

5 FEBRUARY 2020

NOTICE OF MEETING

You are advised of the following meeting:

THURSDAY 13 FEBRUARY 2020.

City of Ryde Local Planning Panel Meeting No. 1/20

Council Chambers, Level 1A, 1 Pope Street, Ryde - 5.00pm

English

If you do not understand this letter, please come to the 1 Pope Street, Ryde (within Top Ryde Shopping Centre), Ryde, to discuss it with Council Staff who will arrange an interpreter service. Or you may ring the Translating & Interpreting Service on 131 450 to ask an interpreter to contact you. Council's phone number is 9952 8222. Council office hours are 8:30am to 5:00pm, Monday to Friday.

Arabic

إذا لم تفهم محتوى هذه الرسالة، يرجى الحضور إلى 1 Pope Street، Ryde (في Top Ryde Shopping Centre)، Ryde، لمناقشتها مع موظفي المجلس الذين سوف يرتبون للاستعانة بمترجم شفهي. أو قد يمكنك الاتصال بخدمة الترجمة التحريرية والشفهية على الرقم 131 450 لتتطلب من المترجم الاتصال بك. رقم هاتف المجلس هو 9952 8222. ساعات عمل المجلس هي 8:30 صباحاً حتى 5:00 مساءً، من الاثنين إلى الجمعة.

Armenian

Եթե դուք չեք հասկանում սույն նամակի բովանդակությունը, խնդրում ենք այցելել 1 Pope Street, Ryde (որը գտնվում է Top Ryde Shopping Centre-ի մեջ), Ryde, քննարկելու այն Քաղաքային Խորհրդի անձնակազմի հետ, ովքեր ձեզ համար կապահովեն թարգմանչական ծառայություն: Կամ կարող եք զանգահարել Թարգմանչական Ծառայություն 131 450 հեռախոսահամարով և խնդրել, որ թարգմանիչը ձեզ զանգահարի: Խորհրդի հեռախոսահամարն է 9952 8222: Խորհրդի աշխատանքային ժամերն են՝ առավոտյան ժամը 8:30-ից մինչև երեկոյան ժամը 5:00, երկուշաբթիից մինչև ուրբաթ:

Chinese

如果你不明白这封信的内容，敬请前往1 Pope Street, Ryde（位于Top Ryde Shopping Centre内），向市政府工作人员咨询，他们会为您安排口译服务。此外，您也可以拨打131 450联络翻译和口译服务，要求口译员与您联系。市政府电话号码为9952 8222。市政府办公时间为周一至周五上午8:30至下午5:00。

Farsi

لطفاً اگر نمی توانید مندرجات این نامه را درک کنید، به نشانی 1 Pope Street، Ryde (در Top Ryde Shopping Centre) مراجعه کنید تا با استفاده از یک مترجم دراین باره با یکی از کارکنان شورای شهر گفتگو کنید. یا آنکه می توانید با خدمات ترجمه کتبی و شفاهی به شماره 131 450 تماس گرفته و بخواهید که به یک مترجم ارتباط داده شوید. شماره تماس شورای شهر 9952 8222 و ساعات کاری آن از 8:30 صبح تا 5:00 بعد از ظهر روزهای دوشنبه تا جمعه است.

Italian

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Korean

이 서신을 이해할 수 없을 경우, 1 Pope Street, Ryde (Top Ryde Shopping Centre 내)에 오셔서 통역사 서비스를 주선할 시의회 직원과 논의하십시오. 혹은 통번역서비스에 131 450으로 전화하셔서 통역사가 여러분에게 연락하도록 요청하십시오. 시의회의 전화번호는 9952 8222입니다. 시의회 사무실 업무시간은 월요일에서 금요일, 오전 8시 30분에서 오후 5시까지입니다.

Meeting Date: Thursday 13 February 2020
Location: Council Chambers, Level 1A, 1 Pope Street, Ryde
Time: 5.00pm

City of Ryde Local Planning Panel Meetings will be recorded on audio tape for minute-taking purposes as authorised by the Local Government Act 1993. City of Ryde Local Planning Panel Meetings will also be webcast.

NOTICE OF BUSINESS

DECLARATIONS OF INTEREST

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PLANNING PROPOSAL

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PLANNING PROPOSAL

1 PLANNING PROPOSAL TO HERITAGE LIST MACQUARIE ICE RINK, MACQUARIE SHOPPING CENTRE UNDER RYDE LEP 2014

Report prepared by: Senior Strategic Planner

Report approved by: Senior Coordinator - Strategic Planning; Manager - Urban Strategy; Director - City Planning and Environment

File Number: URB/08/1/10 - BP20/7

City of Ryde Local Planning Panel Report

Site Address and Ward	197-223 Herring Road, Macquarie Park (Lot 100 DP1190494) West Ward
Current Planning Provisions	Zoning – B4 Mixed Use Maximum Height of Building – 65m - 120m Maximum Floor Space Ratio – 3.5:1
Planning Proposal Overview	<p>The Planning Proposal (PP) seeks to make the following amendments to Ryde Local Environmental Plan 2014:</p> <ul style="list-style-type: none"> • amend <i>Schedule 5 Environmental heritage</i> of RLEP 2014 to include one new item being the Macquarie Ice Rink, • insert a new local clause which will permit the redevelopment and/or relocation of the Ice Rink within the Macquarie Shopping Centre subject to a Conservation Management Plan (CMP) being prepared for the Centre and endorsed by the consent authority, demonstrating that the current key aspects of the Rink, which give the rink its heritage value and status, can be achieved and maintained in the proposed new location.
Property Owner	AMP Capital Funds Management Limited
Applicant	City of Ryde
Report Author	Susan Wotton - Senior Strategic Planner

ITEM 1 (continued)

Lodgement Date	Not applicable. City of Ryde has prepared the PP consequential to: <ol style="list-style-type: none"> 1. a Council resolution of the 29 January 2019 to investigate the site with a view to seeking an interim heritage order on the site and 2. An Interim Heritage Order (IHO) being made by the Minister for Heritage over the site (IHO No. 147 Government Gazette No.10 dated 4 February 2019)
Reason for Referral	Required by Ministerial Direction made under Section 9.1 of the <i>Environmental Planning and Assessment Act 1979</i> dated 27 September 2018
Recommendation	That the Ryde Local Planning Panel recommend to Council that the planning proposal be submitted for Gateway Determination under 3.34 of the <i>Environmental Planning and Assessment Act 1979</i>
Attachments	Attachment 1 – Planning Proposal Macquarie Ice Rink Heritage Item

1. Executive Summary

- At its meeting of the 29 January 2019 Council resolved to engage a relevant person to investigate whether the Macquarie Ice Rink is of heritage importance with a view to Council seeking an interim heritage order if the report found grounds of heritage significance.
- Prior to that report being prepared an Interim Heritage Order (IHO) was made by the Minister for Heritage over Macquarie Ice Rink, Macquarie Park on the 4 February 2019 (IHO No.147).
- GML Heritage Consultants (GML) were engaged by Council in 2019 to provide a heritage assessment of the Macquarie Ice Rink. The GML report titled “Macquarie Ice Rink Heritage Assessment” dated September 2019 (GML Report) concludes that the Macquarie Ice Rink demonstrates heritage significance at a state level for a number of reasons including:
 - It is an important place of public recreation and is highly valued by the community

ITEM 1 (continued)

- As an Olympic – sized rink, it caters to all skating disciplines and is highly valued by people training or competing at an Olympic level as well as to those who use the rink as a recreational facility
- It is associated with prominent figures in the skating industry
- Its inclusion in the design of Macquarie Centre was unusual and unique for its time.
- The GML Report recommends that:
 - The Macquarie Ice Rink should be listed as a heritage item of local significance on Schedule 5 of the Ryde Local Environmental Plan 2014.
 - The rink should be retained in its current form and location. In this regard the GML report states the following:

Although the physical fabric of the place itself is not considered to be significant it cannot be expected that the community sentiment and social values of the existing rink could be transferred to a new rink in an alternative location...” (GML Report page 29).
 - There is scope for future alterations and adaptations of the area in the vicinity of the ice rink.
- This Planning Proposal is generally in line with the recommendations of the GML Report. It is considered however that the redevelopment and or relocation of the ice rink within the broader context of the Macquarie Shopping Centre may be suitable, subject to a Conservation Management Plan (CMP) being prepared for the Centre and endorsed by the consent authority, demonstrating that the key features of the Rink, which give the rink its heritage value and status, can be achieved and maintained in the proposed new location.
- Based on the recommendations of the GML Report and the above a PP has been prepared that seeks make the following amendments to Ryde Local Environmental Plan 2014:
 - amend *Schedule 5 Environmental heritage* of RLEP 2014 to include one new item being the Macquarie Ice Rink,
 - insert a new local clause which will permit the redevelopment and/or relocation of the Ice Rink within the Macquarie Shopping Centre subject to a Conservation Management Plan (CMP) being prepared for the Centre and endorsed by the consent authority, demonstrating that the current key aspects of the Rink, which give the rink its heritage value and status, can be achieved and maintained in the proposed new location.

ITEM 1 (continued)

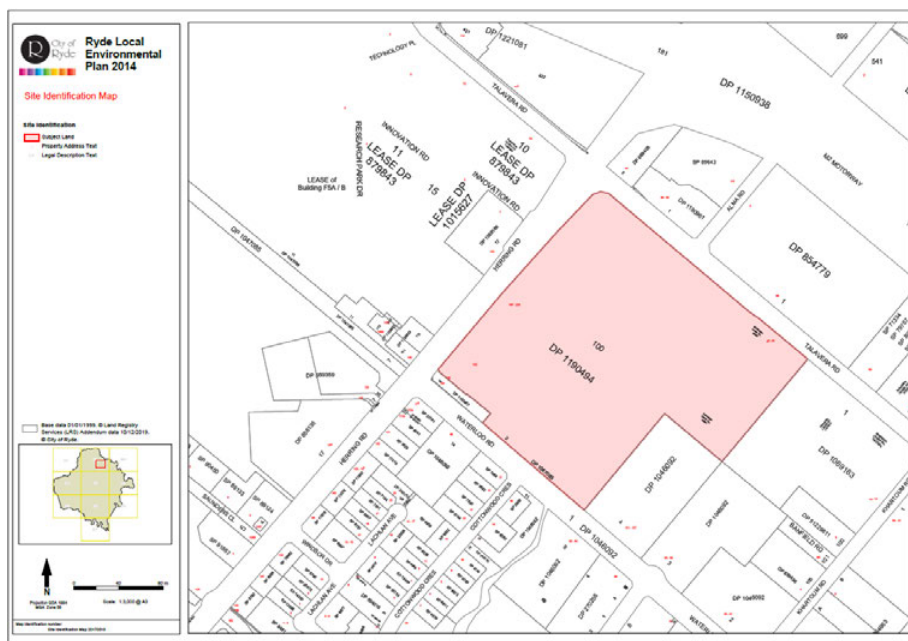
2. The Site and Locality

The Macquarie Ice Rink is located on Level 1 of the Macquarie Shopping Centre, 197 – 223 Herring Road Macquarie Park (see Maps 1 and 2 below). Macquarie University is located to the west of the site with residential uses located to the south and commercial land uses to the east and north.



(Map 1)

(Extract GML Report page 3)



(Map 2)

(extract Ryde Maps)

The ice rink was constructed as part of the original shopping centre which opened in 1981 (see Photo 1 below).

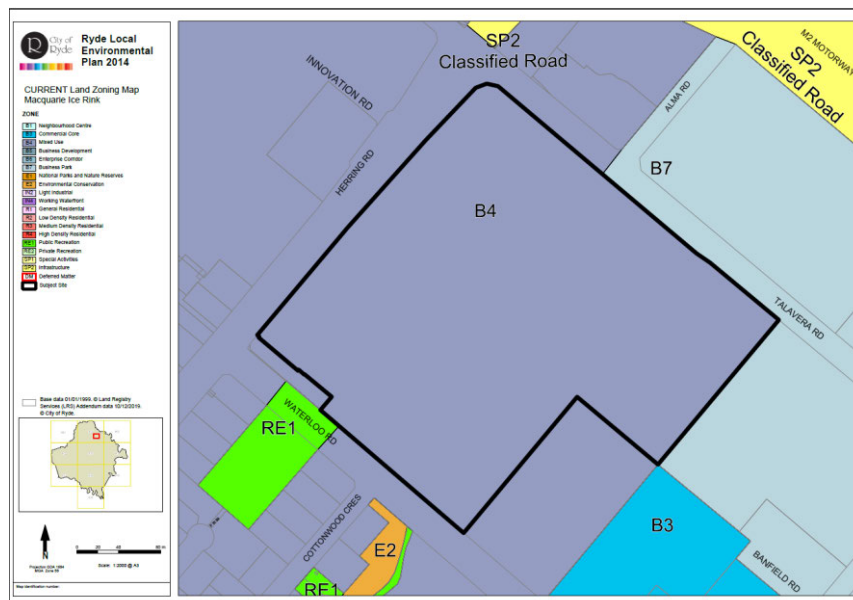
ITEM 1 (continued)



Macquarie Ice Rink 1983. (Source : Photography by Adrian Greer for Sydney Morning Herald (Extract GML Report page 9)

Zoning

The site is zoned B4 – Mixed Use under Ryde LEP 2014 Land Zoning Map (see Map 3 below).



(Map 3)

All land uses are permitted under the zoning with the exception of the following:

Agriculture; Air transport facilities; Animal boarding or training establishments; Biosolids treatment facilities; Camping grounds; Caravan parks; Depots; Eco-tourist facilities; Farm buildings; General industries; Heavy industrial storage establishments; Heavy industries; Home occupations (sex services); Industrial

ITEM 1 (continued)

training facilities; Pond-based aquaculture; Resource recovery facilities; Sewage treatment plants; Sex services premises; Signage; Vehicle body repair workshops; Vehicle repair stations; Waste disposal facilities; Water recycling facilities; Water supply systems

Building Height

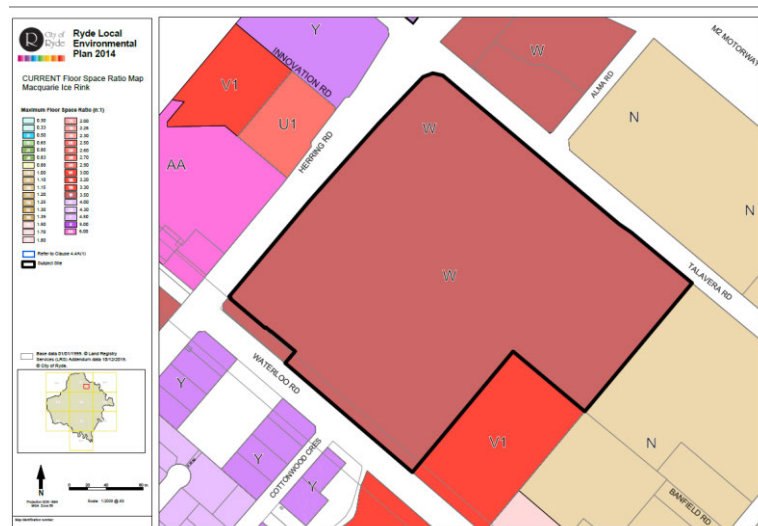
The building height for the site ranges from 65m to a maximum of 120m as per Ryde LEP 2014 Height of Buildings Map. (see Map 4 below)



(Map 4)

Floor Space Ratio

The maximum floor space ratio relating to the site is 3.5:1 as per Ryde LEP 2014 Floor Space Ratio Map. (See Map 5 below)



(Map 5)

ITEM 1 (continued)**3. The Planning Proposal**

The purpose of the Planning proposal is:

- Provide appropriate protection to an item of social and cultural heritage to the City of Ryde, through the heritage listing of the Macquarie Ice Rink in *Schedule 5 Environmental heritage* of RLEP 2014.
- ensure greater certainty is provided for in the future development of Macquarie Shopping Centre .

In summary the PP – seeks to make the following amendment to RLEP 2014:

- amend *Schedule 5 Environmental heritage* of RLEP 2014 to include one new item being the Macquarie Ice Rink and
- insert a new local clause which will only permit the redevelopment and/or relocation of the Ice Rink within the Macquarie Shopping Centre subject to a Conservation Management Plan (CMP) being prepared for the Centre and endorsed by the consent authority, demonstrating that the current key aspects of the Rink, which give the rink its heritage value and status, can be achieved and maintained in the proposed new location.

The PP is in accordance with the requirements under Section 3.33 of the *Environmental Planning and Assessment Act 1979* and the NSW Department of Planning and Environment's 'A guide to preparing planning proposals' (dated August 2016) and adequately sets out the following:

- A statement of the objectives or intended outcomes of the proposed amending LEP;
- An explanation of the provisions that are to be included in the proposed amending LEP;
- Justification for those objectives, outcomes and provisions and the process for their implementation;
- Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies;
- Details of the community consultation that is to be undertaken on the planning proposal; and
- A project timeline.

4. Background

A Development application (LDA 2018/498) was lodged on the 18 December 2018 by AMP Capital Investors Limited relating to the Macquarie Shopping Centre. The DA was part of a staged DA and related to a concept plan approved in November 2016 for the mixed-use redevelopment of the site. The DA, which involves the demolition of

ITEM 1 (continued)

the ice rink, includes the redevelopment of the Herring Road Corner Podium site, the delivery of a new publicly accessible Station Plaza and additional deck parking on the Talavera Road frontage.

The DA was placed on exhibition on 16 January 2019.

As a result of the community response to the exhibition Council resolved on the 29 January 2019, to engage a relevant person to investigate whether the Ice Rink is of heritage importance with a view to Council seeking an interim heritage order if the report found grounds of heritage importance (PP - Attachment 1).

Prior to that report being prepared the Minister for Heritage made Interim Heritage Order (IHO) No. 147 on the Macquarie Ice Rink, Macquarie Park (Government Gazette No.10 dated 4 February 2019 (PP – Attachment 2).

It should be noted that on the 18 January 2019 the owners of the site requested that Council put on hold the assessment of the LDA until further community engagement has been undertaken.

Interim Heritage Order (IHO) No.147

The State Heritage Register Committee considered the GML Report on the 5 November 2019. The committee concluded that the Ice Rink is unlikely to be of state significance and recommended that Heritage NSW not proceed with the statutory process for listing on the State Heritage Register. The Committee further stated:

Macquarie Ice Rink may potentially be of local heritage significance. As local heritage is the responsibility of the local council, the Committee determined to write to the City of Ryde to encourage you to consider the potential heritage significance of the site when reviewing any future development. (Attachment 5)

Macquarie Ice Rink Heritage Assessment – GML Consultants

GML Heritage Consultants were engaged by Council in 2019 to provide a heritage assessment of the Macquarie Ice Rink in order to determine if it reaches the threshold for listing as a heritage item within the Ryde Local Environmental Plan 2014.

In a report titled “Macquarie Ice Rink Heritage Assessment” dated September 2019, GML Heritage Consultants have identified that the Macquarie Ice Rink demonstrates heritage significance at a state level for the following reasons:

- It is an important place of public recreation and is highly valued by the community
- As an Olympic – sized rink, it caters to all skating disciplines and is highly valued by people training or competing at an Olympic level as well as to those who use the rink as a recreational facility
- It is associated with prominent figures in the skating industry and sports.
- Its inclusion in the design of Macquarie Centre was unusual and unique for its time (GML report page 29)

ITEM 1 (continued)

The report recommends that:

- 1. The Macquarie Ice Rink should be listed as a heritage item of local significance on Schedule 5 of the Ryde Local Environmental Plan 2014.....*
- 2. The rink should be retained in its current form and location..... The cultural significance of the ice rink is embodied in its social value to the communityHowever, the form, layout, size and location of the ice rink is an important part of this significance. Although the physical fabric of the place itself is not considered to be significant, it cannot be expected that the community sentiment and social values of the existing rink could be transferred to a new rink in an alternative location.....*
- 3. There is scope for future alterations and adaptations of the area in the vicinity of the ice rink, including the surrounding tiered seating or ancillary facilities. The rink should be retained in its current location in any future redevelopment proposal of the Macquarie Centre in order to retain its significance and value to the community. (GML Report page 29).*

Based on the GML Report it is considered that the key aspects of the Macquarie Ice Rink which must be retained and managed include:

- i) The incorporation of the ice rink within the broader shopping centre complex;
- ii) The strong visual relationship between the ice rink and the internal thoroughfares and designated food-court of the shopping centre;
- iii) The strong visual relationship between the ice rink and the external public domain through full-height glazed walls;
- iv) The Olympic-sized scale and dimension and competition quality of the ice rink, together with tiered stadium seating;
- v) The overall volume of the ice rink space with the double height ceiling space and singular indoor arena.

As stated by the GML Report the existing Macquarie Ice Rink should be retained in its current form and location. However, it is considered that the redevelopment and/or relocation of the ice rink within the broader context of the Macquarie Shopping Centre may be suitable subject to a Conservation Management Plan (CMP) being prepared for the Centre and endorsed by the consent authority, demonstrating that the current key aspects of the Rink, which give the rink its heritage value and status, can be achieved and maintained in the proposed new location.

ITEM 1 (continued)

5. Planning Assessment

The assessment of the subject planning proposal has been undertaken in accordance with the NSW Department of Planning and Environment's 'A guide to preparing planning proposals' (dated August 2016).

• Part 1 Objectives or intended outcomes

The Objective of the Planning proposal is:

- To amend *Schedule 5 Environmental heritage – Part 1 Heritage Items* to include Macquarie Ice Rink at 197 – 223 Herring Road Macquarie Park.
- To ensure that prior to any Council approval being given to the redevelopment and/or relocation of the Macquarie Ice Rink within the broader context of the Macquarie Shopping Centre, a Conservation Management Plan (CMP) is endorsed by the consent authority for the Centre demonstrating that the current key aspects of the Rink, which give the rink its heritage value and status, can be achieved and maintained.

The Intended outcome of the Planning Proposal is to:

- Provide appropriate protection for an item of built, social and cultural heritage to the City of Ryde, through the heritage listing of the Macquarie Ice Rink in *Schedule 5 Environmental heritage* of RLEP 2014.
- ensure greater certainty is provided for in the future development of Macquarie Shopping Centre .

