	63.5%	-2.5%

Table 1 – Key metrics for the development.

The rationalisation and reconfiguration of parking throughout the five basement levels results in the following changes:

	LDA2018/0506	MOD2024/0012	MOD2025/0114	Difference
Basement 5				
Residential	30	32	37	+5
Motorbike	0	2	2	No change
Bicycle	2	0	0	No change
Basement 4				
Residential	28	32	37	+5
Motorbike	0	2	0	-2
Bicycle	2	0	0	No change
Basement 3				
Residential	29	32	37	+5
Motorbike	0	2	0	-2
Bicycle	2	0	0	No change
Basement 2				
Residential	20	18	25	+7
Residential Visitor	7	12	11	-1
Car Share	0	3	2	-1
Motorbike	0	2	2	No change
Bicycle	5	0	0	No change
Basement 1				
Residential	8	0	0	No change
Residential Visitor	7	0	2	+2
Car Share	3	0	0	No change
Retail	2	4	1	-3
Motorbike	0	4	6	-2

	LDA2018/0506	MOD2024/0012	MOD2025/0114	Difference
Bicycle	0	0	16	+16
Total Car Parking	134	133	152	+19

Table 2 – Parking Provision (totals exclude motorbike and bicycle parking).

Parking Provision

The two tables below provide a comparison between the approved car parking schedule under MOD2024/0012 and the proposed car parking schedule.

Use	Required (Max)	Approved	Compliant
Residential			
Studio (0)	0		
1 Bedroom (0)	0		
2 Bedroom (59)	53.1 (54)		
3 Bedroom (42)	58.8 (59)		
Total Residential (Max)	113	114	+1
Visitors (101)	10	12	Complies
Retail (71m ² GFA) (Max)	1	4	+3
Car Share	2.66 (3)	3	Complies
Total	129	133	+4

Table 3 – Parking schedule (approved under MOD2024/0012)

Use	Required (Max)	Proposed	Compliant
Residential			
Studio (0)	0		
1 Bedroom (20)	12		
2 Bedroom (44)	39.6 (40)		
3 Bedroom (62)	86.8 (87)		
Total Residential (Max)	139	136	Complies
Visitors (126)	12.6 (13)	13	Complies
Retail (71m ² GFA) (Max)	1	1	Complies
Car Share	2.78 (3)	2	-1
Total	156	152	-4 (satisfies maximum)

Table 4 – Parking schedule (proposed under MOD2025/0114).

Façade Treatments

The façade treatment changed from a honeycomb cladding (notated on the approved plans as comprising 'lightweight cladding') under LDA2018/0506 to a simplified format under MOD2024/0012 which emphasised the horizontal layers of each floor level.

This application generally respects the façade treatments approved under MOD2024/0012 but seeks to extend the façade through the proposed increase to the building height.

Figure 3 below shows the façade approved under LDA2018/0506, the façade modified under MOD2024/0012, and the proposed façade.



LDA2018/0506



MOD2024/0012



Current application

Figure 3 – Façade comparison.

Landscape Treatments

Landscaping is proposed to include a through-building link from Cottonwood Crescent to the Shrimptons Creek public walkway.

Other changes include a rationalised communal open space area to the south which incorporates a swimming pool and outdoor gathering spaces.

The open space area to the north (facing Waterloo Road) has been simplified by removing the honeycomb themed planter boxes to create a meandering pathway and seating area within a landscaped setting.

Figures 4 and 5 below show the approved and proposed landscape theme.



Figure 4 – Approved landscape treatment (MOD2024/0012)

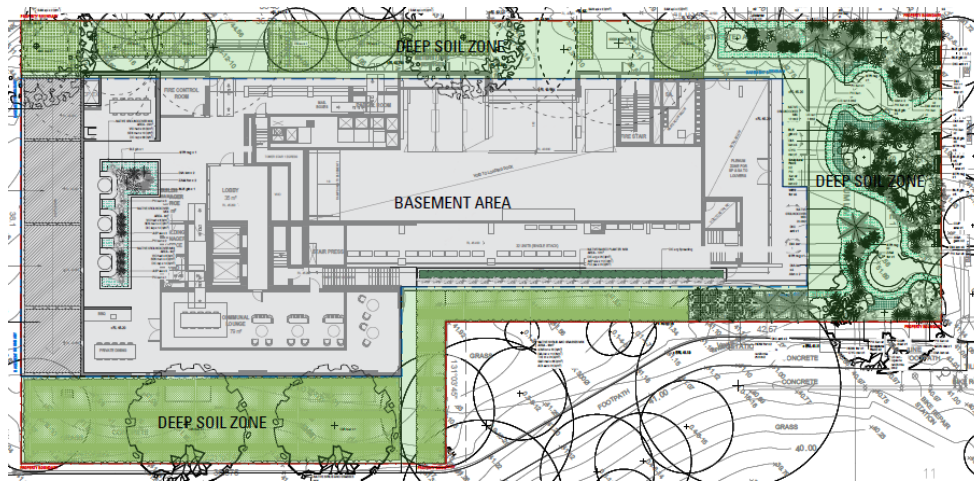


Figure 5 – Proposed landscape treatment.

Modification to Conditions

This application seeks to modify the following conditions:

- Condition 1 – Approved Plans/Documents.
- Condition 3 – BASIX.
- Condition 43 – Waste Management Plan.
- Condition 53 – Section 7.11 Contributions.
- Condition 65 – Disabled Access.
- Condition 66 – Acoustic Requirements.
- Condition 76 – Sydney Metro Requirements.
- Condition 77 – Flooding – Flood and Overland Flow Protection.
- Condition 81 – Stormwater – Drainage Design Submission.
- Condition 93 – Stormwater Management.
- Condition 94 – Stormwater Management – Access to Basement.
- Condition 96 – Car Share Provider.
- Condition 101 – Waste Management Plan.
- Condition 118 – Project Arborist.
- Condition 133 – Stormwater Management – Construction.
- Condition 137 – Tree Retention.
- Condition 138 – Tree Removal.
- Condition 141 – BASIX.
- Condition 199 – Parking Allocation.
- Condition 224 – WaterNSW General Terms of Approval.

The development description is also sought to be amended as follows:

*Demolition of existing buildings, excavation and site preparation work, construction of a ~~20 19~~ **22** storey mixed use building comprising a retail uses on the ground floor and ~~132 104~~ **126** residential units over five levels of basement parking, ~~construction of a retail building at the Waterloo Road frontage known as the 'Cyclist Cafe'~~ and associated landscape and public domain works.*

In the event the Panel resolves to approve the application, a set of draft conditions are prepared that will have to include the following additional conditions:

- Condition 22A – Tree Management Conditions.
- Condition 53A – Design Amendments.

Referral to the Sydney District Planning Panel

The *Sydney District & Regional Planning Panels Operational Procedures* (November 2022) requires the following applications made under s.4.55(2) to be referred to the Sydney North Planning Panel:

- *New or amended conditions of consent imposed by the Panel;*
- *Development for which the applicant or landowner is:*
 - *the council,*
 - *a councillor,*
 - *a member of council staff who is principally involved in the exercise of council's functions under the Act,*
 - *a member of the NSW or Commonwealth Parliament, or*
 - *a relative (within the meaning of the Local Government Act 1993) of a person referred to above;*
- *Development that is subject to 10 or more unique submissions by way of an objection; or*
- *Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.*

All other modification applications under sections 4.55(2), 4.55(1) or 4.55(1A) to development consents granted by a Panel are to be determined by the relevant council.

The modification does not offend any of the above criteria with exception to it contravening two development standards by more than 10% beyond that already approved under LDA2018/0506.

Therefore, this application has been referred to the Sydney District Planning Panel for consideration and determination.

5. APPLICABLE PLANNING CONTROLS

The original development application was considered against the following:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- Water Management Act 2000;
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (State and Regional Development) 2011;
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65): now State Environmental Planning Policy (Housing) 2021;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- Greater Sydney Regional Plan – A Metropolis of Three Cities, 2018;
- Ryde Local Environmental Plan 2014;
- City of Ryde Development Control Plan 2014; and
- Ryde Section 7.11 Development Contributions Plan 2020.

This modification does not affect the considerations and outcomes of the above instruments and controls with exception to *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* and *Ryde Local Environmental Plan 2014*. This is discussed later in this report under relevant sections.

6. PLANNING ASSESSMENT

6.1 Environmental Planning & Assessment Act 1979 (EP&A Act)

(a) Matters for consideration pursuant to Section 4.55(2) of the EP&A Act

Section 4.55(2) *Other modifications* of the *EPA Act* allows a consent authority to modify a development consent granted by it if:

- a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- c) *it has notified the application in accordance with:*
 - i. *the regulations, if the regulations so require, or*
 - 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*
- d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

The modified proposal is considered to be substantially the same development as the development for which consent was originally granted.

The proposal does not change any conditions imposed by an approval authority.