• Part 2 Explanation of provisions

The planning proposal seeks to amend the RLEP 2014 as follows:

1. Include 1 new Heritage item in *Part 1 Heritage Items* as shown below

Table 1 – HERITAGE ITEM – NEW

Suburb	Item name	Address	Property description	Significance	Item no.
Macquarie Park	Olympic sized Ice Rink with associated facilities (seating, meeting and team areas etc) integrated with Macquarie Shopping Centre retail/commercial activities and	197 – 223 Herring Road Macquarie Park	Part Lot 100 DP1190494	Local	345

ITEM 1 (continued)

Suburb	Item name	Address	Property description	Significance	Item no.
	known as Macquarie Ice Rink				

2. Insert into Ryde Local Environmental Plan 2014 a new local clause that requires that prior to Council determining:

- any redevelopment of the Macquarie Ice Rink and/or
- the relocation of the Macquarie Ice Rink within the broader context of the Macquarie Shopping Centre, a Conservation Management Plan (CMP) must be endorsed by the consent authority demonstrating that the current key aspects of the Rink, which give the rink its heritage value and status, can be achieved and maintained

• Part 3 Justification
Need for the Planning Proposal

The NSW Department of Planning and Environment's 'A guide to preparing planning proposals' requires the following two questions be answered to demonstrate the need for the proposal:

1. Is the planning proposal a result of any strategic study or report?

Response: The PP (an amending LEP) is the result of a heritage study undertaken on the Macquarie Ice Rink by experienced GML Heritage Consultants in accordance with NSW Heritage Council guidelines. The PP is generally in accordance with the recommendations of that study titled "Macquarie Ice Rink Heritage Assessment" dated September 2019.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Response: The PP is Council's only means of ensuring the protection of the Macquarie Ice Rink which has been assessed as having heritage significance. The PP will ensure that the Rink's, heritage value and status, are recognised and protected from development that may adversely affect their significance and contribution to the environmental heritage of the City of Ryde.

Relationship to Strategic Planning Framework – The Strategic Merit Test

A strategic merit test is provided in the following table.

ITEM 1 (continued)

Strategic Merit Issue	Comment
State Environmental Planning Policies and Local Directions	The planning proposal is generally consistent with the relevant State Environmental Planning Policies and Local Planning Directions under Section 9.1 of the environmental Planning and assessment Act 1979. An analysis of compliance with these policies is provided in the attached planning proposal. An analysis of compliance with these policies is included in the planning proposal.
Greater Sydney Region Plan - A Metropolis of Three Cities	The planning proposal is generally consistent with the Greater Sydney Region Plan - A Metropolis of Three Cities.
North District Plan	The planning proposal is generally consistent with the North District Plan.
Ryde Local Planning Study	The planning proposal is generally consistent

7. Conclusion

- a) Based on the GML Heritage Consultants report titled “*Macquarie Ice Rink-Heritage Assessment*” dated September 2019, which was carried out in line with the NSW Heritage Council Guidelines, the findings and recommendations of the report be acknowledged and supported.
- b) That the redevelopment and or relocation of the Macquarie Ice Rink within the broader context of the Macquarie Shopping Centre be only considered, subject to a Conservation Management Plan (CMP) being prepared for the Centre and endorsed by the consent authority, demonstrating that the current key aspects of the Rink, which give the rink its heritage value and status, can be achieved and maintained in the proposed new location.
- c) Council proceed to request a Gateway Determination to amend RLEP 2014 for the following reasons:
 1. The PP provides appropriate protection for the Macquarie Ice Rink which is an item of social and cultural heritage significance within the City of Ryde, through its heritage listings in *Schedule 5 Environmental heritage* of RLEP 2014,
 2. Legislative protection can only be provided to the Macquarie Ice Rink by including it in *RLEP 2014, Schedule 5 Environmental Heritage*.
 3. The PP will provide greater certainty for the future development of Macquarie Shopping Centre.

ITEM 1 (continued)**8. Recommendation**

- a) That the Macquarie Ice Rink Heritage Assessment, GML Heritage Consultants, September 2019 be received and noted by the Ryde Local Planning Panel
- b) That the Ryde Local Planning Panel recommend to Council that the Planning Proposal – Macquarie Ice Rink Heritage Item be submitted for Gateway Determination under 3.34 of the *Environmental Planning and Assessment Act 1979*.

ATTACHMENTS

- 1 Planning Proposal - Macquarie Ice Rink Heritage Item 86 Pages

Report Prepared By:

Susan Wotton
Senior Strategic Planner

Report Approved By:

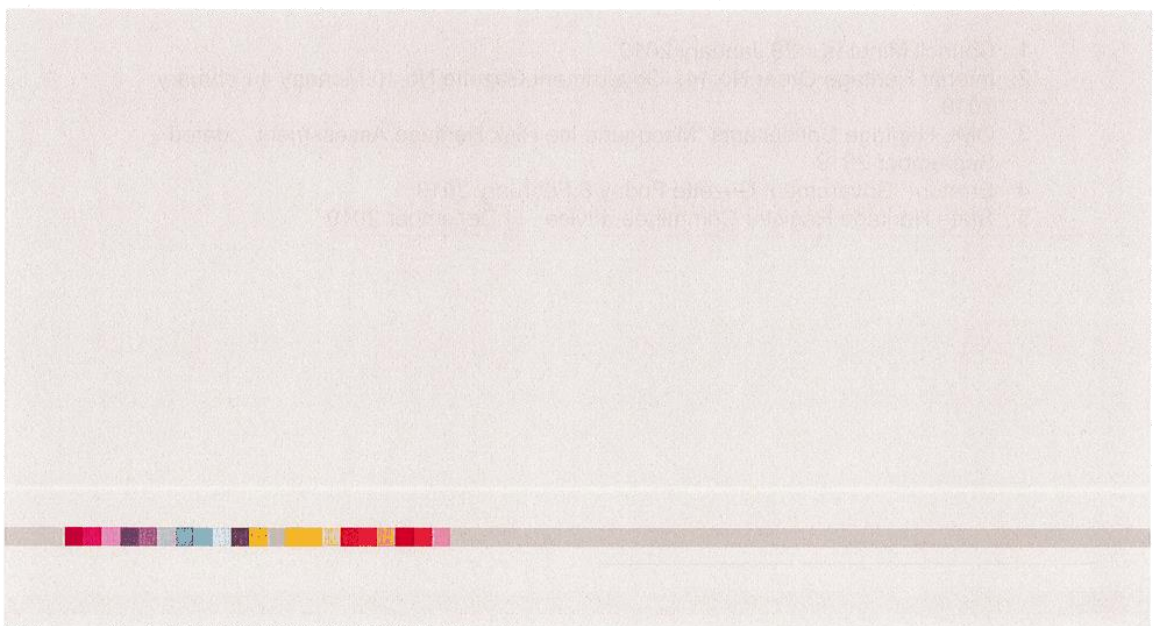
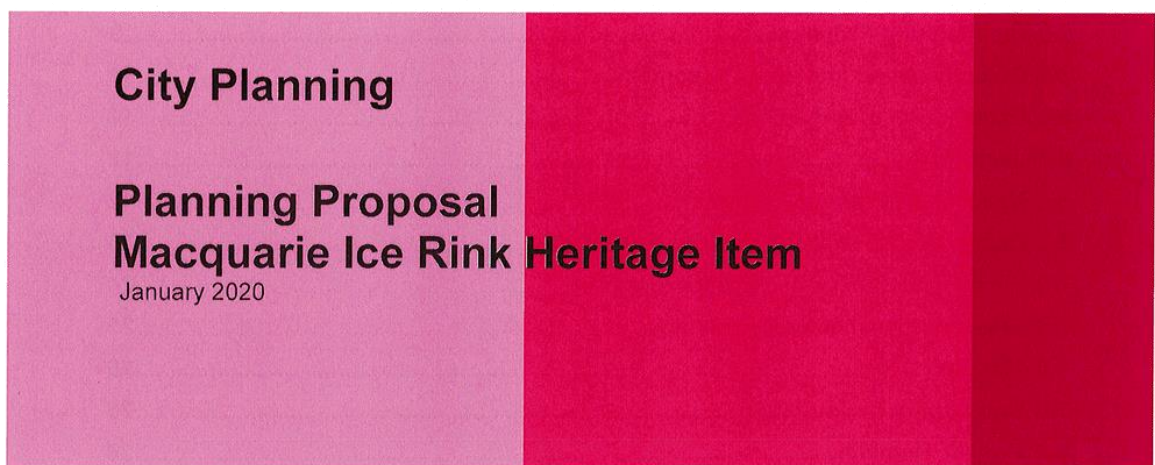
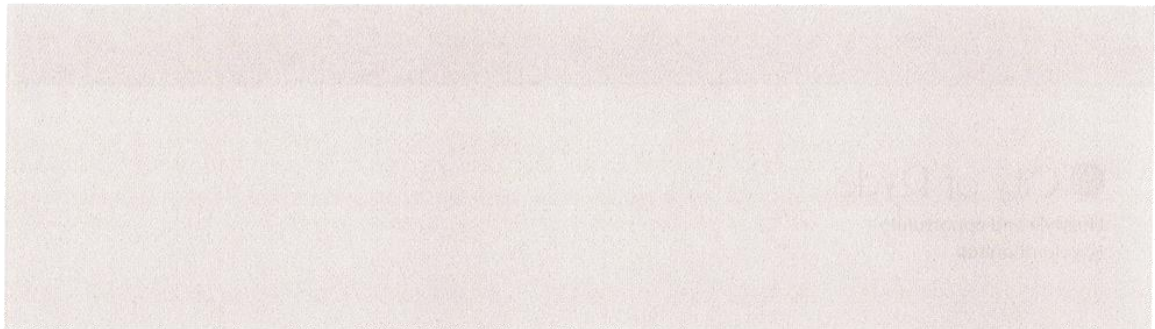
Lexie Macdonald
Senior Coordinator - Strategic Planning

Dyalan Govender
Manager - Urban Strategy

Liz Coad
Director - City Planning and Environment

ITEM 1 (continued)

ATTACHMENT 1



ITEM 1 (continued)

ATTACHMENT 1



Lifestyle and opportunity
@ your doorstep

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Attachments

1. Council Minutes – 29 January 2019
2. Interim Heritage Order No.147 Government Gazette No.10 Monday 4 February 2019
3. GML Heritage Consultants “Macquarie Ice Rink Heritage Assessment ” dated September 2019
4. Erratum Government Gazette Friday 8 February 2019
5. State Heritage Register Committee advice - 1 December 2019



ITEM 1 (continued)

ATTACHMENT 1

1.0 Introduction

This Planning Proposal has been prepared by the City of Ryde in response to:

1. A resolution of Council of the 29 January 2019 that reads in part that Council is to:

(d) Engage a person with appropriate heritage knowledge, skills and experience to investigate whether the Macquarie Ice Rink is of heritage importance and to subsequently prepare a preliminary heritage assessment report with respect to this matter and a report be submitted back to Council with a view to seek an interim heritage order if the report finds grounds of heritage importance (See Attachment 1)

and

2. An Interim Heritage Order (IHO) made by the Minister for Heritage over Macquarie Ice Rink, Macquarie Park on the 4 February 2019 (IHO No. 147 Government Gazette No.10– Attachment 2).

In response to both of the above, GML Heritage Consultants were engaged by Council in 2019 to provide a heritage assessment of the Macquarie Ice Rink in order to determine if it meets the criteria for listing as a heritage item within the Ryde Local Environmental Plan 2014.

In a report titled “Macquarie Ice Rink Heritage Assessment” dated September 2019 (GML Report – Attachment 3), GML Heritage Consultants have identified that the Macquarie Ice Rink demonstrates heritage significance at a state level for a number of reasons including:

- It is an important place of public recreation and is highly valued by the community
- As an Olympic – sized rink, it caters to all skating disciplines and is highly valued by people training or competing at an Olympic level as well as to those who use the rink as a recreational facility
- It is associated with prominent figures in the skating industry and sport
- Its inclusion in the design of Macquarie Centre was unusual and unique and a reflection of its time


The GML report recommends in part that:

1. The Macquarie Ice Rink be listed as a heritage item of local significance on Schedule 5 of the Ryde Local Environmental Plan 2014. An application should be made to the NSW Heritage Office for its inclusion on the State Heritage Register
2. The rink should be retained in its current form and location.

“The cultural significance of the ice rink is embodied in its social value to the community as a place of public recreation and as a training ground for past and

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future Olympic competitors. However, the form, layout, size and location of the ice rink is an important part of this significance. Although the physical fabric of the place itself is not considered to be significant it cannot be expected that the community sentiment and social values of the existing rink could be transferred to a new rink in an alternative location..." (GML Report page 29).

3. There is scope for future alterations and adaptations of the area in the vicinity of the ice rink (GML Report page 29).

The State Heritage Register Committee considered the GML Report prepared for Macquarie Ice Rink on the 5 November 2019. The committee concluded that the Ice Rink is unlikely to be of state significance however it may be of local heritage significance and that City of Ryde should consider the potential heritage significance of the site when reviewing any future development. (Attachment 5)

This Planning Proposal is generally in line with the recommendations of the GML Report. It is considered however that the redevelopment and or relocation of the ice rink within the broader context of the Macquarie Shopping Centre may be suitable, subject to a Conservation Management Plan (CMP) being prepared for the Centre and endorsed by consent authority, demonstrating that the current key aspects of the Rink, which give the rink its heritage value and status, can be achieved and maintained in the proposed new location.

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1.1 Background

The Macquarie Ice Rink is located on Level 1 of the Macquarie Shopping Centre, 197 – 223 Herring Road Macquarie Park (Map 1). The rink was constructed as part of the original shopping centre which opened in 1981. (Photo 1).

Map 1



(Extract GML Report page 3)



Photo 1

Macquarie Ice Rink 1983. (Source : Photography by Adrian Greer for Sydney Morning Herald (Extract GML Report page 9)

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A Development application (LDA 2018/498) was lodged on the 18 December 2018 by AMP Capital Investors Limited relating to the Macquarie Shopping Centre. The DA was part of a staged DA and gave further detail to a concept plan approved in November 2016 for the mixed-use redevelopment of the site. The DA, which involves the demolition of the ice rink, includes the redevelopment of the Herring Road Corner Podium site, the delivery of a new publicly accessible Station Plaza and additional deck parking on the Talavera Road frontage.

The DA was placed on exhibition on 16 January 2019.

As a result of the community response to the exhibition Council resolved on the 29 January 2019, in part to:

(d) Engage a person with appropriate heritage knowledge, skills and experience to investigate whether the Macquarie Ice Rink is of heritage importance and to subsequently prepare a preliminary heritage assessment report with respect to this matter and a report be submitted back to Council with a view to seek an interim heritage order if the report finds grounds of heritage importance (See Attachment 1)

Prior to that report being prepared the Minister for Heritage made Interim Heritage Order (IHO) No. 147 on the Macquarie Ice Rink, Macquarie Park (Government Gazette No.10 dated 4 February 2019 – Attachment 2). As a result of an error on the property description in the Gazettal Notice an Erratum to IDO No. 147 correcting the error was made in Government Gazette No.11 on the 8 February 2019 (Attachment 4). The order remains in force until the 4 February 2020.

It should be noted that on the 18 January 2019 the owners of the site requested that Council put on hold the assessment of the LDA until further community engagement has been undertaken.

Macquarie Ice Rink Heritage Assessment – GML Consultants

GML Heritage Consultants were engaged by Council in 2019 to provide a heritage assessment of the Macquarie Ice Rink in order to determine if it meets the criteria for listing as a heritage item within the Ryde Local Environmental Plan 2014.

In a report titled "Macquarie Ice Rink Heritage Assessment" dated September 2019, GML Heritage Consultants have identified that the Macquarie Ice Rink demonstrates heritage significance at a state level for the following reasons:

- *It is an important place of public recreation and is highly valued by the community....*
- *As an Olympic-sized rink, it caters to all skating disciplines and is highly valued by people training or competing at an Olympic level as well as to those who use the rink as a recreational facility....*

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- *It is associated with prominent figures in the skating industry, including former Olympian Steven Bradbury, and Sydney's AIHL teams the Sydney Bears and Sydney Ice Dogs.*
- *Its inclusion in the design of the Macquarie Centre was unusual and unique for its time. (GML Report page 28)*

It is recommended that:

1. *The Macquarie Ice Rink should be listed as a heritage item of local significance on Schedule 5 of the Ryde Local Environmental Plan 2014. An application should be made to the NSW Heritage Office for its inclusion on the State Heritage Register.*
2. *The rink should be retained in its current form and location. The significance of the ice rink is embodied in the rink itself and the general volume of the space should be retained. The cultural significance of the ice rink is embodied in its social value to the community as a place of public recreation and as a training ground for past and future Olympic competitors. However, the form, layout, size and location of the ice rink is an important part of this significance. Although the physical fabric of the place itself is not considered to be significant, it cannot be expected that the community sentiment and social values of the existing rink could be transferred to a new rink in an alternative location.*
3. *There is scope for future alterations and adaptations of the area in the vicinity of the ice rink, including the surrounding tiered seating or ancillary facilities..... (GML Report page 29)*


Interim Heritage Orders (IHO)

An IHO is a temporary heritage protection measure against the demolition of a potential heritage item. It also provides State Government (when imposed by them) with the time to further assess the heritage significance of a potential item and take the appropriate steps to list the item on the State Heritage Register if warranted.

As stated previously an IHO was made by the Minister for Heritage over Macquarie Ice Rink on the 4 February 2019 (IHO No. 147 Government Gazette No.10– Attachment 2).

The legal effect of the IHO made by the Minister is that approval from the Heritage Council of NSW is required for any works (including demolition) to the Rink for the duration of the Order i.e.4 February 2020.

The State Heritage Register Committee considered the GML Report on the Macquarie Ice Rink on the 5 November 2019. The committee concluded that the Ice Rink is unlikely to be of state significance and recommended that Heritage NSW not proceed with the statutory process for listing on the State Heritage Register. The Committee further stated:

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Macquarie Ice Rink may potentially be of local heritage significance. As local heritage is the responsibility of the local council, the Committee determined to write to the City of Ryde to encourage you to consider the potential heritage significance of the site when reviewing any future development. (Attachment 5)

Conclusions

It is considered that based on the GML Report the key aspects of the Macquarie Ice Rink which must be retained and managed include:

1. The Olympic-sized scale and dimension and competition quality of the ice rink, together with tiered stadium seating
2. The overall volume of the ice rink space with the double height ceiling space and singular indoor arena.
3. The incorporation of the ice rink within the shopping centre complex;
4. The strong relationship between the ice rink and the internal thoroughfares and a food-court of the shopping centre;
5. The strong visual relationship between the ice rink and the external public domain through full-height glazed walls;

As stated by the GML Report the existing Macquarie Ice Rink should be retained in its current form and location. However the redevelopment and/or relocation of the ice rink within the broader context of the Macquarie Shopping Centre may be suitable, subject to a Conservation Management Plan (CMP) being prepared for the Centre and endorsed by the consent authority, demonstrating that the current key aspects of the Rink, which give the rink its heritage value and status, can be achieved and maintained in the proposed new location.

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**2.0 The Planning Proposal**

This Planning Proposal has been prepared in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (in particular Section 3.33) and the relevant guidelines produced by the Department of Planning and Environment.

The Department of Planning and Environment requires a Planning Proposal to cover five main parts which form the basis of this document as follows:

- Part 1 – Statement of Objectives and Intended Outcomes of the proposed LEP (refer to 3.0 of the Planning Proposal)
- Part 2 – Explanation of the Provisions to be included in the LEP (refer to 4.0 of the Planning Proposal)
- Part 3 – Justification of objectives, outcomes and process for implementation (refer to 5.0 of the Planning Proposal)
- Part 4 – Maps to identify intent and applicable area (refer to 6.0 of the Planning Proposal)
- Part 5 – Community Consultation proposed to be undertaken on the Draft LEP (refer to 7.0 of the Planning Proposal)
- Part 6 – Projected time line - (refer to 8.0 of the Planning Proposal)



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3.0 Objectives and Intended Outcomes

This part of the planning proposal responds to Section 3.33 of the Environmental Planning and Assessment Act 1979 which requires an explanation of what is planned to be achieved by the proposed amendments to RLEP2014.

The Objectives of the Planning proposal are:

- To amend *Schedule 5 Environmental heritage* to include Macquarie Ice Rink at 197 – 223 Herring Road Macquarie Park.
- To ensure that prior to any Council approval being given to the redevelopment and/or relocation of the Macquarie Ice Rink within the broader context of the Macquarie Shopping Centre, a Conservation Management Plan (CMP) is endorsed by the consent authority for the Centre demonstrating that the current key aspects of the Rink, which give the rink its heritage value and status, can be achieved and maintained .

The Intended outcome of the Planning Proposal is to:

- Provide appropriate protection to an item of built, social and cultural heritage to the City of Ryde, through the heritage listing of the Macquarie Ice Rink in *Schedule 5 Environmental heritage* of RLEP 2014.
- ensure greater certainty is provided for in the future development of Macquarie Shopping Centre .

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4.0 Explanation of Provisions

The proposed outcomes will be achieved by:

1. **Inserting into Ryde Local Environmental Plan 2014 a new local clause as shown below:**

Macquarie Shopping Centre (197 – 223) Herring Road, Macquarie Park (Lot 100 DP1190494) requiring the following:

That prior to the consent authority determining:

- any redevelopment of the Macquarie Ice Rink and/or
- the relocation of the Macquarie Ice Rink within the broader context of the Macquarie Shopping Centre,

a Conservation Management Plan (CMP) must be endorsed by the consent authority demonstrating that the current key aspects of the Rink, which give the rink its heritage value and status, can be achieved and maintained

2. **Amending Schedule 5 Environmental heritage of Ryde LEP 2014 as follows:**

- Including 1 new Heritage item in *Part 1 Heritage Items* as shown below.

Table 1 – HERITAGE ITEM – NEW

Suburb	Item name	Address	Property description	Significance	Item no.
Macquarie Park	Olympic sized Ice Rink with associated facilities (seating, meeting/team areas etc) integrated with Macquarie Shopping Centre retail/commercial activities and known as Macquarie Ice Rink	197 – 223 Herring Road Macquarie Park	Part Lot 100 DP1190494	Local	345

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5.0 Justification

Section 3.33 of the Environmental Planning and Assessment Act 1979 enables the Director-General to issue requirements with respect to the preparation of a planning proposal. This section responds to all matters to be addressed in a planning proposal – including Director-General's requirements for the justification of all planning proposals (other than those that solely reclassify public land).

5.1 Need for the Planning Proposal

5.1.1 Is the planning proposal a result of any strategic study or report?

The Planning Proposal is a result of:

1. Ryde Council's ongoing process of heritage identification and protection. Council resolved 29 January 2019 in part to:

(d) Engage a person with appropriate heritage knowledge, skills and experience to investigate whether the Macquarie Ice Rink is of heritage importance and to subsequently prepare a preliminary heritage assessment report with respect to this matter and a report be submitted back to Council with a view to seek an interim heritage order if the report finds grounds of heritage importance (See Attachment 1)

2. An Interim Heritage Order (IHO) being made by the Minister for Heritage over Macquarie Ice Rink, Macquarie Park on the 4 February 2019 (IHO No. 147 Government Gazette No.10– Attachment 2).

In response to both of the above GML Heritage Consultants were engaged by Council in 2019 to provide a heritage assessment of the Macquarie Ice Rink in order to determine if it meets the criteria for listing as a heritage item within the Ryde Local Environmental Plan 2014.

This Planning Proposal is in general accordance with the recommendations of the GML Heritage Consultants report titled "Macquarie Ice Rink Heritage Assessment" dated September 2019 (Attachment 2).

5.1.2 Is the planning proposal the best means of achieving the objectives or intended outcomes?

The Environmental Planning & Assessment Act 1979 requires the orderly development of land. The planning proposal supports that outcome by enabling a transparent process informed by expert advice and comprehensive community participation that enables clear identification of a heritage item.

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The Planning Proposal will ensure that the provision of a Macquarie Ice Rink is recognised and protected from development that may adversely affect the significance of the Ice Rink and its contribution to the environmental heritage of the City of Ryde.

5.2 Relationship to strategic planning framework

5.2.1 Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The strategic planning context for the consideration of this Planning Proposal includes:

- A Greater Sydney Region Plan – A Metropolis of Three Cities 2018
- The North District Plan

Greater Sydney Regional Plan - A Metropolis of Three Cities

The Greater Sydney Region Plan (2018) outlines how Greater Sydney will manage growth and change and guide infrastructure delivery over the next 40 years.

The Vision of the Plan is to meet the needs of a growing and changing population by transforming Greater Sydney into a metropolis of three cities – the Western Parkland City, the Central River City and the Eastern Harbour City.

The City of Ryde is located within the Eastern Harbour City. The Plan states that the established **Eastern Harbour City** will be building on its recognised economic strength and addressing liveability and sustainability. (p 8)

The Plan contains:

- 4 Key themes - infrastructure and collaboration, liveability, productivity and sustainability.
- 14 Metrics i.e. measurement tools
- 10 Directions and
- 40 Objectives

The theme of Liveability has as a direction and objective the following:

Direction – Designing places for people

Objective 13 – Environmental heritage is identified, conserved and enhanced (page 22)

The Regional Plan states:

Conserving, interpreting and celebrating Greater Sydney's heritage values leads to a better understanding of history and respect for the experiences of diverse communities. Heritage identification, management and interpretation are required so that heritage places and stories can be experienced by current and future generations. Environmental heritage is protected for its social, aesthetic, economic, historic and environmental values.

Environmental heritage is defined as the places, buildings, works, relics, moveable objects and precincts of State or local heritage significance. It includes natural and built heritage,

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Aboriginal places and objects, and cultural heritage such as stories, traditions and events inherited from the past.

Protection and management of heritage is a community responsibility undertaken by a broad range of stakeholders including Aboriginal people, State and local governments, businesses and communities. (page. 77)

The Planning Proposal which aims to provide appropriate protection to an item of built, social and cultural heritage significance to the City of Ryde i.e. Macquarie Ice Rink, (see Report extract below) supports both the direction and objectives of the Plan.

The significance of the ice rink is embodied in the rink itself and the general volume of the space should be retained. The cultural significance of the ice rink is embodied in its social value to the community as a place of public recreation....., the form, layout, size and location of the ice rink is an important part of this significance ("GML Report page 29)

North District Plan (2018)

The *North District Plan* (NDP 2018) sets out the planning priorities and actions for Greater Sydney's North District, which includes the local government areas of Hornsby, Hunters Hill, Ku-ring-gai, Lane Cove, Northern Beaches, Mosman, North Sydney, the City of Ryde and Willoughby.

The NDP provides the means by which the Greater Sydney Region Plan can be put into action at a local level, by setting out the opportunities, priorities and actions for the growth and development of the North District.

This Planning Proposal supports the following Planning Priority in the retention and renewing of local heritage:

Planning Priority N6 – "Creating and renewing great places and local centres, and respecting the District's heritage"

This planning priority promotes local heritage as an important component of local identity that creates a distinctive built character. The NDP states that "*Identifying, conserving, interpreting and celebrating Greater Sydney's heritage values leads to a better understanding of history and respect for the experiences of diverse communities. Heritage identification, management and interpretation are required so that heritage places and stories can be experienced by current and future generations.*" (NDP, p49)


The heritage study attached to this Planning Proposal confirms the importance of the Macquarie Ice Rink. The listing of the Ice Rink under the RLEP2014 *Schedule 5 Environmental heritage* supports *Planning Priority N6* of the North District Plan.

Local Planning Study (LPS)

Council adopted the *Ryde Local Planning Study (December 2010)* in response to the NSW Government's *Metropolitan Strategy* and draft *Inner North Draft Subregional Strategy* to outline a vision for development of Ryde over the next 20 years.

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The Local Planning Study was the basis for the preparation of the RLEP 2014. One of the aims of RLEP 2014 that was derived from the Local Planning Study was:
(d) to identify, conserve and promote Ryde's natural and cultural heritage as the framework for its identity, prosperity, liveability and social development, (RLEP 2014 Clause 1.2(d))

The Planning Proposal is consistent with both the Study and RLEP 2014.

The City of Ryde 2028 Community Strategic Plan

The Ryde 2028 Community Strategic Plan captures the needs and aspirations of the community and lays out the Vision and Outcomes that the community wants for the City of Ryde over the next 10 years. It also captures the City's priorities for achieving these outcomes.

The seven outcomes for the City of Ryde articulated in the plan are:

- Our Vibrant and Liveable City
- Our Active and Healthy City
- Our Natural and Sustainable City
- Our Smart and Innovative City
- Our Connected and Accessible City
- Our Diverse and Inclusive City
- Our Open and Progressive City

The Planning Proposal is in line with the goals and strategies of the Community Strategic Plan 2028. It speaks to both outcome one: Our Vibrant and Liveable City; and to outcome six: Our Diverse and Inclusive City.

Outcome one describes a city "designed with a strong sense of identity and place" (p16), describes the community's desire to "protect and maintain Ryde's character and heritage" and includes goals to "uphold and protect its unique character" (p17).

Outcome six describes a city with a "rich social, cultural, historical and creative tapestry [which] provides an enduring legacy for future generations" (p26) and "a distinct local identity built on our city's character and rich cultural heritage" (p27).

The Planning Proposal responds to the above by protecting Macquarie Ice Rink which contributes to Ryde's built, social and cultural legacy.

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5.2.3 Is the planning proposal consistent with applicable state environmental planning policies?

A summary assessment of the Planning Proposal in terms of State Environmental Planning Policies that are relevant to the City of Ryde is contained in the table below (Table 2).

This assessment indicates that the draft LEP contained in this Planning Proposal is consistent with all relevant State environmental planning policies.

Table 2 – Consistency with relevant SEPPs

State Environmental Planning Policies (SEPPs)	Consistent		Comment
	YES/NO	N/A	
State Environmental Planning Policy No 19 - Bushland in Urban Areas	Yes		No matters in the PP alter the degree to which bushland will be protected under RLEP 2014
State Environmental Planning Policy No 21 - Caravan Parks.		✓	Applies to the whole of the State. Not relevant to this proposed amendment
State Environmental Planning Policy No 33 - Hazardous and Offensive Development		✓	Applies to the whole of the State. Not relevant to this proposed amendment
State Environmental Planning Policy No 50 - Canal Estate Development.		✓	Applies to the whole of the State. Not relevant to this proposed amendment
State Environmental Planning Policy No 55 - Remediation of Land.	Yes		The PP is consistent with the aims and objectives of the SEPP
State Environmental Planning Policy No 64 - Advertising and Signage.		✓	Applies to the whole of the State. Not relevant to this proposed amendment
State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development		✓	Applies to the whole of the State. Not relevant to this proposed amendment
State Environmental Planning Policy No 70- Affordable Housing (Revised Schemes)		✓	Applies to the whole of the State. Not relevant to this proposed amendment
State Environmental		✓	Applies to the whole of the State.

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State Environmental Planning Policies (SEPPs)	Consistent		Comment
	YES/NO	N/A	
Planning Policy (Concurrences) 2018			Not relevant to this proposed amendment
State Environmental Planning Policy (Primary Production and Rural Development) 2019		✓	Applies to the whole of the State. Not relevant to this proposed amendment
State Environmental Planning Policy (Affordable Rental Housing) 2009	Yes		See below.
The SEPP establishes a consistent planning regime for the provisions of affordable rental housing. Certain areas of the Policy do not apply to properties that are listed as a Heritage Item such as In fill affordable housing and development under the Policy that can occur under complying development provisions.			
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes		The PP does not affect BASIX or any provision that relates to building sustainability.
SEPP (Exempt and Complying Development Codes) 2008	Yes		See below.
Complying Development Certificates cannot be issued on heritage items. The property description for the proposed heritage item is Part Lot 100. As such the ability to issue a Complying Development Certificate on land within Lot 100 which does not contain an Ice Rink is not limited .			
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	Yes		The PP does not directly or indirectly affect housing for seniors or people with disability or affect any provision within the SEPP.
State Environmental Planning Policy (Infrastructure) 2007	Yes		Listing of additional heritage items is not considered inconsistent with the provisions of the SEPP. See below for further information.
The SEPP includes provisions relating to development carried out by or on behalf of a public authority where the development is likely to have an impact that is not minor or inconsequential on a local heritage item.			
State Environmental Planning Policy (State Significant Precincts)		✓	Applies to the whole of the State. Not relevant to this proposed amendment

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State Environmental Planning Policies (SEPPs)	Consistent		Comment
	YES/NO	N/A	
2005			
State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007		✓	Applies to the whole of the State. Not relevant to this proposed amendment
State Environmental Planning Policy (State and Regional Development) 2011		✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007		✓	Applies to the whole of the State. Not relevant to this proposed amendment
State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017	Yes		Applies to the whole of the State. Not relevant to this proposed amendment. See below for further information.
The SEPP includes provisions relating to items of local heritage significance where development carried out by or on behalf of a public authority is likely to affect the heritage significance of a local heritage item or a heritage conservation area and is development that the SEPP provides may be carried out without development consent.			
State Environmental Planning Policy (Vegetation in Non Rural Areas) 2017	Yes		None of the matters within the PP raise issues with the SEPP.
State Environmental Planning Policy (Coastal Management) 2018	Yes		None of the matters within the PP raise issues with the SEPP.
State Environmental Planning Policy (Concurrences) 2018		✓	Applies to the whole of the State. Not relevant to this proposed amendment
State Environmental Planning Policy (Primary Production and Rural Development) 2019		✓	Applies to the whole of the State. Not relevant to this proposed amendment
Deemed SEPPs			
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005		✓	Applies to the Sydney Harbour Catchment. Not relevant to this proposed amendment

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State Environmental Planning Policies (SEPPs)	Consistent		Comment
	YES/NO	N/A	

5.2.4 Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The following is a list of Directions issued by the Minister for Planning to relevant planning authorities under section 9.1 of the *Environmental Planning and Assessment Act 1979*. These directions apply to planning proposals lodged with the Department of Planning and Environment on or after the date the particular direction was issued:

Consideration of Relevant Section 9.1 Directions applying to planning proposals

Table 6 – Ministerial Directions

<u>Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979</u>	Consistent		N/A
	YES	NO	
1. Employment and Resources			
1.1 Business and Industrial Zones Objectives are:- <ul style="list-style-type: none"> Encourage employment growth in suitable locations Protect employment land in business and industrial zones and Support the viability of identified strategic centres. 			X
1.2 Rural Zones Objective: To protect the agricultural production value of rural land.			X
1.3 Mining, Petroleum Production and Extractive Industries Objective: To ensure that the future extraction of significant materials is not compromised by inappropriate development.			X
1.4 Oyster Aquaculture Objective: To protect oyster aquaculture from development that may result in adverse impact on water quality.			X
1.5 Rural Lands Objective: To protect and facilitate economic development of rural lands.			X



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2. Environment and Heritage			
2.1 Environment Protection Zones Objective: To protect and conserve environmentally sensitive areas.			X
2.2 Coastal Protection Objective: To protect and manage coastal areas of NSW			X
2.3 Heritage Conservation Objective: To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. Comment: This PP aims to heritage list Macquarie Ice Rink The PP will ensure that the identified item will be afforded heritage protection through their addition to Schedule 5 of LEP 2014 and the application of Clause 5.10 Heritage conservation of LEP 2014.	X		
2.4 Recreation Vehicle Areas Objective: To protect sensitive land from adverse impacts from recreation vehicles.			X
2.5 Application to E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs Objective: To ensure that a balanced and consistent approach is taken when applying environmental protection zones and overlays to land on the NSW Far North Coast.			X

3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones Objectives are: <ul style="list-style-type: none"> To encourage a variety and choice of housing types to provide for existing and future housing needs To make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services To minimise the impact of residential development on the environment and resource lands. Comment: The PP is consistent with the direction as it will protect an item of local heritage significance and does not contain any amendments affecting	X		

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development standards.			
3.2 Caravan Parks and Manufactured Home Estates Objective: To provide a variety of housing types.			X
3.3 Home Occupations Objective: To encourage the carrying out of low impact small businesses in dwelling houses.			X
3.4 Integrating Land Use and Transport Objectives are: <ul style="list-style-type: none"> Improving access to housing , jobs and services by walking, cycling and public transport Increasing choice of available transport and reduce dependence on cars and Support of public transport services and reduce travel demand. Providing for the efficient movement of freight 			X
3.5 Development Near Licensed Aerodromes Objective: To ensure safe and effective operation of aerodromes.			X
3.6 Shooting Ranges Objective: To reduce land use conflict, maintain appropriate levels of public safety and amenity.			X

4. Hazard and Risk			
4.1 Acid Sulfate Soils Objective: To avoid significant adverse impacts from use of land that contains acid sulfate soils.			X
4.2 Mine Subsidence and Unstable Land Objective: To prevent damage to life, property and the environment on land identified as subject to mine subsidence.			X
4.3 Flood Prone Land Objective: To ensure an LEP includes consideration of appropriate flood impacts.			X
4.4 Planning for Bushfire Protection Objective: To encourage sound management of bush fire prone areas.			X

5. Regional Planning			
5.1 Implementation of Regional Strategies (Revoked 17 October 2017)			
5.2 Sydney Drinking Water Catchments			X

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Objective: To protect water quality in the Sydney drinking water catchment.			
5.3 Farmland of State and Regional Significance on the NSW Far North Coast Objective: To ensure the best agricultural land will be available for current and future generations.			x
5.4 Commercial and Retail Development along the Pacific Highway, North Coast Objective: To manage commercial and retail development along the Pacific Hwy.			x
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)			
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)			
5.7 Central Coast (Revoked 10 July 2008.)			
5.8 Second Sydney Airport: Badgerys Creek (Revoked 20 August 2018)			
5.9 North West Rail Link Corridor Strategy Objective: To promote trains oriented development and manage growth around the eight train stations of the North West Rail Link			x
5.10 Implementation of Regional Plans Objective: To give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.			x
5.11 Development of Aboriginal Land Council land Objective: To provide consideration of development delivery plans prepared under <i>State Environmental Planning Policy (Aboriginal Land) 2019</i> .			x

6. Local Plan Making			
6.1 Approval and Referral Requirements Objective: To ensure that LEP provisions encourage the efficient and appropriate assessment of development.			x
6.2 Reserving Land for Public Purposes Objective: To facilitate the provision of public services and facilities.			x
6.3 Site Specific Provisions Objective: To discourage unnecessary restrictive site specific planning controls.			x

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7. Metropolitan Planning			
<u>7.1 Implementation of the Metropolitan Plan for Sydney.</u> Objective: To give legal affect to the vision contained in A Plan for Growing Sydney. Comment: A Plan for Growing Sydney has been superseded by A Greater Sydney Region Plan – A Metropolis of Three Cities The PP would be consistent with this Direction if it were in place. The Planning Proposal is consistent with the aims of A Greater Sydney Region Plan - A Metropolis of Three Cities and The North District Plan.	X		
<u>7.2 Implementation of Greater Macarthur Land Release Investigation</u> Objective: to ensure development within the Area is consistent with the Greater Macarthur Land Release Preliminary Strategy and Action Plan			X
<u>7.3 Parramatta Road Corridor Urban Transformation Strategy</u> Objective: To facilitate development within the Corridor that is consistent with the Strategy and the Parramatta Road Corridor Implementation Tool Kit.			X
<u>7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan</u> Objective: To ensure development within the North West Priority Growth Area is consistent with the Strategy.			X
<u>7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan</u> Objective: To ensure development within the Area is consistent with the Implementation Plan.			X
<u>7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan</u> Objective: To ensure development within the Priority Growth Area is consistent with the Implementation Plan and Back ground			X

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Analysis:			
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor			X
Objective: To ensure development within the precincts between Glenfield and Macarthur is consistent with the plans for these precincts.			

On 27 September 2018, the Minister for Planning gave an additional direction under 9.1 of the *Environmental Planning and Assessment Act 1979* with the objective of identifying the types of Planning Proposals that are to be advised on by Local Planning Panels on behalf of councils in the Greater Sydney Region and Wollongong and to establish the procedures in relation to those matters. This Direction is relevant to this Planning Proposal, and the proposal will be referred to the Ryde Local Planning Panel for advice on whether or not the PP should be forwarded to the Minister or Greater Sydney Commission under Section 3.34 of the EP&A Act 1979.

On the 28 February 2019 the Minister for Planning gave an additional direction under 9.1 of the *Environmental Planning and Assessment Act 1979*. The Direction is the *Environmental Planning and Assessment (Planning Agreements) Direction 2019* and is required to be considered by Councils if negotiating the terms of a proposed planning agreement that includes provision for affordable housing in connection with a development application. This direction is not applicable to the Planning Proposal.

5.3 Environment, Social and Economic Impact

5.3.1 Impact on Critical Habitat, Threatened Species and Ecological Communities

The Planning Proposal will not affect any critical habitat or threatened species, populations or ecological communities, or their habitats nor is it expected to have any adverse environmental effects.

5.3.2 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No, there is no likelihood for any other significant environmental effects. This planning proposal relates to heritage matters only.

Heritage

The Planning Proposal aims to list Macquarie Ice Rink as heritage item so that it will be protected through *Clause 5.10 Heritage Conservation* of LEP 2014 from work that would adversely affect its heritage significance.

5.3.3 Has the planning proposal adequately addressed any social and economic effects?

It is considered that the planning proposal will have positive social impacts through increased local heritage protection.

The planning proposal is not considered likely to have any significant economic impacts.

ITEM 1 (continued)**ATTACHMENT 1****5.4 State and Commonwealth interests****5.4.1 Is there adequate public infrastructure for the planning proposal?**

The planning proposal will not place additional demands on the existing infrastructure within the City of Ryde.

5.4.2 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Any State or Commonwealth authority that is identified in the Gateway determination as needing to be consulted will be consulted following that determination.

6.0 Mapping

No mapping amendments within this PP.

7.0 Community Consultation

This section provides details of the community consultation that is to be undertaken on the planning proposal:

The community consultation process to be undertaken for this Planning Proposal is expected to be undertaken in the following manner for a 28 day period:

- Written notice given:
 - in the local newspaper circulating in the area,
 - on Council's webpage
 - **to the property owner**
 - **to all properties within the vicinity of a heritage item**
 - **To all submission writers to LDA 2018/498**
 - to local state government representatives;
 - to relevant State and Commonwealth authorities as identified in the Gateway Determination.
- The written notice will:
 - provide a brief description of the objectives and intended outcomes,
 - state where the Planning Proposal can be inspected,
 - indicate the last date for submissions, and
 - confirm whether the Minister has chosen to delegate the making of the LEP.
- The following materials will be placed on exhibition in within each library, and Council's Business and Advisory Centre
 - the Planning Proposal,
 - the Gateway Determination.
 - Council resolution and reports
 - GML Heritage Report



ITEM 1 (continued)

ATTACHMENT 1



8.0 Project Timeline

Milestones	
Planning Proposal submitted with request for Gateway Determination	February 2020
Gateway Determination	March/April 2020
Community Consultation	April/May 2020
Outcomes of Community Consultation	June 2020
Planning Proposal submitted to Department of Planning and Environment requesting notification on Government website	July/August 2020



ITEM 1 (continued)

ATTACHMENT 1

ATT 1



Lifestyle and opportunity
@ your doorstep

**Extraordinary Council Meeting
MINUTES OF MEETING NO. 1/19**

Meeting Date: Tuesday 29 January 2019
Location: Council Chambers, Level 1A, 1 Pope Street, Ryde
Time: 8.04pm

Councillors Present: The Mayor, Councillor Laxale and Councillors Brown, Clifton, Gordon, Kim, Lane, Maggio, Moujalli, Pedersen, Purcell and Yedelian OAM.

Note: Councillor Moujalli arrived at the meeting at 8.42pm during Public Participation on Items Listed on the Agenda.

Note: Councillor Kim arrived at the meeting at 9.09pm during Public Participation on Items Listed on the Agenda.

Apologies: Councillor Zhou.

Staff Present: General Manager, Director – Customer and Community Services, Director – Corporate Services, Director – City Planning and Environment, Director – City Works, General Counsel, Manager – Communications and Engagement, Senior Coordinator – Community Engagement, Senior Coordinator – Communications, Communications Coordinator, Executive Assistant to the Director – Customer and Community Services, Senior Coordinator – Civic Support and Civic Support Officer.

PRAYER

Councillor Maggio offered prayer prior to the commencement of the meeting.

NATIONAL ANTHEM

The National Anthem was sung prior to the commencement of the meeting.

DISCLOSURES OF INTEREST

Councillor Lane disclosed a Less than Significant Pecuniary Interest in Notice of Motion 1 – Macquarie Ice Rink, for the reason that his grandparents own a small shareholding in the parent company of AMP Capital, AMP.

TABLING OF PETITIONS

No Petitions were tabled.

Minutes of the Extraordinary Council Meeting No. 1/19, dated 29 January 2019.

ITEM 1 (continued)
ATTACHMENT 1

Lifestyle and opportunity
@ your doorstep

Extraordinary Council Meeting Page 2

PUBLIC PARTICIPATION ON ITEMS LISTED ON THE AGENDA

The following persons addressed the Council:-

Name	Topic
Frank Gregg (representing Macquarie Ice Rink)	Notice of Motion 1 – Macquarie Ice Rink
John Dunn (representing Macquarie Ice Rink)	Notice of Motion 1 – Macquarie Ice Rink
Monica MacDonald (representing Macquarie Ice Rink)	Notice of Motion 1 – Macquarie Ice Rink
Jack Willis	Notice of Motion 1 – Macquarie Ice Rink
Dusica Jovanovic-Palic	Notice of Motion 1 – Macquarie Ice Rink
Andrew Rumpel (representing Sydney Bears Ice Hockey Club)	Notice of Motion 1 – Macquarie Ice Rink
Judy Skatsoon	Notice of Motion 1 – Macquarie Ice Rink
Liam Filson	Notice of Motion 1 – Macquarie Ice Rink
John Stuart	Notice of Motion 1 – Macquarie Ice Rink
Graeme Cruise	Notice of Motion 1 – Macquarie Ice Rink
Garry Aghajani	Notice of Motion 1 – Macquarie Ice Rink
Helen Corby	Notice of Motion 1 – Macquarie Ice Rink
Diane Turner (representing Dominoes Ice Skating Team)	Notice of Motion 1 – Macquarie Ice Rink
Rose Torossian	Notice of Motion 1 – Macquarie Ice Rink
Jason Luong (representing Macquarie Ice Rink's skating community)	Notice of Motion 1 – Macquarie Ice Rink
Ada Ke (representing LCLCC Ice Skating Saturday Group – 17 students)	Notice of Motion 1 – Macquarie Ice Rink
Tony Tran	Notice of Motion 1 – Macquarie Ice Rink
Sue Mautner	Notice of Motion 1 – Macquarie Ice Rink
Slav Baboshyn (representing Macquarie Ice Rink)	Notice of Motion 1 – Macquarie Ice Rink
Scott Stephenson (representing Sydney Ice Dogs)	Notice of Motion 1 – Macquarie Ice Rink
Debbie Hockam (representing Macquarie Dominoes Synchronised Skating Team – captain and rate payer)	Notice of Motion 1 – Macquarie Ice Rink
Angela Shao	Notice of Motion 1 – Macquarie Ice Rink
Sarka Barina (representing NSWISA)	Notice of Motion 1 – Macquarie Ice Rink
Lisa Cahill	Notice of Motion 1 – Macquarie Ice Rink
Andrew Robinson (representing Macquarie Ice Rink and Dr Frank Gregg)	Notice of Motion 1 – Macquarie Ice Rink

Minutes of the Extraordinary Council Meeting No. 1/19, dated 29 January 2019.