The application has been notified in accordance with the adopted *Ryde Community Participation Plan*. No submissions were received.

Section 4.55(3): Planning Assessment in accordance with Section 4.15(1) Matters for consideration

The modifications sought are considered below against the relevant environmental planning instruments, proposed instruments and relevant parts of the DCP in accordance with Section 4.15(1)(a)(i), (ii) and (iii).

The development consent is not subject to a planning agreement (iiia).

The proposal maintains consistency with the relevant regulations (iv).

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

The application is accompanied by an updated BASIX Certificate (No. 1826136M dated 11 December 2025). The following table provides a comparison between the approved scheme and the modified scheme. The requirements of this SEPP are satisfied.

Requirement	Target Score	Approved	Proposed
Water	40	44	43
Thermal Comfort	Pass	Pass	Pass
Energy	60	27	66

Table 5 – BASIX Commitments.

State Environmental Planning Policy (Housing) 2021

The *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65) was repealed and merged into the *State Environmental Planning Policy (Housing) 2021* (under Chapter 4) on 14 December 2023. The amendment (# 664) did not include savings provisions.

Therefore, the modification is to be considered under SEPP (Housing) 2021.

Chapter 4 - Design of Residential Apartment Development

Section 146 - Referral to Design Review Panel for Modification Applications

Section 146 applies to a modification application for residential apartment development.

Section 146(2) specifies that, if the statement by the qualified designer required to accompany the modification application does not verify that the qualified designer designed, or directed the design of, the original development, the consent authority must refer the modification application to the relevant design review panel for advice before determining the modification application.

The design team of the proposal changed from ARM Architecture to Rothe Lowman under MOD2024/0012.

The application is accompanied by a statement verifying that the qualified designer designed and directed the design of the proposed modification.

The proposal has been referred to the City of Ryde Urban Design Review Panel (UDRP) for comment only (see discussion under Section 147 below).

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

Chapter 4 of SEPP (Housing) includes the same provisions as included under SEPP 65 but now relevantly incorporates Clause 147 which states:

147 Determination of development applications and modification applications for residential apartment development

- 1) *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,*
 - 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 following provides consideration against the criteria established under Clause 147 and includes comments from the UDRP (noting that Section 147(1)(c) does not apply as discussed under Section 146 above) in their review.

City of Ryde Urban Design Review Comments

On 2 March 2026 the UDRP provided the following comments to their desktop review of the proposal:

UDRP Issue 1: “The Lower Ground level adopts a series of slightly different levels across building thresholds, and the interface between the retail tenancy and adjacent terrace and landscaped area has changed. I find the MOD significantly poorer in its relationship between the retail tenancy and the adjacent open spaces. The MOD proposes a smaller terrace extent and relatively narrow throated stair to link to the lower landscape space. I see that balustrading now provides fall protection at the perimeter of the terrace. The existing approval has a far more generous terrace for outdoor seating and a series of wrap-a-round bleachers to link to the landscape space, which avoided the need for balustrading. If the objective is to reduce the extent of outdoor terrace and hence to reduce construction costs, I feel that an increase in the extent of bleachers, particularly towards Shrimptons Creek would better ground the building in its landscape setting and provide greater amenity to the retail tenancy.”

Comment

In addressing this matter, the applicant states:

“The retail tenancy floor level has been lowered by 420 mm, enhancing its relationship with the adjacent landscape and bringing it closer to the natural ground plane. As a result of this reduced level change, the bleacher seating previously required to conceal an accessible ramp is no longer necessary.

However, seating has been introduced in the updated design to allow for the removal of balustrades and to create an inviting space for informal public and residential use. This approach maintains visual and physical connectivity between the tenancy and the surrounding landscaped areas while supporting functional and cost-efficient construction outcomes.”

The lower ground floor has been amended to introduce terrace seating and additional bleacher seating along the northern and eastern (facing Shrimptons Creek) sides of the terrace. These changes are shown comparatively in **Figure 6** below:

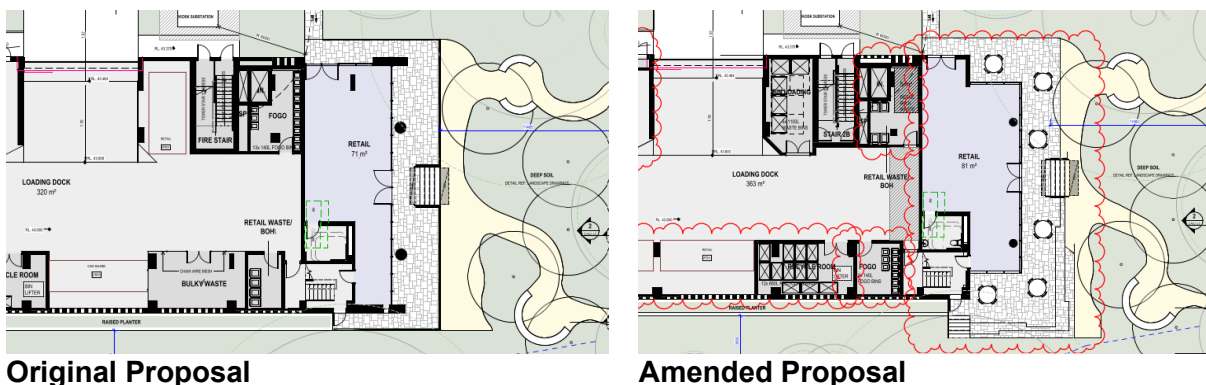


Figure 6 – Comparison of the original retail/terrace and the amended retail/terrace.

The amendment improves the relationship of the retail / terrace space to the landscaped area to some extent however the concerns raised by UDRP in relation to its overall relationship with the landscape area remain unresolved.

This matter is partially resolved.

UDRP Issue 2: “At ground level at the primary residential lobby, the MOD introduces a short flight of stairs to the street (with attendant accessible ramp), reduces the extent of glazed lobby space, and removes the implied link through the lobby to the Creek reserve. The elements of private dining have been reconfigured and reduced, the reflection pond omitted, and a new communal lounge is proposed. There no longer appears to be a resident link to the Creek reserve. Overall, I feel that the clarity of the planning, the arrival experience and the quality of communal facilities has diminished. I have no problem with the reduced lobby

extent, omission of the reflection pond and reconfiguration per se - but the spatial clarity is poor and more convoluted.”

Comment

In addressing this matter, the applicant states:

“Flood modelling required the ground floor lobby to be positioned 500 mm above the 1% AEP flood level. This established a minimum finished floor level of RL 45.130, which is 610 mm higher than the previous approved/modified design. As a result, the lobby entry sequence has been reconfigured to manage this increased level change.

The new design aligns the stair and entry arrangement to maintain a clear visual connection from Cottonwood Crescent through the lobby towards Shrimptons Creek. Near level access for all users is provided from the higher point along Cottonwood Crescent, ensuring an accessible and compliant entry route.

Given the increased ground floor level, the previously proposed stair connection to the Creek would have resulted in a 3.5m high stair structure. This was reconsidered due to its size, visual impact, and non-compliance - particularly as accessible access could only be achieved from the opposite side of the building, not from Cottonwood Crescent.

Priority has instead been placed on maximising deep soil landscaping and strengthening visual connections between the internal communal areas and the Creek reserve. This approach enhances environmental outcomes and provides a more generous and cohesive landscaped interface, while still ensuring compliance with accessibility requirements.”

The lobby at the ground floor level has been amended to increase the extent of glazed space. and improve the link through the lobby. The direct stair access/egress to Shrimptons Creek Reserve (which was included in MOD2024/0012) has been removed due to site level differences.

Figure 7 below shows this application’s originally proposed lobby arrangement and the amended lobby arrangement.

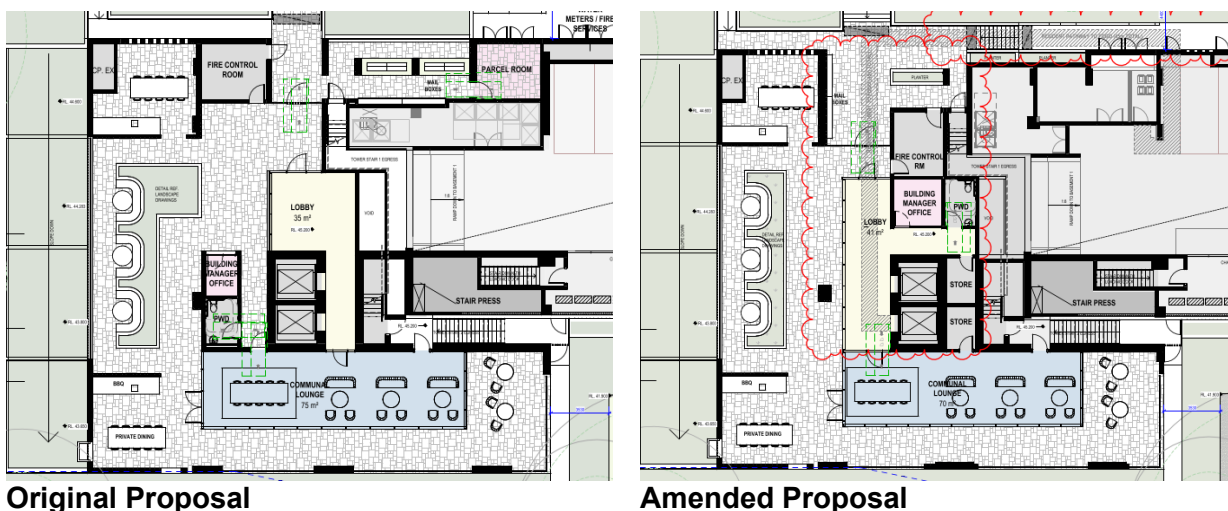


Figure 7 – Comparison of the original lobby and the amended lobby.