ITEM 1 (continued)

ATTACHMENT 1

Name	Topic
Rebecca Rowe (representing iStage – Theatre on Ice Figure skating Team)	Notice of Motion 1 – Macquarie Ice Rink
Francisco Valencia	Notice of Motion 1 – Macquarie Ice Rink
Mark Kirkland (representing AMP Capital Shopping Centres)	Notice of Motion 1 – Macquarie Ice Rink

Note: Paul Gregg (representing Macquarie Ice Rink) was called to address Council, however he was not present in the Chamber.

NOTICES OF MOTION

1 MACQUARIE ICE RINK - Councillor Trenton Brown and Councillor Jordan Lane

Note: Councillor Lane disclosed a Less than Significant Pecuniary Interest in this Item for the reason that his grandparents own a small shareholding in the parent company of AMP Capital, AMP.

Note: Frank Gregg (representing Macquarie Ice Rink), John Dunn (representing Macquarie Ice Rink), Monica MacDonald (representing Macquarie Ice Rink), Jack Willis, Dusica Jovanovic-Palic, Andrew Rumpel (representing Sydney Bears Ice Hockey Club), Judy Skatssoon, Liam Filson, John Stuart, Graeme Cruise, Garry Aghajani, Helen Corby, Diane Turner (representing Dominoes Ice Skating Team), Rose Torossian, Jason Luong (representing Macquarie Ice Rink's Skating Community), Ada Ke (representing LCLCC Ice Skating Saturday Group), Tony Tran, Sue Mautner, Slav Baboshyn (representing Macquarie Ice Rink), Scott Stephenson (representing Sydney Ice Dogs), Debbie Hockam (representing Macquarie Dominoes Synchronised Skating Team), Angela Shao, Sarka Barina (representing NSWISA), Lisa Cahill, Andrew Robinson (representing Macquarie Ice Rink and Dr Frank Gregg), Rebecca Rowe (representing iStage – Theatre on Ice Figure Skating Team), Francisco Valencia and Mark Kirkland (representing AMP Capital Shopping Centres) addressed the meeting in relation to this Item.

Note: A document from AMP Capital outlining the community engagement to take place on the Macquarie Centre Redevelopment was tabled in relation to this Item and a copy is ON FILE.

Note: Documentation from Monica MacDonald (representing Macquarie Ice Rink) was tabled in relation to this Item and a copy is ON FILE.

Note: A document from a resident Alana Wulff was tabled by Councillor Lane in relation to this Item and a copy is ON FILE.

MOTION: (Moved by Councillors Lane and Brown)

Minutes of the Extraordinary Council Meeting No. 1/19, dated 29 January 2019.

ITEM 1 (continued)

ATTACHMENT 1

That Council:

- (a) Recognise the strong community opposition to the imminent closure of the Macquarie Ice Rink;
- (b) Express its opposition to the closure of the Macquarie Ice Rink;
- (c) Facilitate urgent mediation between AMP Capital and the existing tenants of the Macquarie Ice Rink to guarantee the retention of this important community facility or one of equivalent Olympic size and features by arranging meetings with the current tenants of the Macquarie Ice Rink;
- (d) Engage a person with appropriate heritage knowledge, skills and experience to investigate whether the Macquarie Ice Rink is of heritage importance and to subsequently prepare a preliminary heritage assessment report with respect to this matter and a report be submitted back to Council with a view to seek an interim heritage order if the report finds grounds of heritage importance.
- (e) Recognise the challenges of opening public consultation during the January 2019 holiday period, when many families are away from Sydney, and extend the public consultation period until 1 March 2019.

AMENDMENT: (Moved by Councillors Purcell and Clifton)

That Council:

- (a) Recognise the strong community opposition to the imminent closure of the Macquarie Ice Rink;
- (b) Express its opposition to the closure of the Macquarie Ice Rink;
- (c) Facilitate urgent mediation between AMP Capital and the existing tenants of the Macquarie Ice Rink to guarantee the retention of this important community facility or one of equivalent Olympic size and features in stage 1, by arranging meetings with the current tenants of the Macquarie Ice Rink;
- (d) Engage a person with appropriate heritage knowledge, skills and experience to investigate whether the Macquarie Ice Rink is of heritage importance and to subsequently prepare a preliminary heritage assessment report with respect to this matter and a report be submitted back to Council with a view to seek an interim heritage order if the report finds grounds of heritage importance.
- (e) Recognise the challenges of opening public consultation during the January 2019 holiday period, when many families are away from Sydney, and extend the public consultation period until 1 March 2019.

Minutes of the Extraordinary Council Meeting No. 1/19, dated 29 January 2019.

ITEM 1 (continued)

ATTACHMENT 1

- (f) Place a copy of the Ice Rink's public [change.org](https://www.change.org) Macquarie ice rink petition on its website, and paper copies in all public facing council facilities.
- (g) Given that Ryde's local member, The Honourable Victor Dominello MP, failed to prevent the unwanted rezoning of Herring Road (Priority Precinct) in 2014 and his government's planning panel approval of AMPC's concept development application in 2016, that this Council call upon Premier Gladys Berejiklian to urgently intervene to save Macquarie Ice Rink.
- (h) That the General Manager formally notify AMP Capital that Council's official position is for an Olympic sized ice rink to be retained in any stage 1 redevelopment of the Macquarie Shopping Centre.

On being put to the Meeting, the voting on the Amendment was seven (7) votes for and four (4) against. The Amendment was **CARRIED** and then became the Motion.

Record of Voting:

For the Amendment: The Mayor, Councillor Laxale and Councillors Clifton, Gordon, Kim, Maggio, Pedersen and Purcell

Against the Amendment: Councillors Brown, Lane, Moujalli and Yedelian OAM

MOTION: (Moved by Councillors Purcell and Clifton)

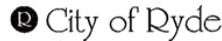
That Council:

- (a) Recognise the strong community opposition to the imminent closure of the Macquarie Ice Rink;
- (b) Express its opposition to the closure of the Macquarie Ice Rink;
- (c) Facilitate urgent mediation between AMP Capital and the existing tenants of the Macquarie Ice Rink to guarantee the retention of this important community facility or one of equivalent Olympic size and features in stage 1, by arranging meetings with the current tenants of the Macquarie Ice Rink;
- (d) Engage a person with appropriate heritage knowledge, skills and experience to investigate whether the Macquarie Ice Rink is of heritage importance and to subsequently prepare a preliminary heritage assessment report with respect to this matter and a report be submitted back to Council with a view to seek an interim heritage order if the report finds grounds of heritage importance.

Minutes of the Extraordinary Council Meeting No. 1/19, dated 29 January 2019.

ITEM 1 (continued)

ATTACHMENT 1

Lifestyle and opportunity
@ your doorstep

Extraordinary Council Meeting Page 6

- (e) Recognise the challenges of opening public consultation during the January 2019 holiday period, when many families are away from Sydney, and extend the public consultation period until 1 March 2019.
- (f) Place a copy of the Ice Rink's public change.org Macquarie ice rink petition on its website, and paper copies in all public facing council facilities.
- (g) Given that Ryde's local member, The Honourable Victor Dominello MP, failed to prevent the unwanted rezoning of Herring Road (Priority Precinct) in 2014 and his government's planning panel approval of AMPC's concept development application in 2016, that this Council call upon Premier Gladys Berejiklian to urgently intervene to save Macquarie Ice Rink.
- (h) That the General Manager formally notify AMP Capital that Council's official position is for an Olympic sized ice rink to be retained in any stage 1 redevelopment of the Macquarie Shopping Centre.

MOTION: (Moved by Councillors Lane and Yedelian OAM)

That the Motion be dealt with in Seriatim.

On being put to the Meeting, the voting on the Motion was four (4) votes for and seven (7) against. The Motion was **LOST**.**Record of Voting:**For the Motion: Councillors Brown, Lane, Moujalli and Yedelian OAMAgainst the Motion: The Mayor, Councillor Laxale and Councillors Clifton, Gordon, Kim, Maggio, Purcell and Pedersen**RESOLUTION:** (Moved by Councillors Purcell and Clifton)

That Council:

- (a) Recognise the strong community opposition to the imminent closure of the Macquarie Ice Rink;
- (b) Express its opposition to the closure of the Macquarie Ice Rink;
- (c) Facilitate urgent mediation between AMP Capital and the existing tenants of the Macquarie Ice Rink to guarantee the retention of this important community facility or one of equivalent Olympic size and features in stage 1, by arranging meetings with the current tenants of the Macquarie Ice Rink;

Minutes of the Extraordinary Council Meeting No. 1/19, dated 29 January 2019.

ITEM 1 (continued)

ATTACHMENT 1

- (d) Engage a person with appropriate heritage knowledge, skills and experience to investigate whether the Macquarie Ice Rink is of heritage importance and to subsequently prepare a preliminary heritage assessment report with respect to this matter and a report be submitted back to Council with a view to seek an interim heritage order if the report finds grounds of heritage importance.
- (e) Recognise the challenges of opening public consultation during the January 2019 holiday period, when many families are away from Sydney, and extend the public consultation period until 1 March 2019.
- (f) Place a copy of the Ice Rink's public change.org Macquarie ice rink petition on its website, and paper copies in all public facing council facilities.
- (g) Given that Ryde's local member, The Honourable Victor Dominello MP, failed to prevent the unwanted rezoning of Herring Road (Priority Precinct) in 2014 and his government's planning panel approval of AMPC's concept development application in 2016, that this Council call upon Premier Gladys Berejiklian to urgently intervene to save Macquarie Ice Rink.
- (h) That the General Manager formally notify AMP Capital that Council's official position is for an Olympic sized ice rink to be retained in any stage 1 redevelopment of the Macquarie Shopping Centre.

Record of Voting:

For the Motion: The Mayor, Councillor Laxale and Councillors Brown, Clifton, Gordon, Kim, Lane, Maggio, Moujalli, Purcell and Pedersen

Against the Motion: Councillor Yedelian OAM

The meeting closed at 11.06pm.

CONFIRMED THIS 26TH DAY OF FEBRUARY 2019

Chairperson

Minutes of the Extraordinary Council Meeting No. 1/19, dated 29 January 2019.

ITEM 1 (continued)

ATTACHMENT 1

ATT 2



Government Gazette

of the State of

New South Wales

Number 10

— Monday, 4 February 2019 —

The New South Wales Government Gazette is the permanent public record of official NSW Government notices. It also contains local council, private and other notices.

From 1 January 2019, each notice in the Government Gazette has a unique identifier that appears in round brackets at the end of the notice and that can be used as a reference for that notice (for example, (n2019-14)).

The Gazette is compiled by the Parliamentary Counsel's Office and published on the NSW legislation website (www.legislation.nsw.gov.au) under the authority of the NSW Government. The website contains a permanent archive of past Gazettes.

To submit a notice for gazettal – see Gazette Information.

ISSN 2201-7534

By Authority
Government Printer

250

NSW Government Gazette No 10 of 4 February 2019

ITEM 1 (continued)

ATTACHMENT 1

Government Notices

GOVERNMENT NOTICES
Planning and Environment Notices

HERITAGE ACT 1977

INTERIM HERITAGE ORDER NO. 147

Macquarie Ice Rink

In pursuance of Section 24 of the *Heritage Act 1977* (NSW), I, the Minister for Heritage, do, by this my order:

- (i) make an interim heritage order in respect of the item of the environmental heritage specified or described in Schedule 'A'; and
- (ii) declare that the interim heritage order shall apply to the curtilage or site of such item, being the land described in Schedule 'B'.

The Hon Gabrielle Upton MP
Minister for Heritage

Sydney, 1 Day of February 2019

SCHEDULE "A"

The property known as Macquarie Ice Rink, situated on the land described in Schedule "B".

SCHEDULE "B"

All those pieces or parcels of land known as Part Lot 1 DP 1190494 in Parish of Hunters Hill, County of Cumberland shown on the plan catalogued HC 3231 in the office of the Heritage Council of New South Wales.

(n2019-275)

ITEM 1 (continued)

ATTACHMENT 1

Heritage Council of New South Wales



**Interim Heritage Order
Macquarie Ice Rink. Plan no:3231**

Gazettal Date: 04 February 2019

0 30 60 90 120
Meters





Scale: 1:2,500

Datum/Projection: GCS GDA 1994

Date: 6/02/2019



Legend

-  IHO Curtilage
-  Land Parcels
-  LGAs
-  Suburbs

ITEM 1 (continued)

ATTACHMENT 1



Macquarie Ice Rink

Heritage Assessment

Prepared for City of Ryde Council

September 2019



Sydney Office Level 6 372 Elizabeth Street Surry Hills NSW Australia 2010 T +61 2 9319 4811

Canberra Office 2A Mugga Way Red Hill ACT Australia 2603 T +61 2 6273 7540

GML Heritage Pty Ltd ABN 60 001 179 362

www.gml.com.au

ITEM 1 (continued)

ATTACHMENT 1

GML Heritage

Report Register



The following report register documents the development and issue of the report entitled Macquarie Ice Rink—Heritage Assessment, undertaken by GML Heritage Pty Ltd in accordance with its quality management system.

Job No.	Issue No.	Notes/Description	Issue Date
19-0125	1	Draft Report	18 July 2019
19-0125	2	Final Report	13 September 2019

Quality Assurance

GML Heritage Pty Ltd operates under a quality management system which has been certified as complying with the Australian/New Zealand Standard for quality management systems AS/NZS ISO 9001:2016.

The report has been reviewed and approved for issue in accordance with the GML quality assurance policy and procedures.

Project Manager:	Isabelle Rowlatt	Project Director & Reviewer:	Lisa Trueman
Issue No.	2	Issue No.	2
Signature		Signature	
Position:	Heritage Consultant	Position:	Associate
Date:	13 September 2019	Date:	13 September 2019

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ITEM 1 (continued)

ATTACHMENT 1

GML Heritage

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GML Heritage

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Appendix A

NSW Heritage Office Assessment Guidelines

Appendix B

Interim Heritage Order No. 147

ITEM 1 (continued)

ATTACHMENT 1

GML Heritage

1.0 Introduction

1.1 Background

GML Heritage Pty Ltd (GML) has been commissioned by City of Ryde Council (Council) to provide a heritage assessment of the Macquarie Ice Rink in order to determine if it reaches the threshold for listing as a heritage item within the *Ryde Local Environmental Plan 2014* (RLEP; Ryde LEP).

The Macquarie Ice Rink is located on Level 1 of the Macquarie Centre, 197–223 Herring Road, Macquarie Park. The ice rink was constructed as part of the original design for the Macquarie Centre, which opened in 1981. The ice rink has operated at this location since its construction.

Council received a development application (LDA2018/0498) in December 2018 from AMP Capital for Stage 1 of the redevelopment of the Macquarie Centre, which involved the demolition of the ice rink and construction of a new four-storey platform for retail premises, two basement levels, two additional levels of parking, and creation of a Station Plaza to link to the nearby railway station.

The proposal to demolish the ice rink resulted in significant backlash from the Ryde local community and beyond. In response, AMP Capital placed the development application on hold. An Interim Heritage Order (IHO) (IHO No. 147) was imposed on the property by the NSW Minister for Heritage on 4 February 2019. The IHO is attached to this report at Appendix B.

The NSW Heritage Office is currently assessing the site's potential state significance. This report considers the significance of the ice rink at the local and state level.

1.2 Identification of Study Area

The subject site is located on Level 1 of the Macquarie Centre, which is in Macquarie Park and is bounded by Talavera, Waterloo and Herring roads. The site is zoned B4—Mixed Use.

The location of the site is identified in Figures 1.1 and 1.2.

1.3 Heritage Context

The site is not currently listed as a heritage item, nor is it within a heritage conservation area.

Nearby listed heritage items are identified in the following table.

Table 1.1 Heritage Items in the Vicinity of the Subject Site.

Item Name	Address	Significance	Listing
Macquarie University (ruins)	73 Talavera Road, Macquarie Park	Local	<i>Ryde Local Environmental Plan 2014</i>

1.4 Limitations

The background research for this report has been limited to a desktop analysis of available information only. No additional primary or archival research has been included in the scope of this assessment.

ITEM 1 (continued)

ATTACHMENT 1

GML Heritage

1.5 Methodology

This assessment has been undertaken in accordance with the NSW Office of Environment and Heritage publication *Assessing Heritage Significance*. It is also consistent with the relevant principles and guidelines of the *Australia ICOMOS Burra Charter, 2013* (the Burra Charter).

1.6 Authorship

This report has been prepared by Isabelle Rowlett (Heritage Consultant) and Lisa Trueman (Associate). Minna Muhlen-Schulte (Senior Heritage Consultant, Historian) provided the background historical analysis.

1.7 Terminology

The terminology used in this report is consistent with the *NSW Heritage Manual*, prepared by the Heritage Office (now Heritage Division), and the Burra Charter.

Place means site, area, land, landscape, building or other work, group of buildings or other works, and may include components, contents, spaces and views.

Cultural significance means aesthetic, historic, scientific, social or spiritual value for past, present or future generations. Cultural significance is embodied in the place itself, its fabric, setting, use, associations, meanings, records, related places and related objects. Places may have a range of values for different individuals or groups.

Fabric means all the physical material of the place including components, fixtures, contents, and objects.

Conservation means all the processes of looking after a place so to retain its cultural significance.

Maintenance means the continuous protective care of the fabric and setting of a place, and is to be distinguished from repair. Repair involves restoration or reconstruction.

Preservation means maintaining the fabric of a place in its existing state and retarding deterioration.

Restoration means returning the existing fabric of a place to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material.

Reconstruction means returning the place to a known earlier state and is distinguished from restoration by the introduction of new material into the fabric.

Adaptation means modifying a place to suit the existing use or a proposed use.

Use means the functions of a place, as well as the activities and practices that may occur at the place.

Compatible use means a use which respects the cultural significance of a place. Such a use involves no, or minimal, impact on cultural significance.

Curtilage is defined as the area of land surrounding an item that is required to retain its heritage significance. The nature and extent of the curtilage will vary and can include but is not limited to lot boundaries and visual catchments.

Setting means the area around a place, which may include the visual catchment.

Related place means a place that contributes to the cultural significance of another place.

ITEM 1 (continued)

ATTACHMENT 1

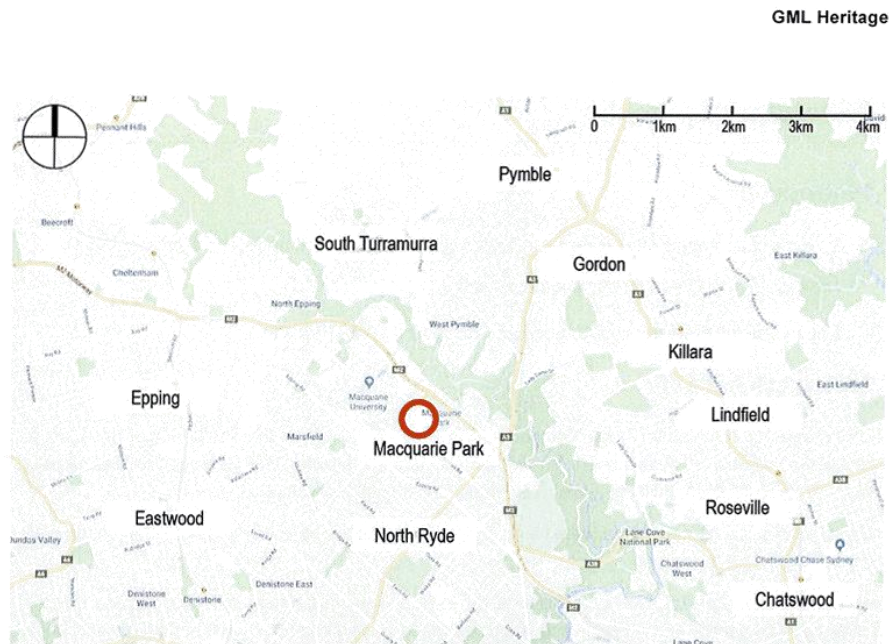


Figure 1.1 Map showing the location of the Macquarie Centre, Macquarie Park. (Source: Google Maps with GML overlay, 2019)



Figure 1.2 Location plan with the Macquarie Ice Rink circled in red and the shopping centre outlined in orange. (Source: SIX Maps with GML overlay, 2019)

ITEM 1 (continued)**ATTACHMENT 1**

GML Heritage

2.0 Statutory Context**2.1 Introduction**

In NSW, items of heritage significance are afforded statutory protection under the following Acts:

- *Heritage Act 1977* (NSW) (Heritage Act); and
- *Environmental Planning and Assessment Act 1979* (NSW) (EPA Act).

2.2 Heritage Act 1977

The Heritage Act is a statutory tool designed to conserve NSW's environmental heritage. It is used to regulate the impacts of development on the state's heritage assets. The Heritage Act describes a heritage item as 'a place, building, work, relic, moveable object or precinct'.

The subject site is not listed on the State Heritage Register (SHR). There are no items listed on the SHR in the vicinity.

Part 3 of the Heritage Act allows the Minister to make an interim heritage order on a place that the Minister considers may, on further investigation, be found to be of state or local heritage significance. The NSW Minister for Heritage imposed an IHO on Macquarie Ice Rink on 4 February 2019 (IHO No. 147). The IHO is attached to this report at Appendix C.

2.3 Environmental Planning and Assessment Act 1979

The EPA Act is administered by the NSW Department of Planning and Environment and provides for environmental planning instruments to be made to guide the process of development and land use. The EPA Act also provides for the protection of local heritage items and conservation areas through listing on Local Environmental Plans (LEPs) and State Environmental Planning Policies (SEPPs) which provide local councils with the framework required to make planning decisions.

2.3.1 Ryde Local Environmental Plan 2014

Ryde LEP is the principal environmental planning instrument applying to the land. Schedule 5 of the Ryde LEP identifies heritage items and heritage conservation areas. The objectives of Clause 5.10 are as follows:

- (a) to conserve the environmental heritage of Ryde,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

The subject site is not currently listed as a heritage item, nor is it within a heritage conservation area, within the Ryde LEP.

ITEM 1 (continued)**ATTACHMENT 1**

GML Heritage

3.0 Historical Overview**3.1 Introduction**

This history provides an overview of the development of the Macquarie Centre Ice Rink. This history does not cover the Aboriginal occupation of Ryde but acknowledges the Wallumedegal people who have lived in the area for hundreds of generations.