This matter is partially resolved.

UDRP Issue 3: “At Levels 1 and 2, the MOD proposes the removal of the gym, pool and communal terrace, relocating only the communal open space to Levels 3 and 21. This is a significant reduction in the quantum and quality of communal amenity provided to future residents. On balance, I think it may be supportable subject to the landscape design of the

proposed communal open spaces at Levels 3 and 21 deliver great amenity, character and design quality. Without the landscape architect drawings, I'm not certain if this is the case yet."

Comment

In addressing this matter, the applicant states:

"The reconfigured communal spaces and adjustments to the amenities reflect current market conditions for this product type and the expectations of the intended purchaser demographic. The revised approach focuses on delivering three key communal zones, at Ground Level, Level 3, and Level 21, that together provide a diverse range of high-quality amenity for residents.

This strategy enables the creation of generous, functional, and well-landscaped communal environments without the significant construction, maintenance, and strata costs associated with a pool and gym. The design emphasis is on ensuring that the proposed communal open spaces at Levels 3 and 21 offer strong amenity, character, and design quality, thereby supporting the overall liveability and long-term affordability of the development."

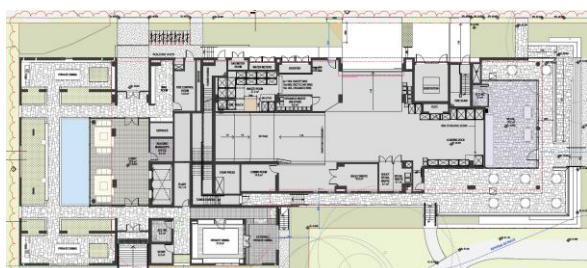
The amended proposal includes a redistribution of the communal open space areas at Level 1 to Levels 3 and 21.

A comparison of approved and proposed communal open spaces is provided in the following table.

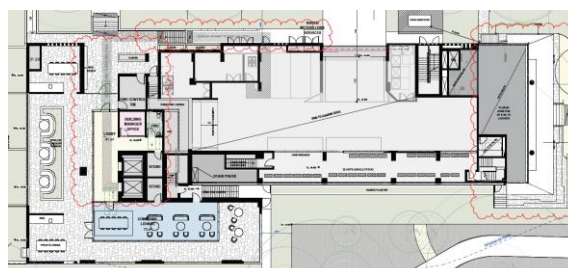
Analysis of Communal Open Space			
Level	MOD2024/0012	MOD2025/0114	Difference
Ground / Upper Ground	412.4m ²	262.3m ²	-150.1m ²
Level 1	217.6m ² (inc. pool & gym)	Nil	-217.6m ²
Level 3	Nil	217m ²	+217m ²
Level Roof / 21	Nil	196.7m ²	+196.7m ²
Total	630m² (25.2%)	676m² (27.1%)	+46m²

Table 6 – Communal Open Space areas and locations.

Figure 8 below provides a level-by-level comparison of the redistribution of the communal open space.



Approved – Ground (MOD2024/0012)



Amended Proposal – Ground (upper)



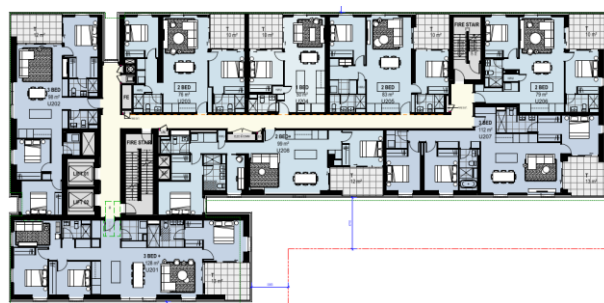
Approved – Level 1 (MOD2024/0012)



Amended Proposal – Level 1



Approved – Level 2 (MOD2024/0012)



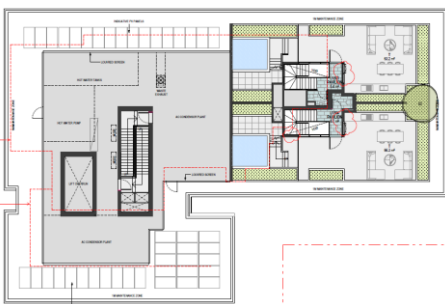
Amended Proposal – Level 2



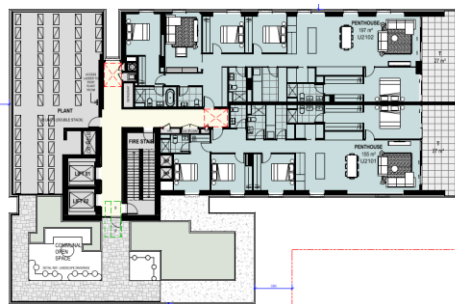
Approved – Level 3 (MOD2024/0012)



Amended Proposal – Level 3



Approved – Roof (MOD2024/0012) (private)



Amended Proposal – Level 21

Figure 8 – Comparison of the original communal areas and the amended communal areas.

The proposed communal open space areas at Levels 3 and 21 provided hard and soft landscape treatments which enable both communal and private use as shown below.



Figure 9 – Proposed landscape treatments to Levels 3 and 21 communal open space areas.

Given the applicant's position that purchasers expect low cost passive spaces and the minimum communal open space area is provided, no objection is raised and this issue is considered resolved.

UDRP Issue 4: "In summary, the MOD seeks a significant increase in FSR, and although this appears to be reasonably well camouflaged within the building envelope (including the two-three additional storeys), I think that the lower ground retail tenancy and the primary building address need more work to be supportable and to not represent too great a diminution of design quality and amenity for residents.

If these two areas were well-resolved, and if the redistributed communal open space at Levels 3 and 21 is of an appropriate landscape design resolution and amenity, and if Council is satisfied of the reasonableness of any increased impacts, then I think that on balance, the application is supportable."

Comment

As discussed later in this report, the Council is not satisfied with proposed height and FSR and this issue is considered unresolved.

The following discusses the modification against the design principles:

a) Design Principles

Principle 1: Context and Neighbourhood Character

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

Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change".

Planning Comment

The proposal introduces a new lower ground level, with the retail tenancy relocated to this level. The internalised substation has also been repositioned within the front landscaped area along the Cottonwood Crescent frontage. While the approved development provides limited street activation, confined primarily to a small retail tenancy at the corner of Cottonwood Crescent and Waterloo Road, it incorporates a generous outdoor terrace addressing Waterloo Road and the Shrimpton Creek interface, contributing to the site's engagement with the public domain. The amended MOD2025/0114

proposal, through the introduction of an outdoor substation kiosk and the reduction in the size of the outdoor terrace, further diminishes this interface and results in a poorer relationship with the surrounding public domain.

The development does not satisfy Principle 1.

Principle 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 building alignments, proportions, building type, articulation and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook".

Planning Comment

The additional height and floor space are largely contained within the tower element of the development, and the overall vertical expression of the building is maintained. Notwithstanding this, the proposed increase in height of approximately 10m above the maximum building height permitted under Ryde Local Environmental Plan 2014 is considered excessive.

While the proposal does not fundamentally alter the established tower form, the additional height results in a building that is disproportionate to the intended planning controls and is considered to be out of scale with the desired built form outcome for the site. Consequently, the extent of the height exceedance cannot be supported on urban design and planning grounds.

The height and FSR are further assessed in **Section 6** below and are not supported due to insufficient planning grounds. Principle 2 is not satisfied.

Principle 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 can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment".

Planning Comment

The proposed development results in a floor space ratio exceedance of approximately 2,800m² above the maximum gross floor area permissible for the site. Such a significant increase in density is not considered appropriate in the context of the planning framework applicable to the site. The proposal would facilitate a population yield substantially greater than that anticipated under the existing controls, undermining the strategic planning assumptions that underpin the provision of local infrastructure, services and public amenities. In the absence of a compelling strategic or site-specific justification, the proposed density is considered excessive and is likely to place additional pressure on the capacity of the surrounding transport network, open space, community facilities and other local infrastructure. Consequently, the proposed density is inconsistent with the intended development outcomes for the site and cannot be supported.

The development does not satisfy Principle 3.

Principle 4: Sustainability

"Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs.

Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation".

Planning Comment

The application is accompanied by an updated BASIX Assessment Report which details the performance of the development, particularly with respect to Thermal Comfort.

The accompanying NatHERS certificate indicates the development will achieve an average star rating of 7.1.

The development continues to satisfy Principle 4.

Principle 5: Landscape

"Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long-term management".

Planning Comment

The landscape plans have been reviewed by Council's Landscape Architect and by Council's Parks section (due to the proximity of the site to Shrimptons Creek Reserve).

In both instances, no objection was raised to the planting scheme proposed.

With respect to the locating of planter boxes (referred to as 'edge planting'), the Landscape Masterplan indicates that these plantings will be low-height cascading from each planter box and will comprise shade tolerant, low-maintenance plantings of a native variety.

The development continues to satisfy Principle 5.

Principle 6: Amenity

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

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

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility".

Planning Comment

The proposed amendments seek a number of internal layout changes that are expected to improve the amenity of future occupants through more efficient apartment configurations and enhanced internal living environments. However, any potential improvements in internal amenity must be considered in the context of the overall increase in development density. The excessive density proposed for the site would increase the resident population beyond that anticipated under the current planning controls, resulting in greater reliance on the surrounding public domain, including adjacent open spaces, pedestrian networks and recreational areas. Consequently, the intensified development would place additional pressure on the capacity and functionality of these public spaces, potentially diminishing their amenity and usability for both existing and future residents of the locality. The development is not considered to satisfy Principle 6.

Principle 7: Safety

"Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose."

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

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".

Planning Comment

The modification maintains the passive surveillance and safety of the development approved under MOD2024/0012.

The development continues to satisfy Principle 7.

Principle 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 apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents".

Planning Comment

The modification includes a change to the apartment mix as shown in **Table 7** below when compared to the development approved under Mod2024/0012.

Unit Type	LDA2018/0506	MOD2024/0012	MOD2025/0114	Difference
Studio	10 (7.6%)	0 (0%)	0 (0%)	No change
1 Bedroom	29 (22%)	0 (0%)	20 (15.9%)	+20
2 Bedroom	79 (59.8%)	59 (58.4%)	44 (34.9%)	-15
3 Bedroom	14 (10.6%)	42 (41.6%)	62 (49.2%)	+20
4 Bedroom	0	24 (23.9%)	2 (1.6%)	-22
Total	132	101	126	+25

Table 7 – Apartment mix comparison.

The proposed apartment mix is considered acceptable, as it responds directly to identified market demand.

The development continues to satisfy Principle 8.

Principle 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 apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape".

Planning Comment

The proposed materiality is generally consistent with the most recently approved scheme and primarily involves a vertical addition to the existing building. However, the proposed modifications at the lower ground and ground floor levels, including the reduction of the outdoor terrace area and the relocation of the substation kiosk into the landscaped setback, are considered undesirable outcomes. In addition, the proposed three-storey vertical extension is not considered to be compatible with the desired future character, scale, and built form outcomes envisaged for the locality.

The development fails to satisfy Principle 9.

b) Apartment Design Guide (ADG)

Note: Clause 147(3) states:

To avoid doubt, sub-section (1)(b) does not require a consent authority to require compliance with design criteria specified in the Apartment Design Guide.

Table 8 below provides consideration against sections of the ADG which are directly affected by this application:

ADG Criteria/Guideline	Comments
Part 3 Siting the Development	
3D Communal and Public Open Space Appropriate communal open space is to be provided as follows: 1. Communal open space has a minimum area equal to 25% of the site; 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid-winter).	Complies The development (as modified) increases the provision of communal open space from 25.2% to 27.1%. Due to the orientation of the development, the communal open space areas at Levels 3 and 21 will achieve a minimum of 50% direct sunlight for a minimum of 2 hours between 9 am and 3pm on 21 June.
3F Visual Privacy Minimum required separation distances from buildings to the side and rear boundaries are as follows:	Complies Although apartment configurations have changed the building separations remain as approved under LDA2018/0506 and MOD2024/0012.

ADG Criteria/Guideline			Comments
Building height	Habitable rooms and balconies	Non-habitable rooms	
Up to 12m (4 storeys)	6.0m	3.0m	
Up to 25m (5-8 storeys)	9.0m	4.5m	
Over 25m (9+ storeys)	12.0m	6.0m	
Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms. Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.			
3J Bicycle and Car Parking For development in the following locations: - On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or - On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre. The <i>minimum</i> car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street. Parking and facilities are provided for other modes of transport. Visual and environmental impacts are minimised.			Complies The Guide to Traffic Generating Developments require mixed use development to provide the same amount of parking as prescribed by the RDCP. Clause 9.3 of the RDCP requires the development to provide a maximum of 156 off-street parking spaces (Note: a minimum is not prescribed). The development (as modified) proposes the provision of 152 spaces which is deficient by 3 spaces. However, as noted above, the RDCP prescribes a maximum due to the proximity of the site to major transport nodes. In this respect, the development complies. The development (as modified) will provide 16 bicycle spaces which equates to 10.3% of the overall parking requirement.
Part 4 Designing the Building			
Amenity			
4A Solar and Daylight Access			Complies

ADG Criteria/Guideline	Comments															
To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space: • Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter; • A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	The development (as modified) increases the approved provision of sunlight access to living rooms and private open spaces of at least 70% of apartments in a building from 70.3% to 87.3%.															
4B Natural Ventilation The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by: • At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed; • Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.	Complies The development (as modified) decreases the approved provision of natural ventilation from 66% to 63% which remains compliant with Clause 4A.															
4E Private Open Space and Balconies All apartments are required to have primary balconies as follows: <table><tr><th>Dwelling Type</th><th>Min Area</th><th>Min Depth</th></tr><tr><td>Studio</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom</td><td>12m²</td><td>2.4m</td></tr></table> The minimum balcony depth to be counted as contributing to the balcony area in 1.0m. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.	Dwelling Type	Min Area	Min Depth	Studio	4m ²	-	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	Complies The development (as modified) provides balcony areas and depths which are compliant with Clause 4E.
Dwelling Type	Min Area	Min Depth														
Studio	4m ²	-														
1 bedroom	8m ²	2m														
2 bedroom	10m ²	2m														
3+ bedroom	12m ²	2.4m														
Configuration																
4K Apartment Mix	Complies															

ADG Criteria/Guideline	Comments
Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	The apartment mix has changed from that approved under LDA2018/0506 and MOD2024/0012 and is in response to market forces. The mix is considered to remain responsive to supporting the needs of the community now and into the future and in the suitable locations within the building.
4M Facades Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	Complies The revised building facades are simplified from the more complex hexagonal design proposed under LDA2018/0506 and modified under MOD2024/0012. This has been reviewed by the Ryde Urban Design Review Panel who supported the revision.
4O Landscape Design Was a landscape plan submitted and does it respond well to the existing site conditions and context.	Complies The application includes an amended landscape design which is detailed in a comprehensive landscape masterplan. The landscape masterplan has been reviewed by Council's Landscape Architect and Parks section who support the proposal.
Performance	
4U Energy Efficiency Have the requirements in the BASIX certificate been shown in the submitted plans?	Complies The application is accompanied by an updated BASIX Certificate which demonstrates that the development will achieve consistency with the commitments of the SEPP.

Table 8 – ADG table (as applicable).

Section 148 - Non-Discretionary Development Standards for Residential Apartment Development

Chapter 4 of SEPP (Housing) includes additional non-discretionary development standards have been added under Section 148 which stipulate:

- 1) *The object of this section is to identify development standards for particular matters relating to residential apartment development that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.*
- 2) *The following are non-discretionary development standards:*
 - a) *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.*

b) *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.*

c) *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.*

Note: Section 148 does not prevent development consent being granted if a non-discretionary development standard is not complied with.