3.2 Macquarie Centre

In 1968, Grace Bros bought 16 acres of land at North Ryde with plans to build a multimillion-dollar centre. David Jones had also developed preliminary plans for a shopping centre, but Grace Bros prevailed, appealing planning decisions at Ryde Municipal Council until approval was granted in 1969. However, a slowed economy stalled progress until an amended development application was approved at the end of 1978.

The design sought to incorporate new philosophies of natural light, interior greenery and extensive leisure and recreation facilities into one centre. The three-level spiral ramp made it one of the longest malls in the world which, while broadening accessibility for users, also confused many consumers when navigating the space.¹ However, the intent of the project architects Whitehead and Payne was to develop an interior that was 'humanised and intimate in scale.'² An estimated 4,500 plants from 40 different species were used throughout the centre and to soften the concrete exterior.

In 1979, the AMP Society became the major shareholder and financed the majority of the \$80 million required for the construction of the complex. In November 1981, the Centre was officially opened by NSW Premier Neville Wran via satellite link from Japan. Facilities included 130 shops and services such as a post office and a medical centre, and although other recreational facilities had not passed through the development stage, the Olympic-sized ice skating rink was approved and constructed.

3.3 Macquarie Ice Rink**3.3.1 Construction of the Rink**

At the time the Macquarie Centre was built, the ice rink feature was unique to shopping centres in Australia. The inclusion of this leisure facility was part of a trend of commercial shopping redevelopments in the 1980s to diversify the consumer experience and encourage people to linger in centres longer during their shopping visit. Measuring 60 by 30.5 metres with seating for 1,200 people, it was initially planned to operate for 24 hours a day. The opening times were reduced but it still operated seven days a week, becoming a chief attraction in the marketing of the Macquarie Centre. Touring guest appearances from the Canadian Ice Hockey Team and the Australian Speed Skating Team as well as hosting of the NSW Professional Figure Skating Championships bolstered its appeal.

Despite some early artificial ice rinks appearing in Adelaide, Melbourne and Sydney (all coincidentally called Glaciariums) during the first part of the twentieth century, and subsequent ice parks and rinks built mid-century, there are no surviving examples of ice rinks in Australia built prior to the 1970s. The Canterbury Olympic Ice Rink, opened in 1971, is the longest-running ice rink in Australia.³

ITEM 1 (continued)

ATTACHMENT 1

GML Heritage

3.3.2 Social History

The Macquarie Ice Rink quickly became part of the social experience of visiting the Macquarie Centre. People from throughout Sydney and NSW brought their children to skate or have lessons; schools used the rink for excursions as did students from the neighbouring Macquarie University. Many Sydneysiders learnt to skate at the rink and as a social venue it became especially popular with teenagers, one of whom, Kate, remembers:

... The opening of the Macquarie Centre. It was important for teenage girls to visit the centre in its first month (it was kind of rite of passage at my high school). It was the first major shopping centre I visited without my parents. Because the public transport links to the centre were good, I went regularly after school with a friend: we would window shop and ice skate.⁴

Skating at the rink was a popular pastime, especially with teenagers and older children who could easily visit the shopping centre after school. School holidays saw particularly high patronage, and the rink would often have to turn away people who hadn't brought their own skates as there were no more rental skates available. One former Ryde resident, Katie, remembers that she 'started skating at Macquarie Ice Rink when I was 8 years old ... until I was about 25. I literally grew up at the ice rink.' This is echoed by Kayla, who also grew up at the rink 'as part of the Friday night regulars'.⁵

Over its 40-year lifespan, the rink has also been used for a training ground for figure skaters and Olympians such as gold medallist Steven Bradbury, who trained there as a child and won his first national championship there in 1983, describing the experience as 'one of the highlights of my skating career'.⁸ The rink is also the only venue outside of the northern hemisphere to have hosted a senior World Championship in a skating discipline.⁹

It is the home ground rink for the Australian Ice Hockey League (AIHL), the Sydney Bears and Sydney Ice Dogs. Josie Jerome, secretary of the Sydney Bears Ice Hockey Club, couldn't face telling her sons their dreams of playing hockey for Australia would never come true, as the closure would 'realistically have meant the end of their hockey, which would have pretty much meant the end of the world to them'.

Several Olympic hopefuls have relocated to the Ryde area in order to have better access to the rink and train in preparation for the 2022 Olympic Games.¹⁰ Andrew Dodds, an ice dance competitor, moved to the Ryde area for the opportunities available at the rink. He said of the potential closure: 'Everyone in the skating community around Australia has been a part of this rink at some point, it is a part of all of us, and we are all feeling it today.'

In addition to the Macquarie Ice Rink's own learn to skate programs, a number of skating schools and clubs use the Macquarie Ice Rink as their training base. These include the Sydney Speed Skating Club, one of only two speed skating clubs in NSW; the Sydney Bears Hockey School; iStage Sydney Ice Dancing School; and the Macquarie Ice Skating Club. The ice rink hosts prominent events in the skating community throughout the year, including the Sydney Synch Festival and the Australian Figure Skating Championships.

Local attachment to the rink has been further highlighted in newspaper coverage of its potential closure in 2018. The Member for Ryde and NSW Customer Service Minister Victor Dominello said, 'Growing up in Ryde, I spent many weekends and evenings ice skating with friends and family.'¹¹ The founding secretary of the Macquarie Ice Skating Club, Margaret Coe, posted to the 'Save Macquarie Ice Rink' Facebook page that there are people who are still skating there who had started when the rink opened.¹²

ITEM 1 (continued)

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GML Heritage

3.3.3 Current Development Pressures

In 2015, the NSW State Government changed the zoning requirements of the area where the Macquarie Centre is located as part of the Macquarie University Priority Precinct. As a result, the permissible building heights at the Macquarie Centre increased from 10 storeys to 65 metres, 90 metres and 120 metres. The permissible building height over the ice rink is now 120 metres. The following year the Ryde LEP was updated to align with these changes.

The Ryde DCP 2014 Part 4.5: Macquarie Park includes controls requiring a station plaza east of Macquarie University Station to enhance commuter experience and create a new outdoor meeting place. The plaza is required to have minimum dimensions of 80 metres by 80 metres.¹³ A concept plan for redevelopment of the Macquarie Centre, including the station plaza and the provision of four new towers, was recommended for approval by the Joint Regional Planning Panel on 10 November 2016 (LDA2015/0655). This concept plan included the demolition of the ice rink in order to facilitate the development of the station plaza, and included development of a 37 storey tower at this location with a retail and outdoor dining precinct. In 2016, Council entered into a Voluntary Planning Agreement (VPA) with owners of the Macquarie Centre, AMP Capital, to build a library and creative hub as part of the redevelopment of the site.

In December 2018, Council received a development application (LDA2018/0498) for the demolition of part of the Macquarie Centre (including the ice rink) and redevelopment of the station plaza (Figure 3.13), and were strongly opposed by the Ryde community. The proposed closure was the subject of national news coverage, and a petition to save the ice rink gathered 31,213 signatures by February. In addition to this, the state member for Ryde, Victor Dominello, sought an IHO on the property which was imposed by the Minister on 4 February 2019 after significant lobbying by the community. In response to the public response to the closure of the Ice Rink, AMP requested that the development application be put on hold on 18 January 2019.

The opposition to the proposed demolition highlights the significance of the ice rink not only to the local Ryde community, but to the wider region. An Extraordinary Meeting of City of Ryde Council held on 29 January 2019 saw attendees fill the council chambers to capacity and out the door. Speakers in support of the Macquarie Ice Rink included representatives from the Sydney Bears Ice Hockey Club, Sydney Ice Dogs, Macquarie Dominoes Synchronised Skating Team, and the NSW Ice Skating Association, who together highlighted the importance of having an Olympic-sized facility catering to competitors at an elite level as well as junior players.¹⁴ Following the news that AMP was withdrawing its application, community responses were wholeheartedly relieved, with many public comments of support for the ice rink and the 'really wonderful news for all those who use the rink and who will use the rink in the future'.¹⁵ LDA2015/0655

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Figure 3.1 Macquarie Centre under construction, March 1981. (Source: Coles Myer Archive, Macquarie Centre newsletter, Vol. 1, No. 1, State Library Victoria)

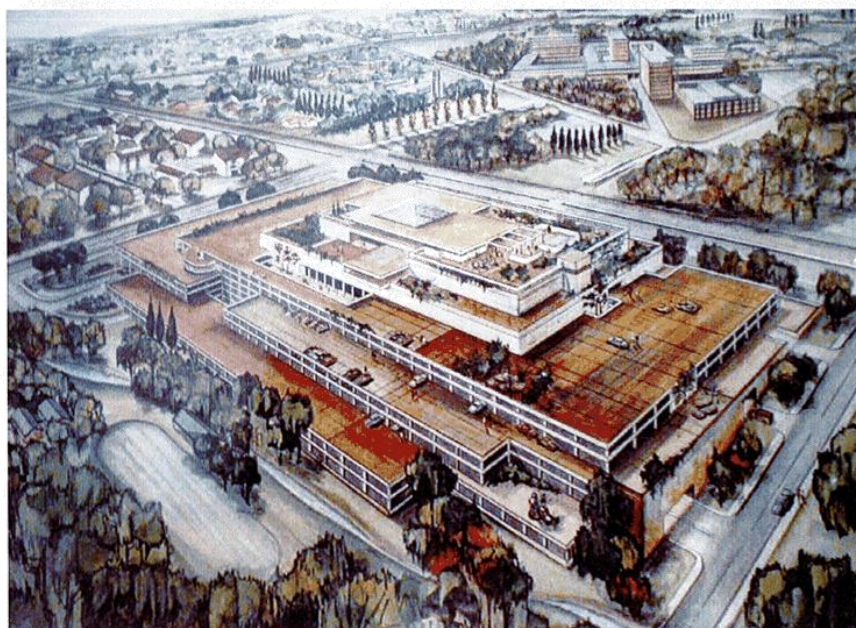


Figure 3.2 Architect's depiction of Macquarie Centre, 1980. (Source: Coles Myer Archive, MS13468, State Library Victoria)

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Figure 3.3 Macquarie Ice Rink, 1983. The viewing area from the food court can be seen on the far wall at left. (Source: Photograph by Adrian Greer for *Sydney Morning Herald*)

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GML Heritage



Figure 3.4 Ice dancers in the Christmas concert at Macquarie Ice Rink. This photograph was undated but likely taken in the 1980s or early 1990s. (Source: Margaret Coe, 'Save the Macquarie Ice Rink' Facebook page, 24 January 2019)



Figure 3.5 The Estonian Dance Troupe performing in the Folkloric Festival, c1980s. (Source: Margaret Coe, 'Save the Macquarie Ice Rink' Facebook page, 24 January 2019)

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Figure 3.6 A women's skating team, c1985. (Source: Hayley Smith, 'Save the Macquarie Ice Rink' Facebook page, 30 January 2019)

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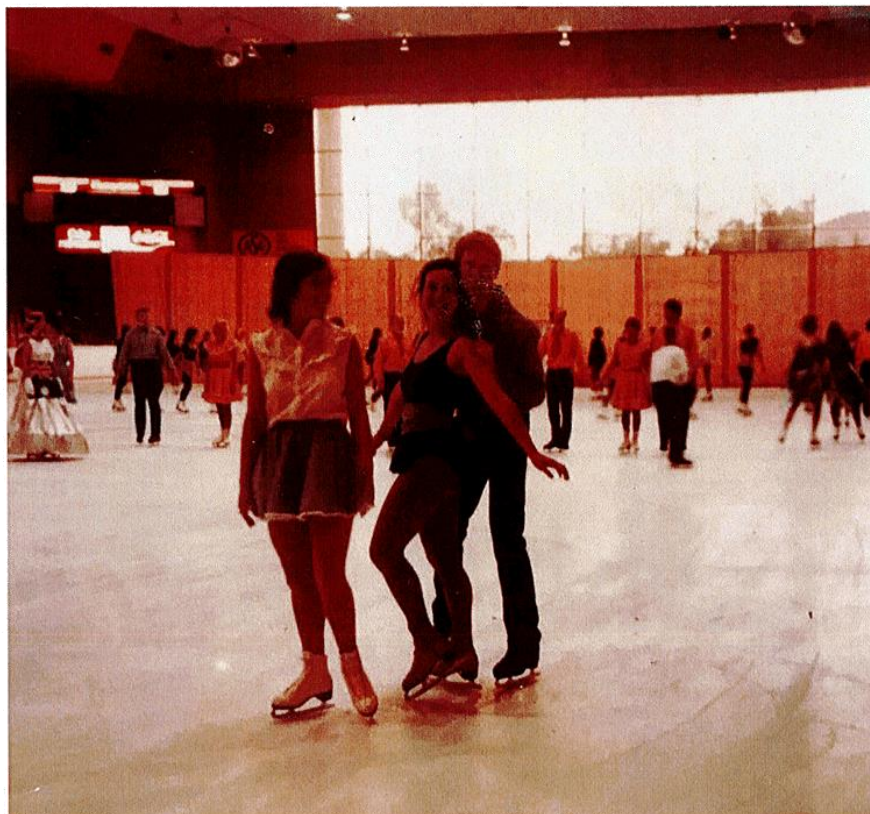


Figure 3.7 Social skaters at the Macquarie Ice Rink, c1985. (Source: Hayley Smith, 'Save the Macquarie Ice Rink' Facebook page, 30 January 2019)

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Figure 3.8 Olympic gold medallist Steven Bradbury at Macquarie Ice Rink, 1991. (Source: *Sydney Morning Herald*)



Figure 3.9 Steven Bradbury (left) on the podium at Macquarie Ice Rink, 1991. (Source: *Sydney Morning Herald*)

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Figure 3.10 Children learning to skate at the Macquarie Ice Rink. (Source: Brooke Mitchell for *Sydney Morning Herald*, 2 February 2019)



Figure 3.11 Members of iStage Sydney, an ice dancing troupe who use the Macquarie Ice Rink to train. (Source: Jordan Shields for *Northern District Times*, 6 February 2019)

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Figure 3.12 Members of the Sydney Bears Ice Hockey Club gathered at the Macquarie Ice Rink. (Source: Sydney Bears, 2019)



Figure 3.13 An artist's impression of the proposed redevelopment of the Macquarie Centre, showing the entrance to Macquarie University Station at the far right and the outdoor plaza at centre (the current location of the ice rink). (Source: AMP Capital)

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ATTACHMENT 1

GML Heritage

3.4 Endnotes

- ¹ Bailey, M 2011, 'Bringing the 'city to the suburbs': regional shopping centre development in Sydney 1957 – 1994', Thesis (PhD) Macquarie University, p 171.
- ² Bailey, M 2011, 'Bringing the 'city to the suburbs': regional shopping centre development in Sydney 1957 – 1994', Thesis (PhD) Macquarie University, p 167.
- ³ Askew, C, 'History of Ice Rinks and Ice Skating in Australia', *History Matters*, Blogsite for the Department of History at the University of Sydney, viewed 18 June 2019 <http://blogs.usyd.edu.au/historymatters/2016/11/history_of_ice_rinks_and_ice_s.html>.
- ⁴ Bailey, M 2011, 'Bringing the 'city to the suburbs': regional shopping centre development in Sydney 1957 – 1994', Thesis (PhD) Macquarie University, p 176.
- ⁵ Kellett, K, public comment on 'Save the Macquarie Ice Rink' Facebook page, 29 January 2019.
- ⁸ Keoghan, S, "'Just devastating': Olympic dreams shattered by Macquarie Ice Rink demolition', *Sydney Morning Herald*, 17 January 2019, viewed 15 July 2019 <<https://www.smh.com.au/national/nsw/i-stood-on-the-rink-and-cried-olympic-dream-shattered-by-macquarie-ice-rink-demolition-20190117-p50rvr.html>>.
- ⁹ Morgan, D, 'Speed Skating—A Background', Ice Racing NSW, viewed 15 July 2019 <http://www.iceracingnsw.org.au/pdfs/History_of_Speed_Skating_DM.pdf>.
- ¹⁰ Keoghan, S, "'Just devastating': Olympic dreams shattered by Macquarie Ice Rink demolition', *Sydney Morning Herald*, 17 January 2019, viewed 15 July 2019 <<https://www.smh.com.au/national/nsw/i-stood-on-the-rink-and-cried-olympic-dream-shattered-by-macquarie-ice-rink-demolition-20190117-p50rvr.html>>.
- ¹¹ Clun, R, 'Petitions launched as Macquarie Ice Rink faces demolition', *Sydney Morning Herald*, 17 January 2019, viewed 18 June 2019 <<https://www.smh.com.au/national/nsw/petitions-launched-as-macquarie-ice-rink-faces-demolition-20190117-p50ru5.html>>.
- ¹² Coe, M, public comment on 'Save the Macquarie Ice Rink' Facebook page, 30 January 2019.
- ¹³ Ryde Development Control Plan 2014 Part 4.5: Macquarie Park Corridor, p 35, viewed 4 September 2019 <<https://www.ryde.nsw.gov.au/files/assets/public/development/dcp/dcp-2014-4.5-macquarie-park-corridor.pdf>>.
- ¹⁴ City of Ryde, Minutes of Extraordinary Council Meeting, 29 January 2019, viewed 5 July 2019 <<https://www.ryde.nsw.gov.au/Council/Agendas-and-Minutes/Council/Extraordinary-Council-Meeting-29-January-2019>>.
- ¹⁵ Taylor, M, 'People power prevails in rink fight', *Northern District Times*, 6 February 2019, pp 8–10, viewed 15 July 2019 <<http://newslocal.smedia.com.au/northern-district-times/>>.

ITEM 1 (continued)**ATTACHMENT 1**

GML Heritage

4.0 Site Analysis**4.1 Local Context**

The subject site is located within the Macquarie Centre in Macquarie Park, bounded by Waterloo Road, Herring Road and Talavera Road. It is approximately 15 kilometres northwest of the Sydney CBD. Macquarie Park is a predominantly commercial area, with a number of corporate business precincts. It is a small suburb defined by the park-like campus of Macquarie University in the northwest, and the Macquarie Park Cemetery and Crematorium in the southeast.

4.2 Macquarie Ice Rink

The ice rink is located on Level 1 of the Macquarie Centre. The Macquarie Centre is a shopping complex with four levels and includes major department stores, a cinema, fitness centres, grocery stores, and over 100 other speciality shops. There are up to 5000 parking spaces available at the centre spread across a number of levels. Nearby stores include Macquarie Medical Imaging, Macquarie Health Professionals, and a range of health insurance shopfronts.

The ice rink's foyer is accessed via a set of stairs leading up from a public walkway and has a carpeted floor, ticketing desk, a waiting area, and windows providing a view of the rink. There is a café located next to the foyer.

The ice rink is located in a double-height space with painted masonry walls and a concrete floor. It measures 60 metres by 30.5 metres and is encircled by a solid barrier with gates to provide access to the ice. There is a full height multi-paned window on the southwestern wall, looking out onto a garden with Waterloo Road beyond. The room is lit by spotlights arranged on the panelled ceiling, where there is also a mirrored ball for events.

The rink has capacity for 1225 spectators. There is tiered seating on both sides of the ice rink, with a long mezzanine with a glass balustrade along the northwestern wall accessed by stairs next to the foyer. The space below the mezzanine is enclosed and houses the shoe-hire desk, male and female toilets, and storage/services. At the southern end of the mezzanine is a raised platform with a large television screen, audio equipment and additional seating.

The ice rink can be viewed from the food court on Level 2 of the Macquarie Centre, which provides a full-height glazed wall overlooking the rink.

During the school term, the ice rink is visited by approximately 3,500 patrons per week. In school holidays, visitation rises to around 6,500–7,000 per week.

The ice rink was upgraded in 2017, including a refurbishment of the rink and laying of new ice.

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4.2.1 Photographs of the Macquarie Ice Rink

The following photographs were taken by GML on 3 May 2019.

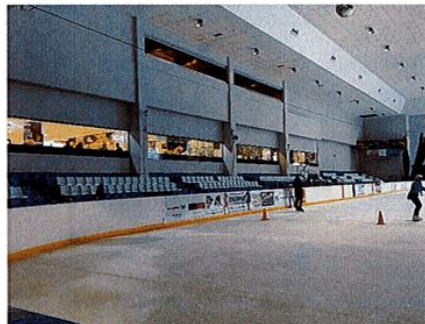


Figure 4.1 View of the ice rink from the foyer, looking towards tiered seating at the side of the rink.

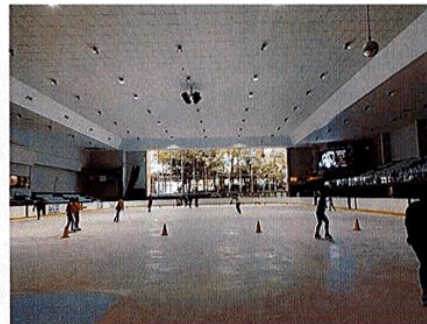


Figure 4.2 View of the ice rink from the foyer, towards Waterloo Road.

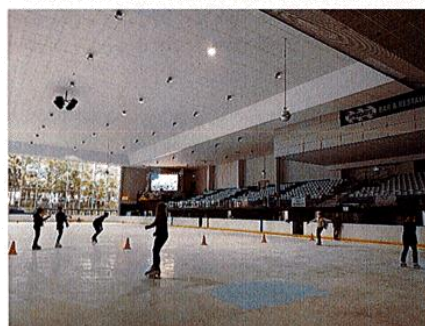


Figure 4.3 View of the ice rink looking towards the mezzanine.

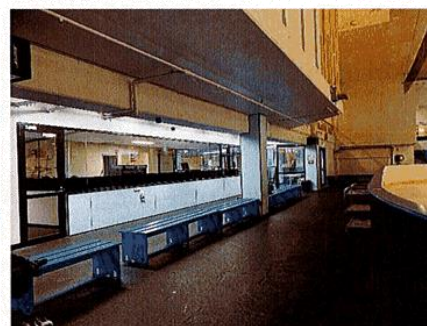


Figure 4.4 View of the entrance foyer and ticketing desk.



Figure 4.5 The kiosk adjacent to the ticketing desk.



Figure 4.6 The skating shoe-hire desk with mezzanine above.

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Figure 4.7 Foot measurement guide located next to the stairs to the mezzanine level.

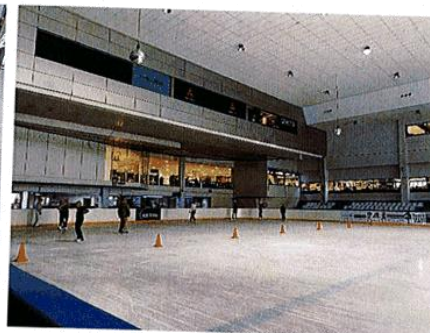


Figure 4.8 View from the spectator seating area over the ice rink. Note the food court viewing area at the rear, on Level 1 of the shopping centre.