Standard	Comment	Compliance										
a) 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.	Part 3J states: <i>For development that is within 800m of a railway station or light rail stop in the Sydney Metropolitan Area - the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</i> The <i>Guide to Traffic Generating Developments</i> require mixed use development to provide the same amount of parking as prescribed by the RDCP. Clause 9.3 of the RDCP requires the development to provide a maximum of 134 off-street parking spaces (Note: a minimum is not prescribed). The development approved under MOD2024/0012 sought 133 spaces. The development (as modified) proposes the provision of 153 spaces which is considered to be acceptable.	Yes										
b) 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.	The ADG prescribes the following apartment areas: <table><tr><th>Apartment Type</th><th>Area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 Bedroom</td><td>50m²</td></tr><tr><td>2 Bedroom</td><td>70m²</td></tr><tr><td>3 Bedroom</td><td>90m²</td></tr></table> The development (as modified) includes the following apartment areas: • Studio: Nil proposed. • 1 Bedroom: 50m² • 2 Bedroom: 76m² to 105m². • 3+ Bedroom: 98m² to 128m².	Apartment Type	Area	Studio	35m ²	1 Bedroom	50m ²	2 Bedroom	70m ²	3 Bedroom	90m ²	Yes
Apartment Type	Area											
Studio	35m ²											
1 Bedroom	50m ²											
2 Bedroom	70m ²											
3 Bedroom	90m ²											
c) The ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of	The ADG prescribes the following ceiling heights: <table><tr><th>Use</th><th>Height</th></tr><tr><td>Habitable Rooms</td><td>2.7m</td></tr><tr><td>Non-Habitable Rooms</td><td>2.4m</td></tr></table>	Use	Height	Habitable Rooms	2.7m	Non-Habitable Rooms	2.4m	Yes				
Use	Height											
Habitable Rooms	2.7m											
Non-Habitable Rooms	2.4m											

Standard	Comment			Compliance
the Apartment Design Guide.	Ground Floor Mixed Use	3.3m		
	The proposal continues to comply with the minimum floor to ceiling height.			

Table 9 – Non-discretionary development standards.

Ryde Local Environmental Plan 2014 (RLEP)

Clause 2.3 - Zone Objectives

The land is zoned MU1 Mixed Use under the RLEP.

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, as proposed to be amended, is considered to remain substantially the same development and can therefore generally be regarded as being consistent with the objectives of the MU1 Mixed Use zone. Notwithstanding, several of the proposed amendments are considered to be at odds with the intended outcomes for development within the zone. In particular, the relocation of the retail component to the lower ground floor level, the reduction in the associated outdoor terrace area, the relocation of residential storage to the ground floor level, and the relocation of the electricity substation kiosk from an internalised chamber to the front landscaped area are considered to diminish the activation, functionality and presentation of the development at the street interface.

As a result, the proposal is considered to conflict with the following zone objectives:

- 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.*

Specifically, the reduction and relocation of active retail uses away from the ground floor street frontage reduces opportunities for street activation and pedestrian engagement. The reduction in outdoor dining and terrace areas further diminishes the vibrancy of the public domain. In addition, the introduction of residential storage areas and a substation kiosk within prominent ground-floor and landscaped frontage locations detracts from the commercial character of the development and undermines the objective of promoting active, non-residential uses at street level. Accordingly,

these amendments are not considered to achieve the intended mixed-use and active frontage outcomes envisaged by the zone objectives.

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 proposal as amended does not comply with Clause 4.3 (Height of Buildings) and Clause 4.4 (Floor Space Ratio) Development Standards. A comparison between the approved and proposed building height and floor space ratio is provided in **Table 10** below:

Standard	A. Permitted	B. Approved	C. Proposed	Variation (C/A)
Building Height¹	65m	67m	75.3m	+10.3m (15.8%)
Floor Space Ratio Site Area: 2,499.3m ²	4.5:1 11,246.8m ²	4.49:1 11,245m ²	5.66:1 14,137m ²	+2,890.2m ² (25.7%)

Table 10 – Principal RLEP development standards.

Clause 4.3 – Variation to Building Height (Merit Assessment)

As noted in **Table 10** above, the development increases the building height by 10.3m representing a variation to the permitted building height of 15.8%.

Figure 10 below shows the height breach above the 65m height plane (the pink shading depicts the permitted 65m height plane).

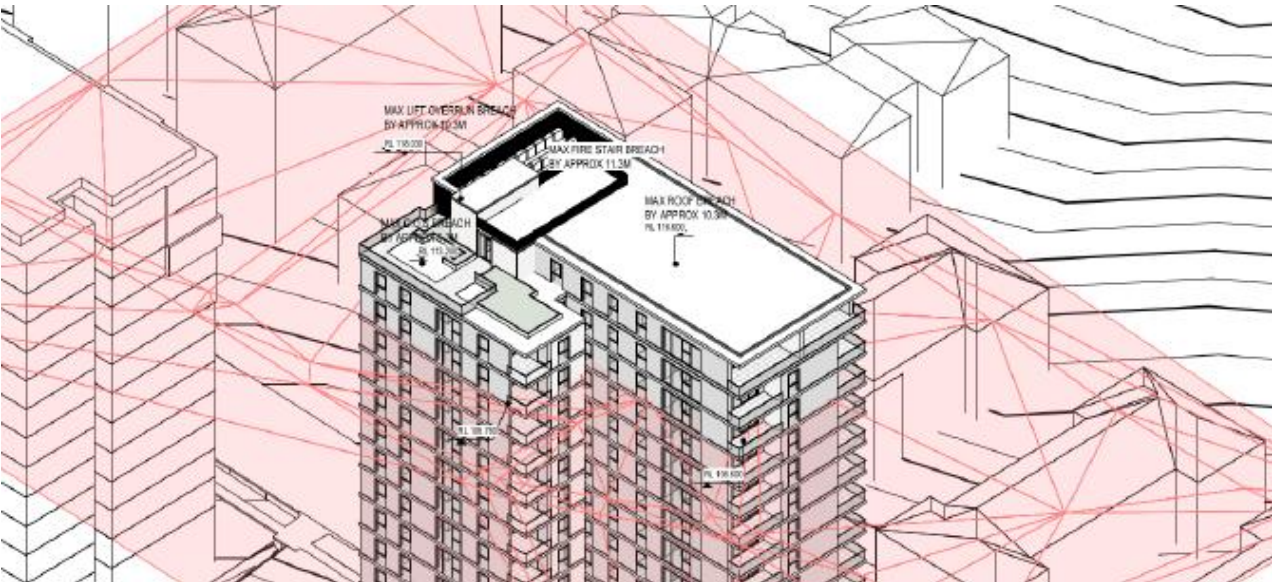
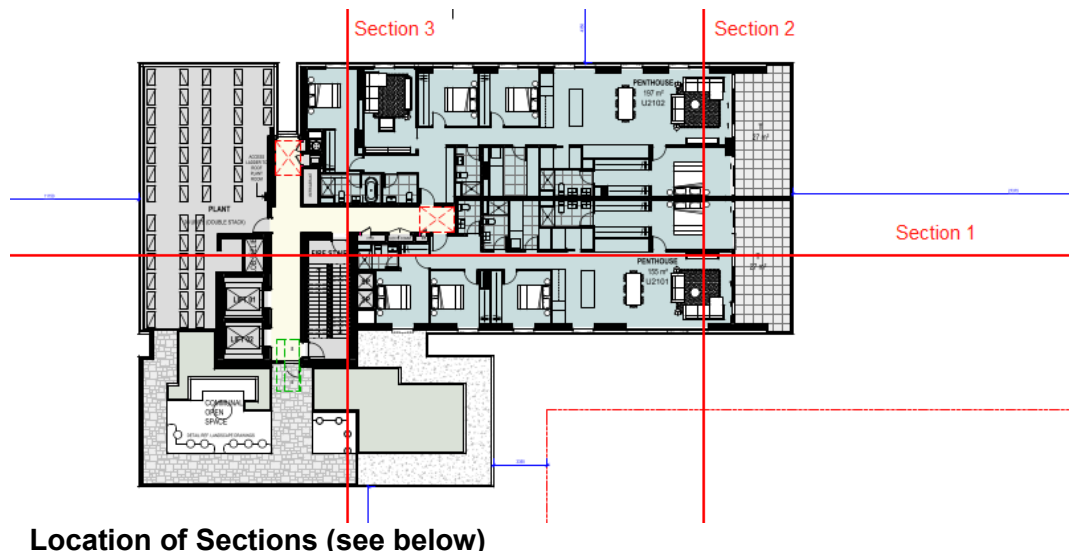
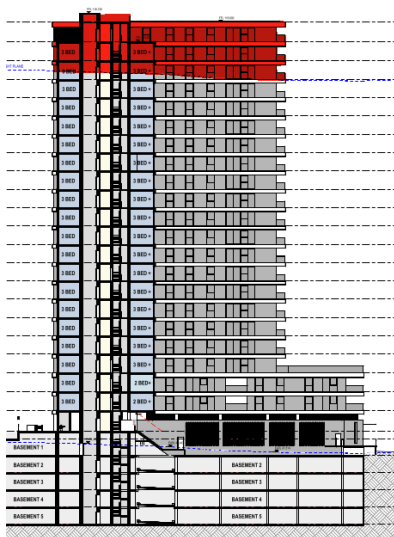


Figure 10 – Height breach (height blanket).

Figure 11 below shows the proposed building height above the 65m height blanket.



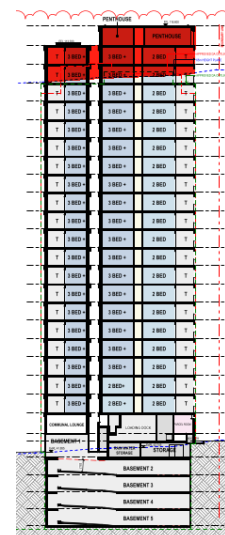
Location of Sections (see below)



Section 1



Section 2



Section 3

Figure 11 – Height breach (sections).