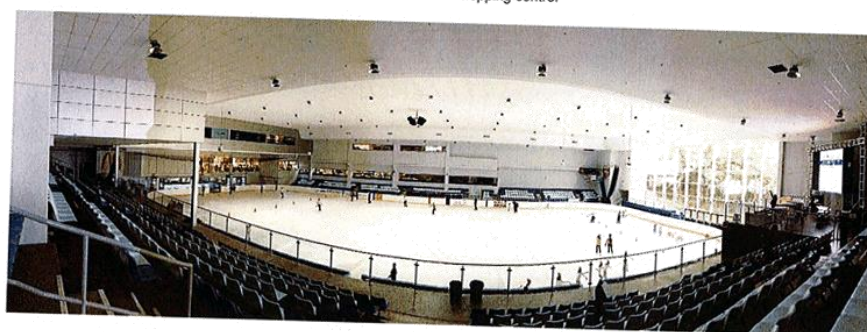


Figure 4.9 Panoramic image of the ice rink, as viewed from the top of the mezzanine. (Source: City of Ryde, 2019)

ITEM 1 (continued)**ATTACHMENT 1**

GML Heritage

5.0 Assessment of Significance**5.1 Comparative Analysis**

The initial desktop review of currently available information regarding the heritage values of the subject site found limited material able to inform a comparative assessment. In this context, this comparative assessment has sought to identify criteria relevant to assessing the heritage significance of the subject site relative to:

- other ice skating rinks in the Sydney area; and
- built heritage places within the Ryde LGA and Sydney with heritage significance linked to their use as a recreational or sporting facility.

5.1.1 Ice Rinks in Sydney

The Macquarie Ice Rink is one of four Olympic-sized ice rinks (60 metres x 30 metres) in the greater Sydney area. Others include:

- Canterbury Olympic Ice Rink, Canterbury (opened 1971);
- Liverpool Catholic Club Ice Rink, Liverpool (opened 1979); and
- Penrith Ice Palace, Penrith (opened 2000).

Other Olympic-sized ice rinks in NSW include the Hunter Ice Skating Stadium, Warners Bay (2000), and the Erina Ice Arena, Erina (2003).

None of the above ice rinks, or indeed any ice rinks in NSW, have been assessed as having cultural heritage significance and are not included on the State Heritage Inventory.

5.1.2 Heritage-listed Recreational Facilities

A search of the State Heritage Inventory was undertaken to identify sporting and recreational community facilities listed on Schedule 5 of the Ryde LEP. The search was filtered by the following criteria:

- Local Government Area: Ryde;
- Item Type: Built; and
- Item Group: Recreation and Entertainment.

The search found one result: the Eastwood Park Grandstand, an item of local significance (I163). The State Heritage Inventory provides a statement of significance for the place as follows:

The Eastwood Park Grandstand is of aesthetic and historical significance as a highly intact 1933 architect-designed grandstand of high quality.

The search was then widened to identify heritage items across the greater Sydney area. The following comparable recreational sporting facilities with social value to the community were identified.

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GML Heritage

Luna Park Precinct	
Address	Milsons Point
Date	1935–ongoing
Significance	State
Listing(s)	State Heritage Register (SHR 01811) North Sydney Local Environmental Plan 2012 (I0536)
Statement of Significance	<p>The site now known as Luna Park Precinct is historically significant as the site of the first regular ferry transport between Sydney and the North Shore, and later the busiest ferry wharf on the Harbour, with the exception of Circular Quay. The Milsons Point site was a major transport interchange during the later part of the 19th Century connecting ferry, train and trams. The site later became crucial to the construction of the Sydney Harbour Bridge. Fabrication and assembly of steel components for the bridge was done on site at the 1925 Dorman Long and Company workshops.</p> <p>After removal of the workshops the Luna Park amusement park was constructed on the site in 1935 and became a centre for recreation for generations of Sydney residents and visitors. Luna Park has strong association with former park artists Rupert Browne, Peter Kingston, Gary Shead, Sam Lipson, Arthur Barton, Richard Liney and Martin Sharp. Martin Sharp is an important Sydney artist with an international reputation who was influential in the Australian Pop Art movement in the 1960's and 70's.</p> <p>The Luna Park Precinct has important aesthetic values in its own right, a celebration of colour and fantasy originally in the art deco style, and as a landmark on Sydney Harbour. Luna Park occupies an important and prominent location on the northern foreshore of Sydney Harbour and is highly visible from Circular Quay and the Opera House and other key harbour vantage points. Luna Park is one of Sydney's most recognisable and popular icons, the Luna Park face in particular is an instantly recognisable symbol of Sydney. The prominence of Luna Park is enhanced by the high quarried cliff face and the fig trees which provide a landscaped backdrop together with the way it is framed by the Harbour Bridge when viewed from the east.</p> <p>Luna Park includes a rare collection of murals and amusements that demonstrate mid-20th century popular and traditional technologies. These have been complemented by the art works of Martin Sharp, Richard Liney, Gary Shead and Peter Kingston some of which survive as moveable items associated with the park and stored at other locations such as the Powerhouse Museum.</p> <p>Luna Park is important as a place of significance to generations of the Australian public, in particular Sydney residents who have strong memories and associations with the place. Its landmark location at the centre of Sydney Harbour together with its recognisable character has endowed it with a far wider sense of ownership, granting it an iconic status. Luna Park received considerable attention following the tragic Ghost Train fire of 1979 and the ensuing short-term closure of the park. It became the focus of considerable public action when it was threatened with redevelopment and remains a subject of high public interest.</p> <p>Luna Park Precinct has very high potential as an archaeological resource that is likely to yield information about all phases of occupation of the site, in particular evidence of the Dorman Long wharf and the railway.</p> <p>Luna Park is unique as a rare example of an amusement park and fantasy architecture constructed in the 1930s art deco style. The original murals and design of Luna Park demonstrate an amusement park aesthetic that was originally inherited from America and reinterpreted in an Australian context.</p> <p>The Luna Park precinct includes many individual elements of significance. The most significant</p>

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Luna Park Precinct

	<i>elements are the Entrance Face and Towers; Midway; the Rotor; Coney Island; Crystal Palace; Wild Mouse; the Cliff Face and the Fig Trees.¹</i>
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Dawn Fraser Swimming Pool

Address	Glassop Street, Balmain
Date	1882–1924
Significance	State
Listing(s)	State Heritage Register (SHR 01398), <i>Leichhardt Local Environmental Plan 2013</i> (L237) National Trust of Australia (NSW)
Statement of Significance	<i>The pool is a complete swimming complex extending back to the turn-of-the-century. It is an excellent example of pool architecture no longer practiced and a well-known Sydney landmark set in an attractive harbourside location which has become a feature of the pool. It is representative of the development of a harbourside recreational and social facility and is associated with prominent swimming identities and world champions. It provides evidence of the major popularity of swimming as a competitive and recreational sport in Australia.²</i>

North Sydney Oval

Address	2 Fig Tree Lane, North Sydney
Date	c1867
Significance	Local
Listing(s)	<i>North Sydney Local Environmental Plan 2013</i> (L1125)
Statement of Significance	<i>The most used and familiar facility in St. Leonards Park and one of the oldest cricket grounds still in use in Australia. Fine example of a traditional Cricket Oval, with Edwardian features and buildings creating an ambience associated with the English cricketing tradition. Contains some interesting buildings, the Grandstand, Scoreboard and three Turnstile buildings all dating from 1928 and the Bob Stand (1895) relocated from the Sydney Cricket Ground.³</i>

Tennis Court and Pavilion

Address	96–108 Kent Street, Millers Point
Date	c1960
Significance	Local
Listing(s)	<i>Sydney Local Environmental Plan 2012</i> (L920)

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GML Heritage

Tennis Court and Pavilion	
Statement of Significance	<p><i>The site is historically significant as it demonstrates the use of the area for early Government quarries and areas of land specifically reserved to supply stone for the completion of Public Works. It is significant for its association with the National School and in providing for the recreational needs of school children and local residents. The continued use of the site as a tennis court since the 1960s is of historical and social significance.</i></p> <p><i>The tennis court and pavilion is a significant streetscape element along Kent Street as an undeveloped space in comparison to the intensity of development surrounding it which comprises of late nineteenth century and early and late twentieth century development. The vacant land allows the dramatic cut (Agar Walls) adjacent the Agar steps to be appreciated and contributes to this important characteristic of the Millers Point area. Retention of the land as undeveloped recreational space in the CBD is rare and provides a break in the intensely developed area.⁴</i></p>

5.1.3 Summary Comparative Analysis

The heritage items listed in this comparative analysis have been assessed as having historic and social significance at a local and state level. The analysis of the heritage listed sporting facilities across the wider Sydney area has demonstrated that these properties have a number of key similarities with the Macquarie Ice Rink, as follows.

- These heritage items and the Macquarie Ice Rink all have significant landmark qualities within their local context. The Macquarie Ice Rink, although located within the Macquarie Centre and not directly visible from the street, is widely known to be located there and the shopping centre itself is highly distinctive in the streetscape.
- These heritage items and the Macquarie Ice Rink share similar functions to a traditional park, providing a designated space for all members of the community to gather and enjoy leisure time in pursuit of a passive or active recreational activity.
- The ice rink and the above heritage items are important elements in their respective communities' sense of place. Local community members have strong memories associated with the place involving sports events, birthday parties, and other social gatherings and outings.
- These heritage items and the ice rink have social value to their communities as a meeting place for competitive sports events, which is highly valued by spectators and families associated with those events as an important part of their lifestyle and community involvement. As the chosen home rink of Sydney's two AIHL teams, all competitive AIHL games played in Sydney are played at the Macquarie Ice Rink, taking place around once per week during the season.
- The Macquarie Ice Rink and the Dawn Fraser Pool are both associated with prominent Australian sporting identities who have gone on to see international success.

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GML Heritage

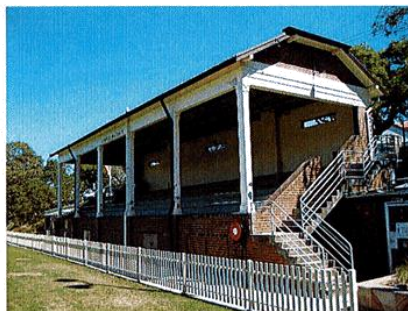


Figure 5.1 Eastwood Park Grandstand. (Source: State Heritage Inventory)



Figure 5.2 Luna Park Precinct, Milsons Point. (Source: State Heritage Inventory)



Figure 5.3 Dawn Fraser Swimming Pool, Balmain. (Source: State Heritage Inventory)



Figure 5.4 North Sydney Oval, c1987. (Source: Stanton Library)



Figure 5.5 Tennis Court and Pavilion, Millers Point. (Source: State Heritage Inventory)

ITEM 1 (continued)

ATTACHMENT 1

GML Heritage

5.2 Assessment

This section sets out an assessment of the heritage significance of the Macquarie Ice Rink in accordance with the standard criteria identified in the NSW Heritage Office guidelines. The evaluation includes consideration of the original and subsequent layering of fabric, uses, associations and meanings of the place, as well as its relationship to both the immediate and wider setting.

The *NSW Heritage Manual* guidelines, prepared by the NSW Heritage Office and Department of Urban Affairs and Planning (July 2001), provide the framework for the assessment and the Statement of Significance in this report. These guidelines incorporate the five types of cultural heritage values identified in the Burra Charter into a specially structured framework, which is the format required by heritage authorities in New South Wales.

Under these guidelines, items (or 'places' in Burra Charter terminology) are assessed in accordance with a specific set of criteria, as set out below. An item is significant in terms of the criterion if the kinds of attributes listed in the inclusion guidelines help to describe it. Similarly, the item is not significant in terms of that criterion if the kinds of attributes listed in the exclusion guidelines help to describe it. The inclusion and exclusion guidelines are checklists only—they do not cancel each other out. The exclusion guidelines should not be applied in isolation from the inclusion guidelines, but should be used to help review and qualify the conclusions reached about the item's significance.

To apply the assessment criteria, both the nature and degree of significance of the place need to be identified. This is because items vary in the extent to which they embody or reflect key values and in the relative importance of their evidence or associations.

The assessment also needs to relate the item's values to its relevant geographical and social context, usually identified as either local or state contexts. Items may have both local and state significance for similar or different values/criteria.

The criteria for assessment established by the NSW Heritage Council in accordance with the Heritage Act is set out in Appendix A of this report.

5.2.1 Criterion A (Historical Significance)

An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)

- Macquarie Ice Rink has historical interest and value as the first ice rink to be constructed in Australia as part of a shopping centre development.
- The ice rink is representative of the trend of shopping centre redevelopments in the 1980s to diversify the consumer experience. Its inclusion in the centre is an unusual design feature which has contributed to the public interest and continuous use of the space since its opening.
- The ice rink is the only venue in the southern hemisphere to have hosted a senior World Championship for the International Skating Union.

Macquarie Ice Rink is considered to be significant at a local level under this criterion.

5.2.2 Criterion B (Historical Association)

An item has strong or special association with the life or works of a person, or group of persons, of importance in the cultural or natural history of NSW (or the cultural or natural history of the local area)

ITEM 1 (continued)

ATTACHMENT 1

GML Heritage

- The rink has associative significance as the home of the Sydney Bears since the formation of the club in 1982. The Bears won the 1989 championships and were instrumental in developing a hockey school program designed to teach newcomers to the sport and develop their skills into fully fledged ice hockey players. The Sydney Bears Club operates an ice hockey school at Macquarie Ice Rink which is highly valued by its members and young players. The rink is also the home of the Sydney Ice Dogs, Sydney's other team in the AIHL.
- The rink has associative significance with former Olympian Steven Bradbury, who won his first national championship there in 1983 at the age of 10. Bradbury later recalled that the event was one of the highlights of his sporting career. Bradbury spent most of his early years training at the Canterbury Ice Rink, but preferred the Macquarie Rink for training when it came to competition time because of the quality of the rink.

Macquarie Ice Rink is considered to be significant at a local level under this criterion.

5.2.3 Criterion C (Aesthetic Significance)

An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)

- Macquarie Ice Rink is highly recognisable in the local community and is an integral part of the Macquarie Centre. It may be considered to have landmark qualities as an identifiable institution within the Macquarie Centre.
- The rink does not demonstrate particular creative or technical achievement. It is not a major work by an important designer or artist, and is not the inspiration for creative or technical innovation.
- When compared to other ice rinks in Sydney, the Macquarie Ice Rink is not a particularly outstanding or fine example of the ice rink typology, which are typically not built or designed to be aesthetically distinctive.

The Macquarie Ice Rink is not considered to meet the threshold for inclusion under this criterion.

5.2.4 Criterion D (Social Significance)

An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons

- Macquarie Ice Rink is highly valued by the skating community of the local area and NSW generally, as a training facility catering to all levels of skating from recreational, national, international and Olympic skaters since opening. It caters to all skating disciplines, including speed skating, figure skating and ice hockey. It is an important institution as one of few ice rinks in Sydney and NSW built to the international Olympic standard.
- The rink is valued by the wider community as an important and unique recreational facility in Ryde and the wider northern suburbs area. It hosts dances, discos, children's birthday parties and social gatherings. The rink provides the opportunity for people of all ages to interact with their community.
- The rink is especially valued by competitive skaters who spend years training at the facility, many of whom have relocated to the area specifically for better access to the rink. A range of festivals and events are held at the rink each year, and it is the home rink for figure skating, speed skating and ice hockey schools and clubs.

ITEM 1 (continued)

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GML Heritage

- The rink is significant as the home rink of Sydney's two ice hockey teams in the AIHL, making it the only rink in Sydney where AIHL games are played, hosting teams from across Australia. It has social value to followers of the league in Sydney and the wider region, for whom attending games is a valued part of their lifestyle and community involvement.
- The social significance of the rink is also linked to its location within the Macquarie Centre, which is considered to be a major landmark within the Macquarie Park and Ryde areas. Soon after opening, the rink quickly became part of the social experience of visiting the shopping centre.
- The loss of the ice rink would cause a significant sense of loss to the Ryde community, evidenced by the immense outpouring of support for the ice rink after its demolition was proposed. Demolition of the Macquarie Ice Rink and construction of a new rink in a new location is considered unlikely to recreate this social attachment.

Macquarie Ice Rink is considered to be significant at a state level under this criterion.

5.2.5 Criterion E (Research Potential)

An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)

- At the time it was built, Macquarie Ice Rink was described as being 'the most advanced in the country' for not only its quality and size, but also because it was purposely designed to integrate into a shopping complex built at the same time.
- However, it is not likely to yield new or further scientific and/or archaeological information. Any information the ice rink could contain would be readily available from other sources.

Macquarie Ice Rink is not considered to meet the threshold for inclusion under this criterion.

5.2.6 Criterion F (Rarity)

An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)

- The ice rink is one of only four contemporary Olympic-sized ice-skating rinks in New South Wales and while it is not rare, ice skating rinks are uncommon in Australia, particularly because ice skating is typically associated with northern hemisphere sporting activities due to climate. It is the only ice rink in its local area and its loss would be detrimental to the amenity and lifestyle of its regular visitors.
- The Macquarie Ice Rink is rare as the only known Olympic-sized and world-class standard ice rink to be purposefully incorporated into a retail shopping centre, which is an unusual design feature in itself, and has contributed to the popularity and accessibility of the rink.

Macquarie Ice Rink is considered to be significant at a local level under this criterion.

5.2.7 Criterion G (Representativeness)

An item is important in demonstrating the principal characteristics of a class of NSW's (or a class of the local area's):

- cultural or natural places; or
- cultural or natural environments

ITEM 1 (continued)

ATTACHMENT 1

GML Heritage

- The Macquarie Ice Rink is a good example of its type, being one of four Olympic-sized ice rinks in Sydney. It demonstrates attributes typical of activities associated with ice skating and the skating community. It is part of a small group of Olympic-sized ice rinks which are integral to the continuation and popularisation of skating in Sydney and NSW.
- The rink's incorporation into a shopping centre significantly contributes to defining its unique and iconic setting, as well as its accessibility to all members of the community. The rink is held in great esteem by three generations of the local community, evident in the community's reaction to the prospect of its demolition.

Macquarie Ice Rink is considered to be significant at a local level under this criterion.

5.3 Statement of Significance

The Macquarie Ice Rink has cultural heritage significance at a state level as an important place of public recreation since the time of its opening in 1981. Its purposeful incorporation into a shopping centre is unusual and is representative of the growing trend at the time to diversify the retail experience with intimate spaces, open space, recreational facilities and indoor gardens. Macquarie Ice Rink is associated with former Olympian Steven Bradbury and is the chosen home rink for Sydney's two Australian Ice Hockey League (AIHL) teams, the Sydney Bears and Sydney Ice Dogs. It is also the home of many skating schools and training groups for people of all ages. The rink is highly valued by the local and regional community as a place to gather, play, socialise and compete, with its accessibility to people of all ages enhanced by its inclusion in the shopping centre and links to public transport and surrounding facilities. The rink is significant as one of few Olympic-sized ice rinks in Sydney, meaning it is able to cater to all skating disciplines and is particularly valued by those training or competing at an Olympic level, and those associated with the AIHL.

5.4 Endnotes

- ¹ Office of Environment and Heritage, State Heritage Inventory, 'Luna Park Precinct', viewed 5 July 2019
<<https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=5055827>>.
- ² Office of Environment and Heritage, State Heritage Inventory, 'Dawn Fraser Swimming Pool', viewed 5 July 2019
<<https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=1940252>>.
- ³ Office of Environment and Heritage, State Heritage Inventory, 'North Sydney Oval', viewed 5 July 2019
<<https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=2180914>>.
- ⁴ Office of Environment and Heritage, State Heritage Inventory, 'Tennis Court and Pavilion', viewed 5 July 2019
<<https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?ID=2426279>>.

ITEM 1 (continued)

ATTACHMENT 1

GML Heritage

6.0 Conclusion and Recommendations

This report has assessed the heritage significance of the Macquarie Ice Rink based on historical research and an investigation of its local context. It includes a detailed assessment of the site against the SHR standard evaluation criteria to determine the significance of the place to the Ryde LGA and NSW.

The report concludes that the Macquarie Ice Rink demonstrates heritage significance at a state level for the following reasons.

- It is an important place of public recreation and is highly valued by the community. The rink's location within a shopping centre means that it is highly accessible and has become part of the social experience of the shopping centre since its opening in 1981.
- As an Olympic-sized rink, it caters to all skating disciplines and is highly valued by people training or competing at an Olympic level as well as to those who use the rink as a recreational facility. It is valued well beyond its local area, as the size and quality of the rink attracts people from across the state who relocate to the area in order to train there.
- It is associated with prominent figures in the skating industry, including former Olympian Steven Bradbury, and Sydney's AIHL teams the Sydney Bears and Sydney Ice Dogs.
- Its inclusion in the design of the Macquarie Centre was unusual and unique for its time.

It is recommended that:

1. The Macquarie Ice Rink should be listed as a heritage item of local significance on Schedule 5 of the *Ryde Local Environmental Plan 2014*. An application should be made to the NSW Heritage Office for its inclusion on the State Heritage Register.
2. The rink should be retained in its current form and location. The significance of the ice rink is embodied in the rink itself and the general volume of the space should be retained. The cultural significance of the ice rink is embodied in its social value to the community as a place of public recreation and as a training ground for past and future Olympic competitors. However, the form, layout, size and location of the ice rink is an important part of this significance. Although the physical fabric of the place itself is not considered to be significant, it cannot be expected that the community sentiment and social values of the existing rink could be transferred to a new rink in an alternative location. A new rink would lose the significant association and social significance of the existing rink, and it is unlikely it could recreate these values.
3. There is scope for future alterations and adaptations of the area in the vicinity of the ice rink, including the surrounding tiered seating or ancillary facilities. The rink should be retained in its current location in any future redevelopment proposal of the Macquarie Centre in order to retain its significance and value to the community.

The assessment of the current development application should have consideration for these recommendations.

ITEM 1 (continued)

ATTACHMENT 1

GML Heritage

ITEM 1 (continued)

ATTACHMENT 1

GML Heritage

7.0 Appendices

Appendix A

NSW Heritage Office Assessment Guidelines

Appendix B

Interim Heritage Order No. 147

ITEM 1 (continued)

ATTACHMENT 1

GML Heritage

ITEM 1 (continued)

ATTACHMENT 1

Appendix A

NSW Heritage Office Heritage Assessment Guidelines

ITEM 1 (continued)

ATTACHMENT 1

GML Heritage

Appendix A—NSW Heritage Office Heritage Assessment Guidelines

The *NSW Heritage Manual* guidelines, prepared by the NSW Heritage Office and Department of Urban Affairs and Planning (July 2001), provide the framework for the assessment and the statement of significance in this report. These guidelines incorporate the five types of cultural heritage value identified in the Burra Charter into a specially structured framework, which is the format required by heritage authorities in New South Wales.

Under these guidelines, items (or 'places' in Burra Charter terminology) are assessed in accordance with a specific set of criteria, as set out below. An item is significant in terms of the particular criterion if the kinds of attributes listed in the inclusion guidelines help to describe it. Similarly, the item is not significant in terms of that particular criterion if the kinds of attributes listed in the exclusion guidelines help to describe it. The inclusion and exclusion guidelines are checklists only—they do not cancel each other out. The exclusion guidelines should not be applied in isolation from the inclusion guidelines, but should be used to help review and qualify the conclusions reached about the item's significance.

The criteria for assessment established by the NSW Heritage Council in accordance with the *Heritage Act 1977* (NSW) (Heritage Act) are set out below.

Criterion (a)—An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)

Guidelines for Inclusion	Guidelines for Exclusion
<ul style="list-style-type: none"> shows evidence of a significant human activity; is associated with a significant activity or historical phase; or maintains or shows the continuity of a historical process or activity. 	<ul style="list-style-type: none"> has incidental or unsubstantiated connections with historically important activities or processes; provides evidence of activities or processes that are of dubious historical importance; or has been so altered that it can no longer provide evidence of a particular association.

Criterion (b)—An item has strong or special association with the life or works of a person, or group of persons, of importance in the cultural or natural history of NSW (or the cultural or natural history of the local area)

Guidelines for Inclusion	Guidelines for Exclusion
<ul style="list-style-type: none"> shows evidence of a significant human occupation; or is associated with a significant event, person, or group of persons. 	<ul style="list-style-type: none"> has incidental or unsubstantiated connections with historically important people or events; provides evidence of people or events that are of dubious historical importance; or has been so altered that it can no longer provide evidence of a particular association.

ITEM 1 (continued)

ATTACHMENT 1

GML Heritage

Criterion (c)—An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)

Guidelines for Inclusion	Guidelines for Exclusion
<ul style="list-style-type: none"> shows or is associated with creative or technical innovation or achievement; is the inspiration for a creative or technical innovation or achievement; is aesthetically distinctive; has landmark qualities; or exemplifies a particular taste, style or technology. 	<ul style="list-style-type: none"> is not a major work by an important designer or artist; has lost its design or technical integrity; its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded; or has only a loose association with a creative or technical achievement.

Criterion (d)—An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons

Guidelines for Inclusion	Guidelines for Exclusion
<ul style="list-style-type: none"> is important for its associations with an identifiable group; or is important to a community's sense of place. 	<ul style="list-style-type: none"> is only important to the community for amenity reasons; or is retained only in preference to a proposed alternative.

Criterion (e)—An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)

Guidelines for Inclusion	Guidelines for Exclusion
<ul style="list-style-type: none"> has the potential to yield new or further substantial scientific and/or archaeological information; is an important benchmark or reference site or type; or provides evidence of past human cultures that is unavailable elsewhere. 	<ul style="list-style-type: none"> the knowledge gained would be irrelevant to research on science, human history or culture; has little archaeological or research potential; or only contains information that is readily available from other resources or archaeological sites.

Criterion (f)—An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)

Guidelines for Inclusion	Guidelines for Exclusion
<ul style="list-style-type: none"> provides evidence of a defunct custom, way of life or process; demonstrates a process, custom or other human activity that is in danger of being lost; shows unusually accurate evidence of a significant human activity; is the only example of its type; demonstrates designs or techniques of exceptional interest; or shows rare evidence of a significant human activity important to a community. 	<ul style="list-style-type: none"> is not rare; or is numerous but under threat.

ITEM 1 (continued)

ATTACHMENT 1

GML Heritage

Criterion (g)—An item is important in demonstrating the principal characteristics of a class of NSW's (or a class of the local area's) cultural or natural places; or cultural or natural environments

Guidelines for Inclusion	Guidelines for Exclusion
<ul style="list-style-type: none"> • is a fine example of its type; • has the principal characteristics of an important class or group of items; • has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity; • is a significant variation to a class of items; • is part of a group which collectively illustrates a representative type; • is outstanding because of its setting, condition or size; or • is outstanding because of its integrity or the esteem in which it is held. 	<ul style="list-style-type: none"> • is a poor example of its type; • does not include or has lost the range of characteristics of a type; or • does not represent well the characteristics that make up a significant variation of a type.

ITEM 1 (continued)

ATTACHMENT 1

Appendix B

Interim Heritage Order No. 147

ITEM 1 (continued)

ATTACHMENT 1



Government Gazette

of the State of

New South Wales

Number 10

Monday, 4 February 2019

The New South Wales Government Gazette is the permanent public record of official NSW Government notices. It also contains local council, private and other notices.

From 1 January 2019, each notice in the Government Gazette has a unique identifier that appears in round brackets at the end of the notice and that can be used as a reference for that notice (for example, (n2019-14)).

The Gazette is compiled by the Parliamentary Counsel's Office and published on the NSW legislation website (www.legislation.nsw.gov.au) under the authority of the NSW Government. The website contains a permanent archive of past Gazettes.

To submit a notice for gazettal – see Gazette Information.

ISSN 2201-7534

By Authority
Government Printer

250

NSW Government Gazette No 10 of 4 February 2019

ITEM 1 (continued)

ATTACHMENT 1

Government Notices

GOVERNMENT NOTICES
Planning and Environment Notices

HERITAGE ACT 1977

INTERIM HERITAGE ORDER NO. 147

Macquarie Ice Rink

In pursuance of Section 24 of the *Heritage Act 1977* (NSW), I, the Minister for Heritage, do, by this my order:

- (i) make an interim heritage order in respect of the item of the environmental heritage specified or described in Schedule 'A'; and
- (ii) declare that the interim heritage order shall apply to the curtilage or site of such item, being the land described in Schedule 'B'.

The Hon Gabrielle Upton MP
Minister for Heritage

Sydney, 1 Day of February 2019

SCHEDULE "A"

The property known as Macquarie Ice Rink, situated on the land described in Schedule "B".

SCHEDULE "B"

All those pieces or parcels of land known as Part Lot 1 DP 1190494 in Parish of Hunters Hill, County of Cumberland shown on the plan catalogued HC 3231 in the office of the Heritage Council of New South Wales.

(n2019-275)

ITEM 1 (continued)

ATTACHMENT 1

ATT 4



Government Gazette

of the State of

New South Wales

Number 11

Friday, 8 February 2019

The New South Wales Government Gazette is the permanent public record of official NSW Government notices. It also contains local council, private and other notices.

From 1 January 2019, each notice in the Government Gazette has a unique identifier that appears in round brackets at the end of the notice and that can be used as a reference for that notice (for example, (n2019-14)).

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ISSN 2201-7534

By Authority
Government Printer

252

NSW Government Gazette No 11 of 8 February 2019

ITEM 1 (continued)

ATTACHMENT 1

Government Notices

GOVERNMENT NOTICES
Planning and Environment Notices

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Order under clause 6 of Schedule 2 to the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017

Under delegation from the Minister for Planning, I declare the development specified in column 1 of the table in Schedule 1 to this Order on the land specified in the corresponding row in column 2 of the table in Schedule 1 to this Order to be State significant development under clause 6 Schedule 2 to the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*, for the purposes of the *Environmental Planning and Assessment Act 1979* (the Act).

This Order takes effect upon publication in the New South Wales Government Gazette.

Dated: 1 February 2019

ANTHONY WITHERDIN
Director, Regional Assessments

SCHEDULE 1

Column 1	Column 2
Development	Land
Development known as 'Vincenia District Town Centre- Stage 1 (MP 06_0025), approved by the Minister for Planning, under section 75J of the Act on 7 January 2009 as subsequently modified under section 75W of the Act.	All land identified in Schedule 1 of the approval to carry out the development known as 'Vincenia District Town Centre- Stage 1' (MP 06_0025), as in force on the date of this Order.

(n2019-276)

HERITAGE ACT 1977

ERRATUM

The notice published in the Government Gazette No. 10 of 4 February 2019, relating to Macquarie Ice Rink, Macquarie Park should have read:

In pursuance of Section 24 of the *Heritage Act 1977* (NSW), I, the Minister for Heritage, do, by this my order:

- (i) make an interim heritage order in respect of the item of the environmental heritage specified or described in Schedule 'A'; and
- (ii) declare that the interim heritage order shall apply to the curtilage or site of such item, being the land described in Schedule 'B'.

The Hon Gabrielle Upton MP
Minister for Heritage

Sydney, 1 Day of February 2019

SCHEDULE "A"

The property known as Macquarie Ice Rink, situated on the land described in Schedule "B".

SCHEDULE "B"

All those pieces or parcels of land known as Part Lot 100 DP 1190494 in Parish of Hunters Hill, County of Cumberland shown on the plan catalogued HC 3231 in the office of the Heritage Council of New South Wales.

(n2019-277)

ITEM 1 (continued)

ATTACHMENT 1

ATT 5



Our ref: DOC19/976915

Liz Coad
Director City Planning and Environment
City of Ryde
Locked Bag 2069
NORTH RYDE NSW 1670

By email: cityofryde@ryden.nsw.gov.au

Cc: MEdwards@ryde.nsw.gov.au

Dear Ms Coad

Macquarie Ice Rink IHO, Macquarie Park

The State Heritage Register Committee considered the heritage assessment prepared for Macquarie Ice Rink at its meeting on 5 November 2019. After consideration of the available information and discussion, the Committee has concluded that Macquarie Ice Rink is unlikely to be of state significance. We have asked Heritage NSW not to proceed with the statutory process for listing on the State Heritage Register.

The Committee notes that Macquarie Ice Rink may potentially be of local heritage significance. As local heritage is the responsibility of the local council, the Committee determined to write to the City of Ryde to encourage you to consider the potential heritage significance of the site when reviewing any future development.

If you have any questions regarding the above please contact Miranda Firman at Heritage NSW, Department of Premier and Cabinet, on 9995 5477 or miranda.firman@environment.nsw.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Colleen Morris'.

Colleen Morris
Deputy Chair
State Heritage Register Committee
Heritage Council of NSW
1 December 2019

DEVELOPMENT APPLICATION

- 2 29, 33 AND 35 BUFFALO ROAD, GLADESVILLE - CONSTRUCTION OF TWO WAREHOUSES, A RETAIL/OFFICE BUILDING, AT GRADE PARKING FOR 30 VEHICLES AND LANDSCAPE AND DRAINAGE WORKS AND THE USE OF THE WAREHOUSE BUILDINGS FOR THE PURPOSE OF A WAREHOUSE AND DISTRIBUTION CENTRE - LDA2016/0617**

Report prepared by: Assessment Officer - Town Planner

Report approved by: Acting Senior Coordinator - Major Development; Manager - Development Assessment; Director - City Planning and Environment

File Number: GRP/09/6/12/1/2 - BP20/57

City of Ryde Local Planning Panel Report

DA Number	LDA2016/0617	
Site Address & Ward	29, 33 & 35 Buffalo Road, Gladesville East Ward	
Zoning	IN2 Light Industrial under RLEP 2014	
Proposal	Construction of two warehouses, a retail/office building, at grade parking for 30 vehicles and landscape and drainage works and the use of the warehouse buildings for the purpose of a warehouse and distribution centre.	
Property Owner	Anbei Investment Pty Ltd	
Applicant	Brewster Murray Pty Ltd.	
Report Author	Madeline Thomas – Senior Town Planner	
Lodgement Date	21 December 2016	
No. of Submission	Public Exhibition 1:	16 submissions
	Public Exhibition 2:	7 submissions received collectively responding to Public Exhibition period 2 and 3
	Public Exhibition 3:	

ITEM 2 (continued)

Cost of Works	\$9,179,500
Reason for Referral to RLPP	<u>Contentious Development</u> Development is the subject of 10 or more unique submissions by way of objection.
Recommendation	Refusal
Attachments	Attachment 1 – Clause 4.6 written variation request Attachment 2 – Architectural & Landscape Plans

1. Executive Summary

The following report is an assessment of a development application for the construction of two warehouse buildings, a retail/office building, at grade parking for 30 vehicles, landscape and drainage works and the use of the warehouse buildings for the purpose of a warehouse and distribution centre at Nos. 29, 33 & 35 Buffalo Road, Gladesville.

The application was lodged on the 21 December 2016. During the three separate notification periods, Council received 16 submissions to the original notification period and seven (7) submissions for the combined second and third notification period. The second notification period occurred between 8 August 2017 and 24 August 2017, and the third notification period occurred between 17 August 2017 and 1 September 2017. As such, the seven submissions received in relation to the amended plans relate to both sets of notified plans. All submissions objected to the development. The issues raised in the submissions related to concerns with the rear setback, floor space ratio, building height and overshadowing. These matters are addressed in full detail in this report.

The site is affected by low to high overland flow. Throughout the assessment of this application, it has been necessary to seek further information on numerous occasions from the Applicant in respect to the overland flow issues. As a result of these issues, the finalisation of the development application has been significantly delayed. There have also been other non-compliances with Council's controls that the Applicant has been required to address.

The proposal includes retail premises in one of the three buildings. Under the Ryde Local Environmental Plan (RLEP 2014), 'retail premises' (under the hierarchy of 'commercial premises') is not permissible within the IN2 Light Industrial zone.

The proposal fails to comply with the development standard imposed by Clause 4.3 of the RLEP 2014 in respect to the maximum height of the building of 10m. The proposal has a maximum building height of 11m, representing a 10% departure from the development standard. The Applicant has failed to provide an adequate written

ITEM 2 (continued)

request under Clause 4.6 of the RLEP 2014 to justify the breach in the building height development standard.

The proposal is considered unacceptable due to:

- The proposed retail premises is not permissible in the IN2 – Light Industrial zone under the RLEP 2014.
- Inadequate written Clause 4.6 variation request to justify departure from the building height development standard.
- The Applicant has failed to demonstrate the site is suitable for the proposed development given the potential site contamination.
- The proposal has a detrimental impact on a tree on the adjoining property and fails to provide owner's consent for the removal of this tree.

Given the reasons detailed above, the development application is recommended for refusal.

2. The Site and Locality

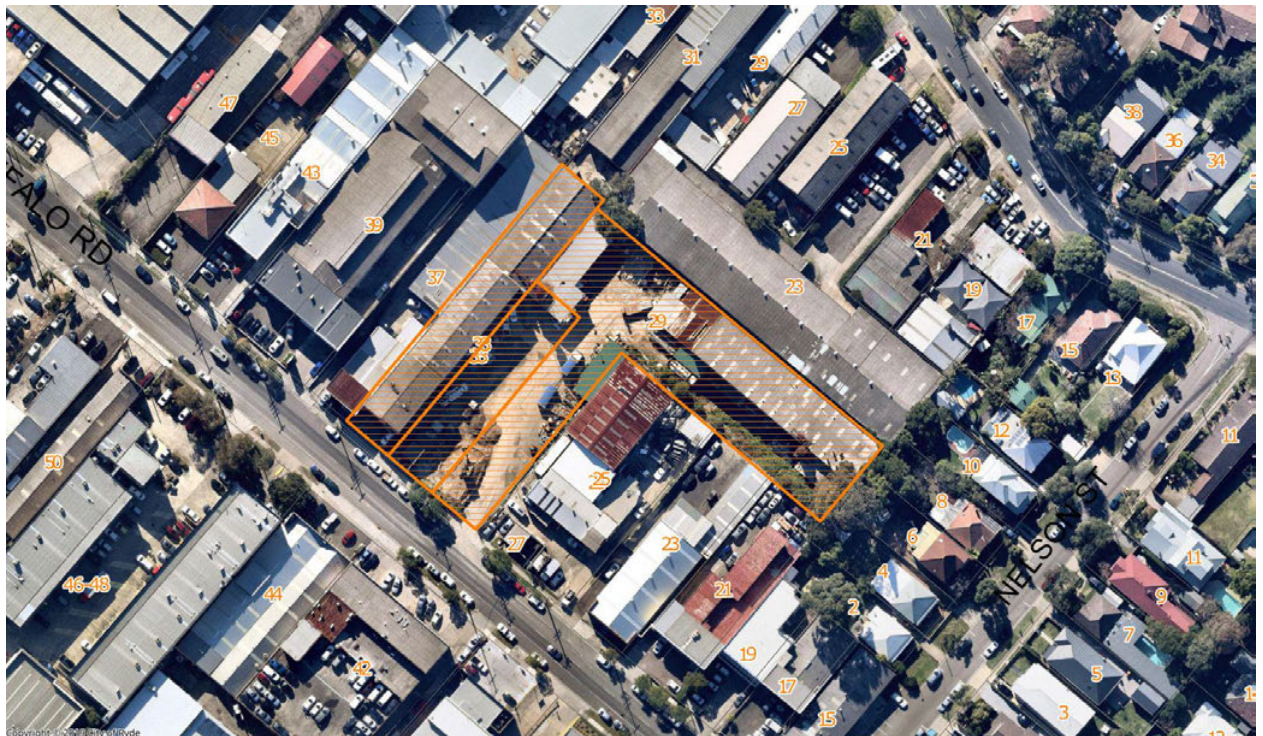


Figure 1: Aerial view of the subject site (shaded) and surrounds.

The site comprises three lots, two of which are regular in shape and one of which is 'L' shaped. The site has a frontage to Buffalo Road measuring 44.85m and a total site area of 5,626m².

ITEM 2 (continued)

A number of buildings are located on the development site in varying states of dilapidation. The buildings consist of a warehouse, a single storey brick building, various sheds and freestanding awnings.

Figure 2 below shows the site as viewed from Buffalo Road.



Figure 2: The Buffalo Road frontage (note: 23 to 25 Higginbotham Road at the rear).

Topographically, the site slopes downward from Buffalo Road towards the north-western corner of the rear boundary by approximately 4.0m.

Figure 3 below shows an extract from the site survey and indicates the high points (red circles) and low points (blue circles) of the site.

ITEM 2 (continued)

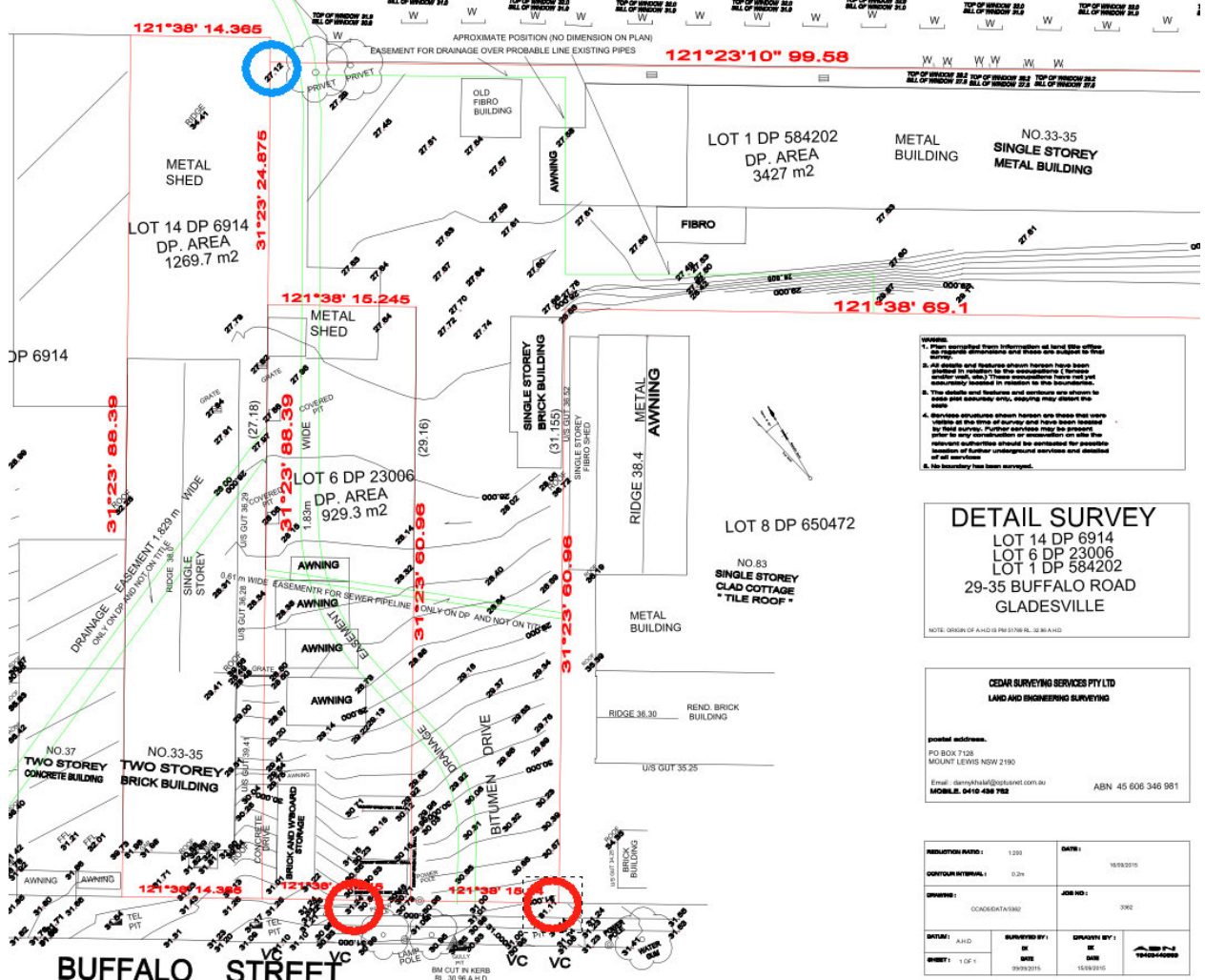


Figure 3: Extract from Site Survey.

Surrounding Development

Surrounding development predominantly includes small to medium scale industrial uses with a number of dwellings located to the southeast along Nelson Street. Larger scale uses in close proximity to the site include a bus depot (State Transit Ryde Depot) and an educational facility (Holy Cross College).

Figures 4 to 6 below show development surrounding the site.

ITEM 2 (continued)



Figure 4: Development along Buffalo Road (view towards the north-west).



Figure 5: The bus depot at No. 49 Buffalo Road (218m to the north-west of the subject site).



Figure 6: Development at the rear of the site (No. 23 to 25 Higginbotham Road).

ITEM 2 (continued)

Flood Affection

The site is affected by flooding during the 100 average recurrence interval (ARI) storm event. Varying levels of risk including low, medium and high extend primarily throughout the northwest part of the site.

Figure 7 below shows the existing flood conditions over the site when subject to a Probable Maximum Flood (PMF) event (note: the flooding depth increases at the north-west corner by 2.0m to 5.0m (indicated in red)).