In the decision of *North Sydney Council v Michael Standley & Associates Pty Ltd [1998]*, it was resolved that a modification application “may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application.”

To this effect, the provisions of clause 4.6 does not apply to applications made under section 4.55 of the EP&A Act as the request is made to ‘modify’ a development consent, rather than ‘grant’ development consent.

The applicant’s revised justification for the non-compliance is provided at **Attachment 3**. The applicant’s key arguments and Council’s merit consideration is provided in the following section:

Applicant’s Justification

There are 4 key environmental planning grounds that are giving rise to the changes to building height, and which provide both a site response and design opportunity that render strict adherence to the height control being unreasonable or unnecessary in this instance. These grounds are:

(1) *The Sydney Metro zone of influence that impacts the extent of basement possible and subsequent building footprint.*

- *The development is within 25m of the metro rail corridor, for which the basement must be positioned in a fixed, compliant location to satisfy Sydney Metro's requirements. It is acknowledged that this has always been a feature of the Site and the development. Nevertheless, it remains a relevant consideration in terms of how building mass and floor space may be positioned within the site boundaries.*
- *TTW (structural engineer who prepared the accompanying 'Review of RBG Metro Rail Brief Report dated 5.12.25) has reviewed the approved Metro assessment together with the proposed architectural plans and confirms that the proposed modification does not introduce any new excavation, foundation systems, structural loading or basement elements closer to the Sydney Metro corridor than those previously assessed and approved.*
- *The approved Metro protection measures therefore remain valid and applicable to the proposed development.*
- *The additional height has been accommodated through a continuation of the approved tower form rather than expansion of the approved footprint or further encroachment towards the rail corridor.*

Council's Merit Consideration

The applicant's reliance on the Sydney Metro zone of influence to justify the proposed height exceedance is not considered persuasive. While it is acknowledged that the site's proximity to the Sydney Metro corridor imposes constraints on the location and extent of below-ground works, these constraints are not a new consideration and were fully known and assessed at the time of the original development approval.

The approved development was able to achieve compliance with both the applicable maximum building height and floor space ratio standards notwithstanding the same Sydney Metro constraints and associated zone of influence. The proposed modification does not arise from any change in Sydney Metro requirements, nor does it result from the imposition of additional restrictions that would materially reduce the site's development capacity compared with that previously approved.

Whilst the continuation of the approved tower form may avoid further encroachment towards the rail corridor, this does not, in itself, justify additional height beyond that permitted under the planning controls. A departure from the maximum building height standard may be justified in circumstances where physical site constraints prevent the reasonable achievement of permissible development potential, such as where a site's developable footprint is substantially constrained and the achievable floor space ratio cannot otherwise be realised. However, that circumstance does not arise in this case.

The approved development demonstrates that a compliant building envelope can be achieved within the established Sydney Metro constraints. Accordingly, the Sydney Metro zone of influence is not considered to provide sufficient planning justification for the proposed additional building height, nor does it constitute a site-specific constraint that warrants a departure from the applicable height control.

The structural engineering component of the development is noted. However, this is unrelated to a height breach.

Applicant's Justification

(2) Revised flood planning levels that have been implemented by Council since the originally approved development on the site which results in a 700mm increase in height at the basement level.

Council's Merit Consideration

The applicant also relies on revised flood planning levels adopted by Council since the original consent was granted, resulting in an approximate 700mm increase in floor levels.

This justification offers limited weight. The approved development was assessed and approved against the flood planning controls applicable at the time of determination. Subsequent changes to flood planning requirements do not retrospectively affect the validity of that approval. If the approved development had already been constructed, it would not be required to be modified to accommodate the revised flood levels.

Nevertheless, it is acknowledged that the proposed amendments seek to respond to Council's updated flood planning levels. To the extent that a minor increase in building height is necessary to accommodate the additional 700mm in floor levels, such an outcome may be reasonable.

However, the proposed height exceedance is substantially greater than that required to address the revised flood planning levels. Most of the variation arises from the proposed three-storey addition rather than the adjustment of floor levels. Accordingly, the revised flood planning levels provide only limited justification for the proposed breach and cannot, on their own, support the extent of the variation sought.

Applicant's Justification

(3) Raising the ground floor level by 500mm to improve accessibility and achieve a direct and functional interface with Cottonwood Crescent, which also assists with activation, and is a design improvement upon the original Consent.

The applicant also relies on raising of the ground floor level by 500mm to improve accessibility and provide a more direct interface with Cottonwood Crescent.

As discussed elsewhere in this report, the proposed changes to ground floor levels are not considered to result in a superior design outcome. The amended interface with Cottonwood Crescent was also not supported by the Urban Design Review Panel (UDRP). Accordingly, limited weight can be afforded to this justification.

Notwithstanding, even if the 500mm increase in ground floor level is accepted on its merits, when combined with the approximately 700mm increase associated with revised flood planning levels, the total height increase attributable to these factors is approximately 1.2m.

This would increase the approved building height from 67m to approximately 68.2m. However, the proposal seeks a maximum building height of 75m. The remaining height increase is not attributable to flood planning or accessibility requirements, but rather to the proposed addition of three extra storeys.

No compelling site-specific planning justification has been provided to support this additional height. Accordingly, this argument does not justify the extent of the variation sought.

Applicant's Justification

(4) The design of the floor to floor heights at all levels increases in height by 300-400mm per floor which in itself equates to an upper limit of 8.93m over 21-storeys. This change has been introduced to improve residential amenity, accommodate contemporary structural, acoustic, fire safety, building services and insulation requirements, and to achieve compliance with the current version of the BCA. These increased floor to floor heights assist to achieve design excellence, and enhanced amenity, and are being pursued in circumstances where they can be accommodated without having adverse external impacts. Relevantly, it is noted that the objects of the Act were expressly amended recently to add objective (g), namely:

“to promote good design, amenity and the proper construction and maintenance of built environments, including the protection of the health and safety of the occupants of buildings.”

The revised floor to floor heights now proposed align squarely with that objective.

The underlying topography / slope of the site, which results in the greatest variation to the height control not being aligned to the tallest point of the building (being the lift overrun) yet still enabling an orderly transition in scale having regard to the changing context of the locality.

Council's Merit Consideration

The applicant's claim that floor-to-floor heights have increased by 300 - 400mm across all levels is not supported by the approved or amended architectural plans submitted with the proposed modification application.

The original approval provided a 4.4m ground floor and 3.1m upper floors. The last approved modification included a 5.0m ground floor, 3.2m upper floors and a 3.4m top floor. The current proposal retains a 5.0m ground floor, with most levels remaining at 3.2m and only Levels 2, 20 and 21 increasing to 3.4m.

The proposed floor-to-floor height therefore represent only a modest increase over the originally approved development and are largely consistent with the previously approved modification. The net increase attributable to floor-to-floor height changes is approximately 2.9m compared with the original approval and approximately 1.2m compared with the most recently approved modification.

As such, there is no evidence of a 300 - 400mm increase across all floors. The proposed floor-to-floor heights are largely consistent with the previously approved scheme and result in only a modest increase in overall building height.

Similarly, the site's topography is not a new constraint. It existed at the time of the original approval and was considered in the assessment of the approved development. Accordingly, it does not provide a compelling justification for the additional height now proposed.

Applicant's Justification

The increase in height presents itself via only one additional storey (when compared to the original consent), which will not be visually significant, jarring, or unacceptable. It is unlikely to be particularly noticeable to the eye at street level from anywhere within the immediate locality.

Council's Merit Consideration

The applicant's assertion that the proposed increase in height represents "only one additional storey" compared to the original consent is not supported by the approved development history or the architectural plans submitted with the current modification application.

While the original development consent approved a 20-storey building, the most recent modification approval reduced the building height to 19 storeys. The current application seeks approval for a 22-storey building. Accordingly, the proposal represents an increase of three storeys over the currently approved building, not a single additional storey as claimed.

Furthermore, a review of the submitted architectural plans demonstrates that the additional height is not limited to a single storey. Depending on the location within the building envelope, the proposal introduces two additional storeys and, in some areas, three additional storeys above the currently approved building form. Consequently, the applicant's repeated characterisation of the height increase as "only one additional storey" materially understates the extent of the proposed changes.

Given the scale of the additional height, it cannot be reasonably concluded that the increase would be visually insignificant or unlikely to be noticeable from the public domain. The proposal results in a substantially taller built form than that currently approved and therefore has greater potential to alter the building's visual prominence, skyline presence and perceived bulk when viewed from surrounding streets and public vantage points.

As such, limited weight can be afforded to the applicant's submission that the height increase is minor on the basis that it comprises only one additional storey. The plans clearly indicate a more substantial vertical increase than represented in the submitted justification.

Applicant's Justification

Review of the architectural plans confirms that the proposal would not materially increase overshadowing of adjoining properties, including 82 Waterloo Road, given the building's orientation and the shadowing already approved.

Council's Merit Consideration

The applicant's assertion is not supported. While the majority of shadowing impacts are generated by the already approved building envelope, the proposed increase in height of approximately 8.3 metres (or around three additional storeys) will inevitably result in additional overshadowing beyond that previously approved.

A review of the submitted shadow diagrams confirms that the increased building height generates additional shadow impacts compared to the approved scheme. Although the incremental shadowing is proportionally smaller than that cast by the overall 20-storey building, it nevertheless represents an increase in overshadowing and therefore cannot be described as immaterial.

The shadow analysis demonstrates that additional shadows will extend over adjoining land, including sections of the adjacent public reserve and neighbouring private properties. Accordingly, the proposal results in an increase in overshadowing relative to the approved development and the applicant's statement that there would be no material increase in shadow impacts is not accepted.



9.00am



10.00am



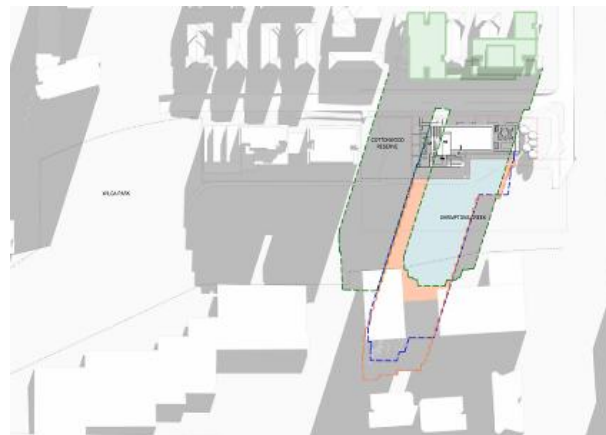
11.00am



Noon



1.00pm



2.00pm



3.00pm

Figure 12 – Shadow diagrams (21 June).

The applicant has also provided detailed commentary seeking to demonstrate that the extent of the height breach remains consistent with the objectives of the height of buildings development standard. However, it is not considered necessary to address each of these assertions individually. The assessment contained within this report has already comprehensively examined the merits and impacts of the proposed variation and has identified clear and sufficient planning grounds demonstrating that the height exceedance is unacceptable. Furthermore, a number of the applicant's assertions are not supported by the site-specific circumstances of the proposal and architectural plans and rely on interpretations of the height standard and its objectives that are not accepted by Council. Having regard to the scale of the variation, the resultant impacts, and the inconsistency of the proposal with the intended planning outcomes of the development standard,

the applicant's additional commentary does not alter the assessment findings or justify support for the proposed height breach.

This variation is not found to be acceptable in this instance.

Clause 4.4 – Variation to Floor Space Ratio (Merit Assessment)

As noted earlier in **Table 10**, the development includes a non-compliance to floor space ratio. The additional 2,890.2m² equates to a variation to the permitted FSR of 4.5:1 to 5.66:1 (25.7%).

In the decision of *North Sydney Council v Michael Standley & Associates Pty Ltd [1998]*, it was resolved that a modification application “*may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application.*”

To this effect, the provisions of clause 4.6 does not apply to applications made under section 4.55 of the EP&A Act as the request is made to ‘modify’ a development consent, rather than ‘grant’ development consent.

The applicant's justification for the non-compliance is provided at **Attachment 2. The applicant seeks to largely rely** on arguments presented for height breach that has been assessed in detail in the previous section of this report. To avoid duplication, only limited planning commentary is offered to applicant's FSR justification.

Applicant's Justification	Council comment
i. The same environmental planning grounds listed above which drive height are directly correlated to the proposed variation in FSR. Consistent with the findings of Realise Architecture; the suitability of the proposed FSR variation must therefore be assessed by looking at the development in its “macro” sense and in terms of overall impacts of the proposed modified revised envelope upon which FSR is calculated.	In this case, part of the FSR breach is contained with the height breach. The lack of additional impacts is not considered sufficient justification to breach height and FSR.
ii. The site area is 2,499.3sqm, equating to a maximum permissible GFA of 11,247sqm under the 4.5:1 FSR control. The approved DA and the approved modification both achieve an FSR of 4.5:1. The proposed scheme however results in a total GFA of 14,137sqm (increase of 2,890 sqm), corresponding to an FSR of 5.66:1 (increase in FSR of 1.16:1 or 25.8%).	Calculations noted.
iii. Noting the justifications provided earlier relating to the height, it is important to note, that from Floors 19-21 (which sit above the maximum permissible height), only 1,713 sqm (or 12%) of the total GFA sits above the height plane.	The additional 1,713m ² above the height plane accounts for 59% of the FSR breach (total 2,890m ²). This extent of breach is not warranted.
iv. While refinements to the tower design, including increased floor-to-floor heights, have resulted in a third storey projecting above the height plane, the additional GFA is attributable to these two storeys only whilst revised apartment configurations that optimise mix, size and orientation to improve future residential amenity throughout the development.	As discussed above, the 3.2m floor to floor heights as approved in MOD2024/12 are maintained. There is no substantial change to the approved floor to floor heights. This argument is invalid.
v. A Traffic and Parking Assessment prepared by TTW confirms that the modified development is anticipated to generate approximately 41 vehicle trips per hour during both the AM and PM peak periods, compared with 46	The retail floor space was originally 132m ² . This decreased to 71m ² in MOD2024/12 and increased in this

vehicle trips per hour under the approved development. This represents a reduction of approximately 11% in peak hour traffic generation. vi. The reduction in traffic generation is primarily attributable to the decrease in retail floor space and revised development yield when compared with the approved development (and as modified). The assessment also notes that the adopted traffic generation rates are conservative and that actual traffic generation may be lower having regard to the site's highly accessible location within the Macquarie Park precinct and proximity to the Macquarie University Metro Station. vii. Notwithstanding the proposed increase in FSR the development does not result in a corresponding increase in traffic impacts and is expected to have a lesser impact on the surrounding road network than the approved development. This demonstrates that the proposed FSR uplift does not generate unreasonable transport or infrastructure impacts and remains acceptable from a traffic and transport planning perspective.	proposal to 81m². The retail floor is similar to the last approved. The increased number of apartments (+25 above that approved in MOD2024/12) and parking spaces (+17 above that approved in MOD2024/12) raises concern that the traffic generation would not actually be reduced. The number of dwellings has been reduced by 6 apartments compared to the original consent. However, the number of parking spaces is increased by 18 spaces. This argument is insufficient to satisfy Council of the merit of this FSR breach.
viii. The development reduces the originally approved total number of apartments by 6 but does so in a way which responds better to market demands for larger families to be accommodated on a site having excellent access to public transport. This additional total GFA being achieved without adverse impacts should be seen as a positive attribute, not a negative one.	The proposal reduces the number of apartments from 132 in the original consent to 126 (-6). MOD2024/12 reduced the apartments to 101. This proposal then increases the apartments to 126 (+25). This includes revising the apartment mix and increasing the overall 3+ bedroom apartments to 62 (49%) as discussed above. The site is well located near public transport. However, there is no component of the GFA in the additional storeys which contributes to improving access to public transport. The additional 3 levels (19-21) generate 1,713m² of GFA and comprises 14 apartments (2x1bed [14%], 4x2bed [29%] and 8x3bed [57%]). The applicant states that these apartments provide for larger families, which may be the case for these 8 additional 3bed apartments. Overall, these arguments are insufficient to satisfy Council of the merit of this FSR breach.
ix. The proposed variation to FSR remains consistent with the objectives of the FSR control as detailed below.	See below.

The applicant's reasons for how the FSR breach satisfies the objectives of the development standard are reproduced below. Council's merit consideration of these arguments is also provided.

Objectives of Clause 4.4 FSR	Applicant's assessment demonstrating consistency	Council comment
(a) to provide effective control over the bulk of future development,	• The proposal results in an FSR of 5.66:1 (14,137m² GFA), representing a 25.7% uplift above the permitted 4.5:1 control. • The additional bulk is primarily accommodated within the extended tower form, reflective of the already approved building envelope at lower levels and which has been previously assessed as having minimal impact on views, solar access, and overall density. • The built form remains aligned with the approved setbacks, the established three-storey podium, and the anticipated bulk for the Macquarie Park corridor.	• The proposed FSR results in additional mass which presents as 2-3 additional storeys above the permitted height plane. The part of the FSR exceedance above the height plane is 1,713m² or 59% of the FSR breach (totalling 2,890m²). • The bulk of the development is excessive, and Council is not satisfied of the merit of this FSR breach.
(b) to allow appropriate levels of development for specific areas,	• The subject site is within the MU1 Mixed-Use and within the Macquarie Park development corridor, an area identified for medium and high-density development, with excellent proximity to public transport and services. • The proposed FSR supports the strategic intent of delivering additional housing, with 126 dwellings and 1 retail tenancy, that respond to demonstrated demand and neighbouring approvals. • The density is appropriate for the site's corner location adjoining Waterloo Road, Cottonwood Crescent, Cottonwood Reserve, and Shrimpton's Creek. • The proposed modifications are considered commensurate with the evolving context being developed within the Macquarie Park Corridor, for which the proposal is considered consistent with the character and landscape of built form typologies proposed.	• The level of development for this specific site is set by the development standards. This proposal seeks a FSR exceedance above 4.5:1 by 2,890m² or 25.7%. 1,713m² of this breach is above the height plane. The applicant acknowledges that other sites have differing numerical development standards. This site has a FSR of 4.5:1, which is the highest permitted in the immediate vicinity, and shared with similar sites located to its NW which also front Waterloo Road. Other nearby sites have a FSR of 1:1, 3:1, 3.5:1 and 4:1 (see below). Other sites may have achieved uplift available under other planning pathways which have differing objectives, such as affordable housing requirements. The level of development generated by this FSR

		exceedance is not shown to be appropriate, and Council is not satisfied of the merit of this FSR breach. 
(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 forms part of the Macquarie Park Centre and is located close to Macquarie University Station, major bus routes, and key employment areas. • The increased FSR provides increased opportunity to provide a variety of dwellings within a transport-rich environment, contributing to consolidated growth within a designated high-density precinct. • The building incorporates sustainability measures including passive solar design, natural ventilation, efficient energy systems, supporting a sustainable, higher-density development pattern.	• The proposal maintains consolidation of the lots. • There is no component of the additional storeys and associated FSR which address this objective.

Council officers have undertaken a comprehensive review of the proposal and do not offer any further merit considerations to support the FSR breach.

This variation is not found to be acceptable in this instance.

Ryde Development Control Plan 2014 (RDCP)

The modification does not result in any further RDCP non-compliances beyond that already considered and approved under LDA2018/0506 and MOD2024/0012.

Part 9.3 – Parking Controls

The proposal is subject to the provisions of Part 9.3 of the RDCP.

The following table provides a breakdown of parking based upon the amendments proposed by this application (noting that the residential and retail components are based upon a maximum rate). Provision of parking continues to satisfy the controls.

Use	Required	Proposed	Compliant
Residential			
Studio (0)	0		
1 Bedroom (20)	12		
2 Bedroom (44)	39.6 (40)		
3 Bedroom (62)	86.8 (87)		
Total Residential (Max)	139	136	Complies
Visitors (126)	12.6 (13)	13	Complies
Retail (71m ² GFA) (Max)	1	1	Complies
Car Share	2.78 (3)	2	Complies
Total	156	152	-4 Complies

Table 11 – Parking provision.

Section 7.11 Contributions

The development changes the apartment mix from that approved under MOD2024/0012. As such, the condition which imposed the 7.11 contribution is outdated and is to be replaced to reflect the revised apartment mix proposed by this application.

The contribution calculated for LDA2018/0506 (via MOD2024/0012) was \$2,405,422.70.

The contribution calculated for this application is now **\$2,467,077.01**.

Housing and Productivity Contribution (HPC)

The lodgement of the original Development Application (LDA2018/0506) pre-dated the introduction of the HPC.

Therefore, the HPC is not relevant to this application.

7. REFERRALS

Water NSW

The application was referred to WaterNSW given the General Terms of Approval (GTAs) issued by that Department under LDA2018/0506 and MOD2024/0012.

On 15 January 2026, WaterNSW issued their updated General Terms of Approval.

Transport for NSW (TfNSW)

The application was referred to TfNSW. No response was received within 21 days of the referral.

Sydney Metro

The application was referred to Sydney Metro who raised no objection to the proposal. Condition 76 (Sydney Metro Requirements) has been amended to replace the reference of the acoustic report.

City Infrastructure

Traffic

The application was referred to the Traffic section of City Infrastructure who raised no objection to the proposal subject to the continued imposition of conditions applied under LDA2018/0506 and MOD2024/0012.

Public Domain

The application was referred to the Public Domain section of City Infrastructure who raised no objection to the proposal subject to the continued imposition of conditions applied under LDA2018/0506 and MOD2024/0012.

Waste

The application was referred to the Waste Management section of City Infrastructure who raised concern regarding the effective servicing of the bulky waste storage area and recycling room. The applicant amended the Lower Ground Floor Plan, including the removal of 1 car share space (from 3 to 2 spaces) to enable direct paths of travel and minimise manual handling and risk of hazards. No objection is raised subject to the continued imposition of conditions applied under LDA2018/0506.

Drainage

The application was referred to the Drainage section of City Infrastructure who raised no objection to the proposal subject to updated conditions to respond to the updated Civil Drawings submitted with the application.

Development Engineer

Council's Development Engineer has reviewed the amended landscape scheme and does not raise any objection to the proposal and proposed modification to Conditions 93 (Stormwater Management), 133 (Stormwater Management – Construction), and 199 (Parking Allocation).

Landscape Architect

Council's Landscape Architect has reviewed the amended landscape scheme and does not raise any objection to the proposal subject to the inclusion of an additional condition (Condition 53A - Design Amendments) to include 3 additional trees as replacement planting for Tree 19.

Tree Management

Council's Landscape Architect has reviewed the amended landscape scheme and does not raise any objection to the proposal.

8. LIKELY IMPACTS OF THE DEVELOPMENT

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

While the application includes a number of minor built form amendments that may be acceptable on their individual planning merits, they are inseparable from the broader proposal, which is underpinned by unacceptable variations to the approved height and FSR standard.

The additional 3 storeys and gross floor area are considered to be excessive and are not supported on merit.

The development is not considered satisfactory in terms of environmental impacts.

9. SUITABILITY OF THE SITE FOR THE DEVELOPMENT

This modification substantially relates to changes to the building height, gross floor area, and provision of on-site car parking as already approved under LDA2018/0506 and MOD2024/0012. The site remains suitable for this mixed use development.

As discussed above, the site benefits from the highest permitted height of buildings and FSR development standards in this area. On merit, the site is not considered suitable to accommodate additional height and FSR.

The site is not considered to be suitable for the development in this form.

10. PUBLIC NOTIFICATION & SUBMISSIONS

In accordance with Council's Community Participation Plan, the application was publicly exhibited between 7 and 27 January 2026 to the same properties as those notified under LDA2018/0506 and MOD2024/0012.

As a result of the public exhibition, no submissions were received.

11. THE PUBLIC INTEREST

The public interest is best served by the consistent application of the requirements of relevant Environmental Planning Instruments by Council ensuring that any adverse impacts on the surrounding area and the environment is minimised.

The proposal has been assessed against the relevant planning instruments. The overall development is not considered to be acceptable as the additional 3 storeys and FSR fail to deliver a suitable built form outcome. The additional height and FSR are excessive and not supported on merit. On this basis, the proposal is considered to be contrary to the public interest and is not supported.

12. CONCLUSION

The application has been assessed under the matters for consideration of Sections 4.15 and 4.55 of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions.

The proposal increases the building height by 10.3m representing a variation to the permitted building height of 15.8% and increases the gross floor area by 2,890m² which exceeds the floor space ratio by 25.7%.

The applicant's justification for exceeding these development standards is not considered to demonstrate that compliance with the development standard is unreasonable or unnecessary in this circumstance, and that there are sufficient environmental planning grounds to justify the contravention of the development standard. Merit assessment of these breaches provides some commentary to support the proposed modifications to a minor extent. However, the arguments are insufficient to satisfy Council of the merit of the height breach in full.

Council officers have undertaken a comprehensive review of the proposal and do not offer any further merit considerations to support the increased height and FSR breach.

Therefore, it is considered that the proposal is not satisfactory having regard to the matters of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* and **refusal** is recommended.

13. RECOMMENDATION

That MOD2025/0114 to modify the consent for Local Development Application No. LDA2018/0506 on land at 14 to 16 Cottonwood Crescent, Macquarie Park is **refused** for the following reasons:

1. Under Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed variation to the Height of Buildings development standard has not been adequately justified and is not supported on merit.
2. Under Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed variation to the Floor Space Ratio development standard has not been adequately justified and is not supported on merit.
3. Under Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposal is inconsistent with Design Principle 1: Context and Neighbourhood Character, Design Principle 2: Built Form and Scale, Design Principle 3: Density, Design Principle 6: Amenity and Design Principle 9: Aesthetics under Chapter 4 – Design of Residential Apartment Development of State Environmental Planning Policy (Housing) 2021.
4. Under Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed increase in building height and gross floor area is excessive and will result in unacceptable environmental impacts.
5. Under Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the site is not suitable to accommodate the proposed additional building height and floor space ratio and is therefore unsuitable for the development in its current form.
6. Under Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, in view of the identified environmental impacts, the proposal is not considered to be in the public interest.

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