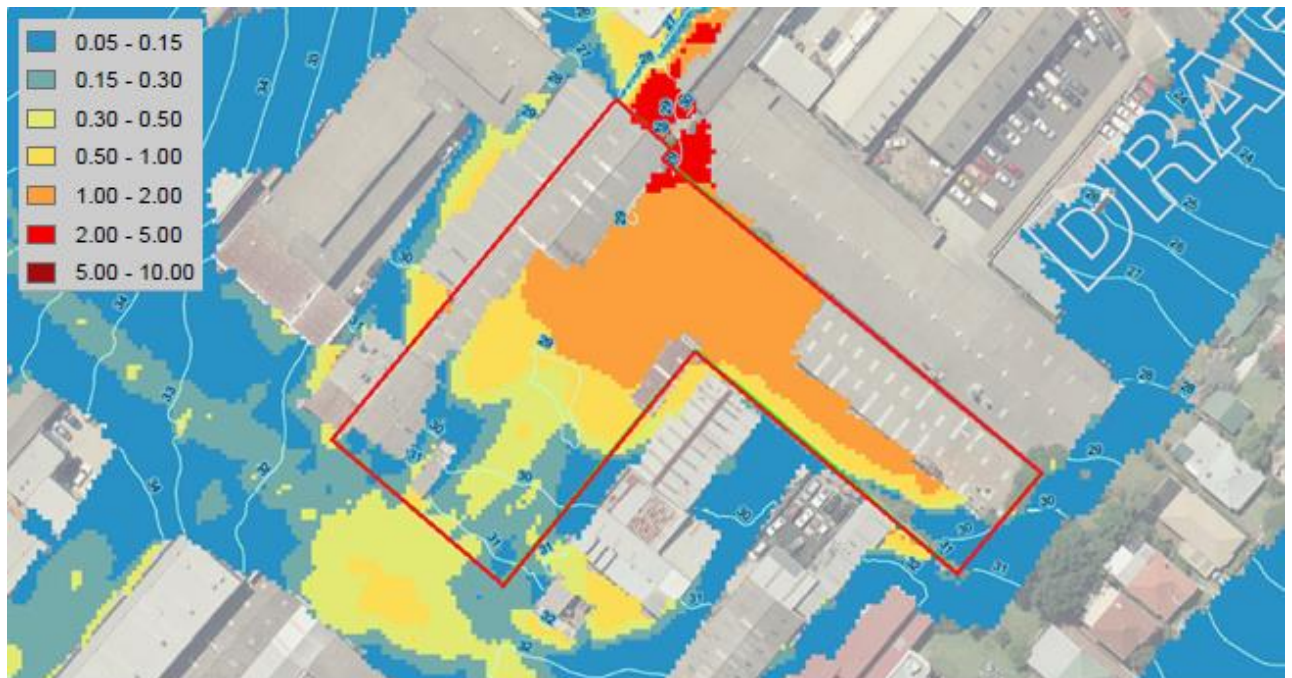


Figure 7: Existing conditions (PMF Event).

There is a 1.83m wide drainage easement which contains an existing 1,050mm diameter stormwater pipe and traverses the site from Buffalo Road to the north-west corner of the site (see **Figure 8** below, indicated by the blue line). This pipe conveys stormwater to a sealed riser pit located adjacent to the north-western corner of the site boundary (circled in red). The riser pit is owned by Council.

ITEM 2 (continued)



Figure 8: Location of the existing 1,050mm diameter stormwater pipe and the Council owned riser pit (circled).

3. The Proposal

The applicant seeks consent to construct two (2) separate warehouse building (Warehouses 1 and 2), a retail/office building, car parking for 30 spaces and site works (including stormwater/drainage works).

Figures 9 to 14 below show the plans for the site as at Revision F (submitted to Council on 6 December 2019).

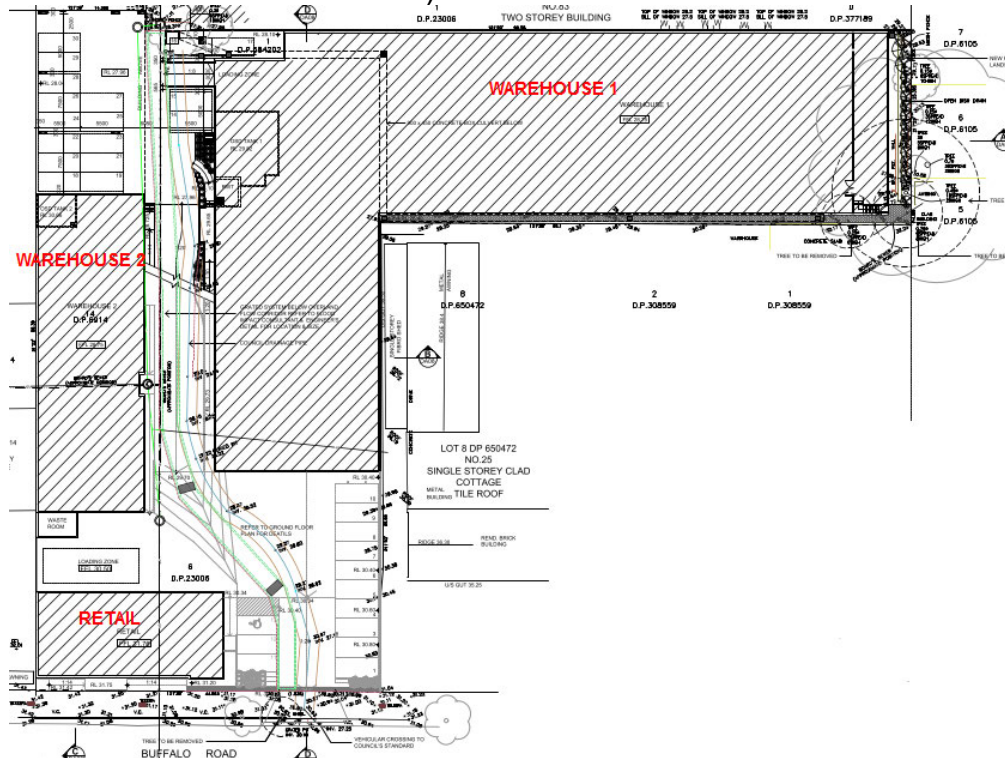


Figure 9: Lower Ground Floor Plan.

ITEM 2 (continued)

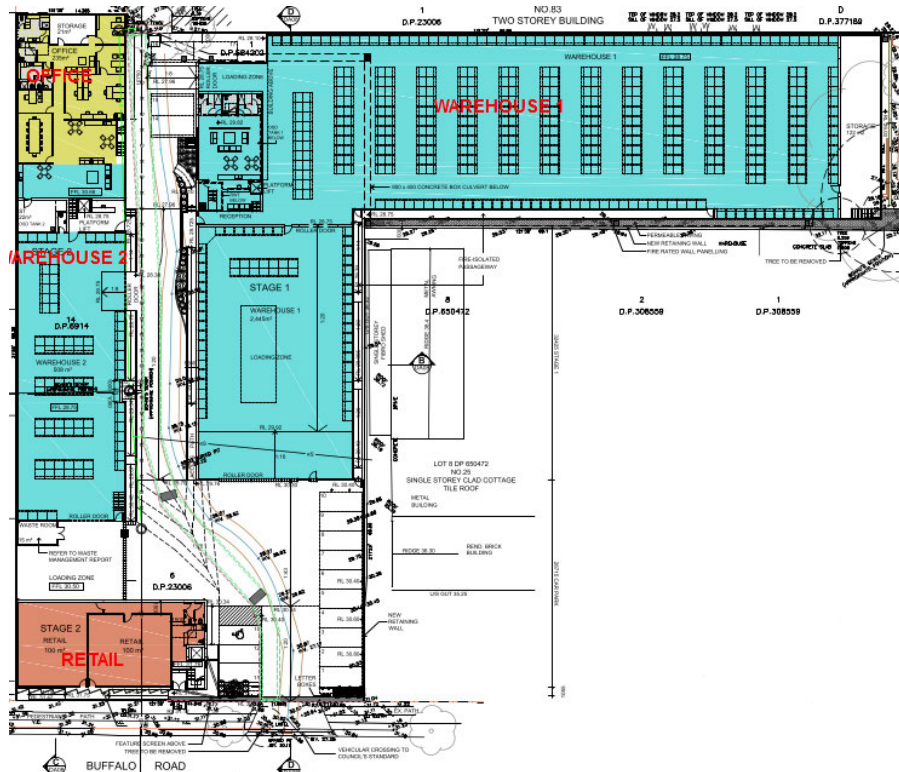


Figure 10: Ground Floor Plan.

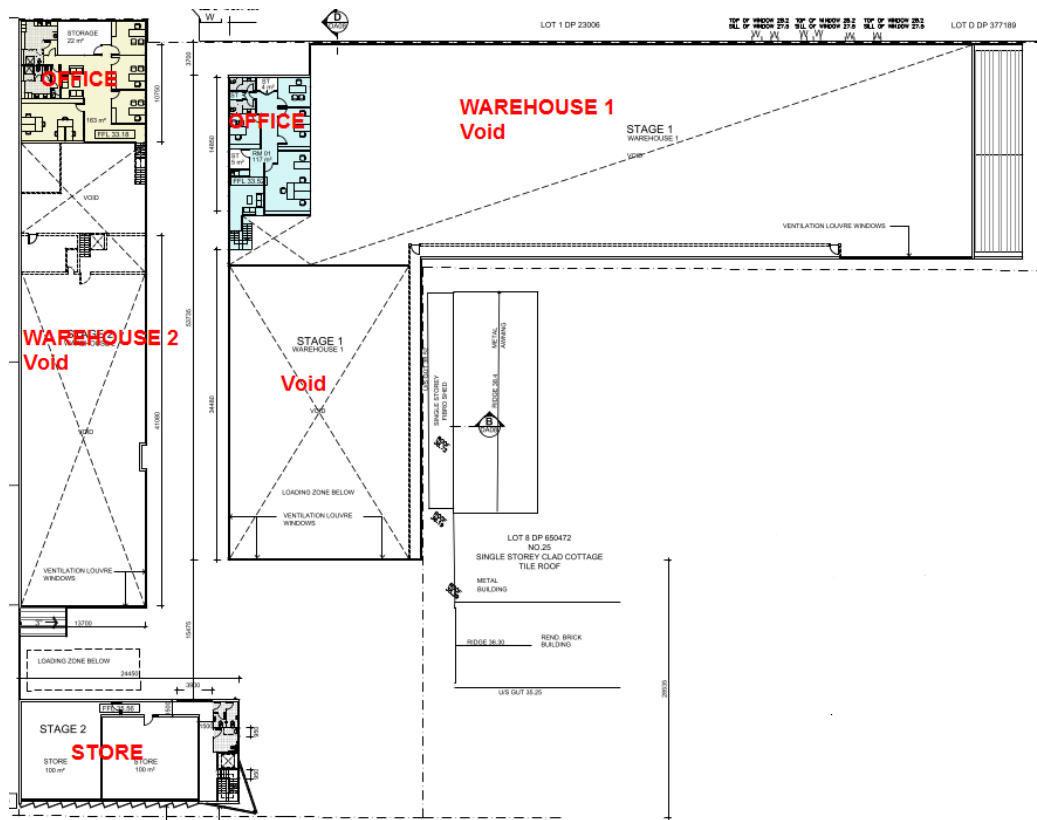


Figure 11: First Floor Plan.

ITEM 2 (continued)

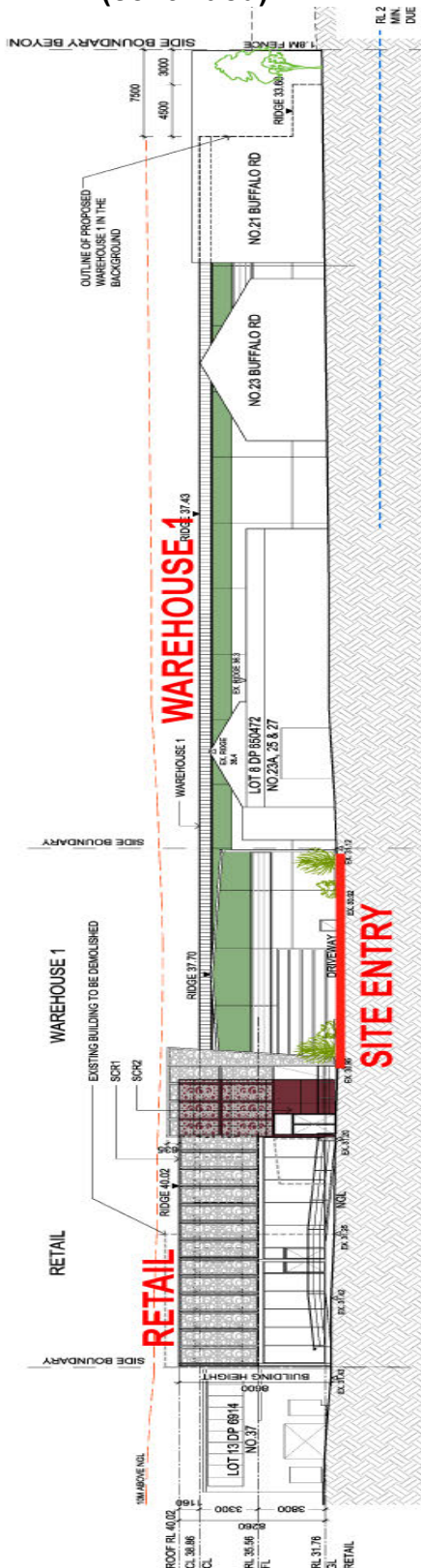


Figure 12: Buffalo Road Elevation.
Higginbotham Road)

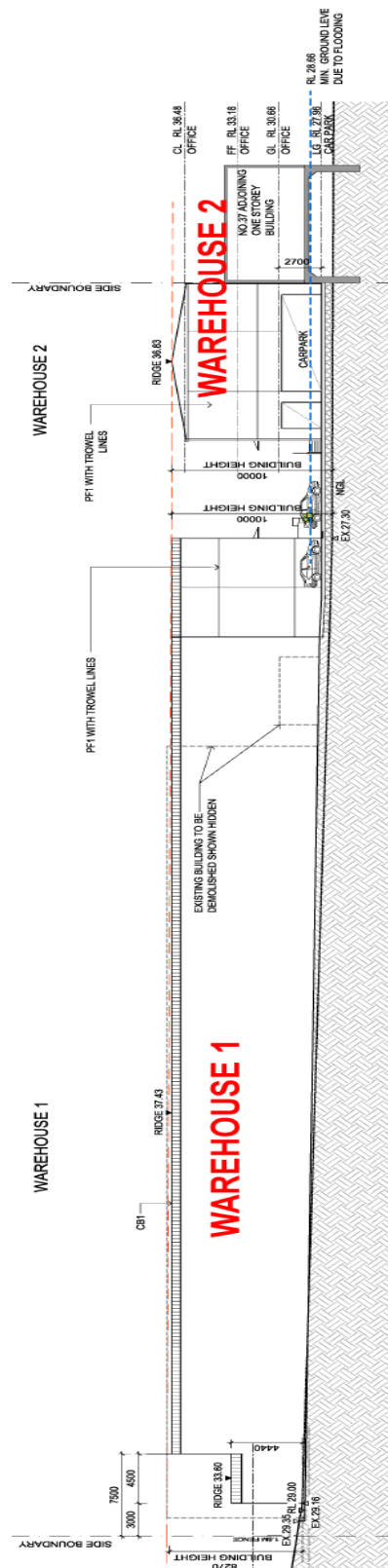


Figure 13: North Elevation (facing 23 to 25)

ITEM 2 (continued)

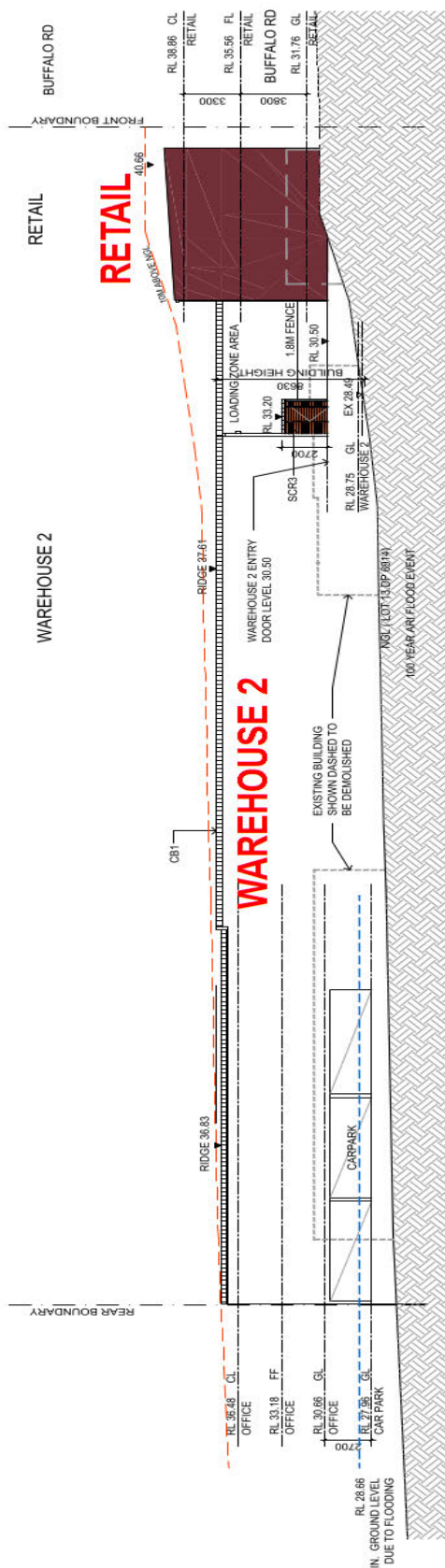


Figure 14: West Elevation (facing 37 Buffalo Road).

ITEM 2 (continued)

Numerically, the development consists of the following:

Use	Building Height (Max)	Floor Area	GFA/FSR	Car Parking
Warehouse 1 (excluding loading area)	11m	2,501m ²	0.72:1	30 spaces
Warehouse 2	10.8m	1,056m ²		
Retail	8.7m	247m ²		
Office		249m ²		
Total Proposed	8.7m to 11m	4,053m²	0.72:1	30 spaces

The development provides the following setbacks:

Setback Location	Distance (metres)
Front (Buffalo Road) Retail/Office Building Warehouse 1	1.0m 28.51m
Rear (Abutting 23 to 25 Higginbotham Road) Warehouse 1 Warehouse 2	Nil to 3.4m Nil
East Side (Abutting 4, 6 & 8 Nelson Street) Warehouse 1	3.0m
East Side (Abutting 25 Buffalo Road) Warehouse 1	Nil
West Side (Abutting 37 Buffalo Road) Retail/Office Building Warehouse 2	Nil Nil
South Side (Abutting 21 to 25 Buffalo Road)	0.285m

Drainage Works

The development includes drainage works to manage the direction of overland flow due to the construction of the two buildings.

Under existing conditions, overland flood waters from upstream of the site (south-west of Buffalo Road) and Buffalo Road, enter the site at the low point in Buffalo Road. Stormwater will be then conveyed by an existing 1,050mm diameter stormwater pipe

ITEM 2 (continued)

in an existing easement and overland flow to the sealed riser pit located near the northern site boundary. These overland flood waters are conveyed across the site to the north-western site boundary.

Under developed conditions, overland flood water maintains a similar flow pattern to the existing condition. However, in the proposed case, an additional pipe structure varying from 1,360mm to 2,160mm deep and 2,000mm wide will run parallel to the existing pipe and converge to discharge into the existing system through a pit at the northern boundary of the site. This system includes a number of grated inlets along the pipe alignment. These overland flood waters are conveyed across the site to the north-western boundary.

Figure 15 below shows the locations of the existing pipe (in blue) and the proposed pipe (in red) in relation to the proposed buildings.

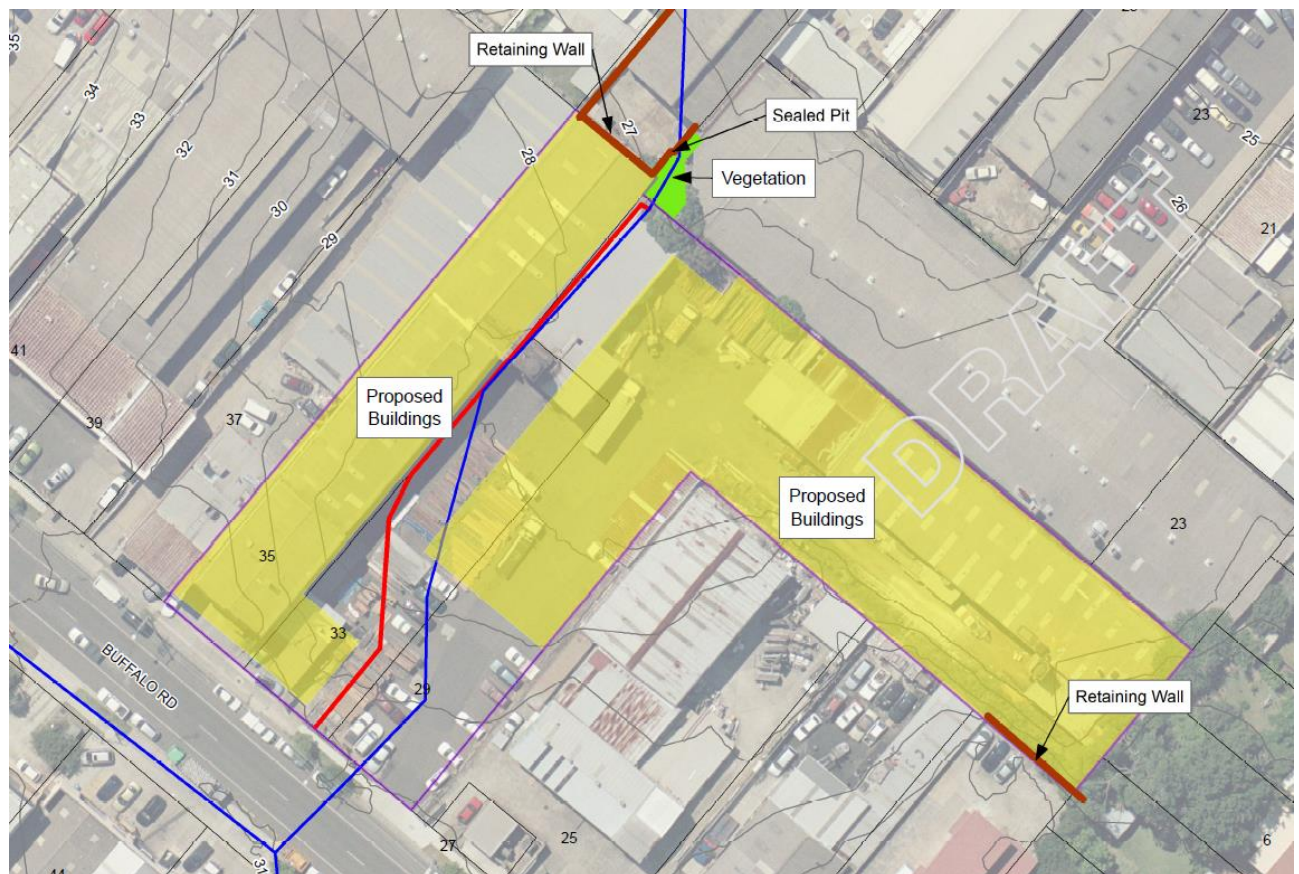


Figure 15: Proposed additional stormwater pipe (in red) parallel to the existing stormwater pipe (in blue).

Impact on trees

An *Arboricultural Impact Assessment* has been submitted with the subject application prepared by Naturally Trees dated 25 July 2017. The Applicant provided an

ITEM 2 (continued)

additional *Preliminary Tree Report* prepared by Treehaven Environscapes dated 5 December 2019, which assessed the impact of the proposed development on Trees 1 and 2 on the adjoining property at No. 23 Higginbotham Road.

This assessment has identified twelve (12) trees located on the subject site, neighbouring allotments and Council verge which may be impacted by the proposed development. Of the twelve (12) trees identified, four (4) trees are proposed for removal which includes one (1) street tree.

The location of the trees assessed are shown in **Figure 16** below.

ITEM 2 (continued)

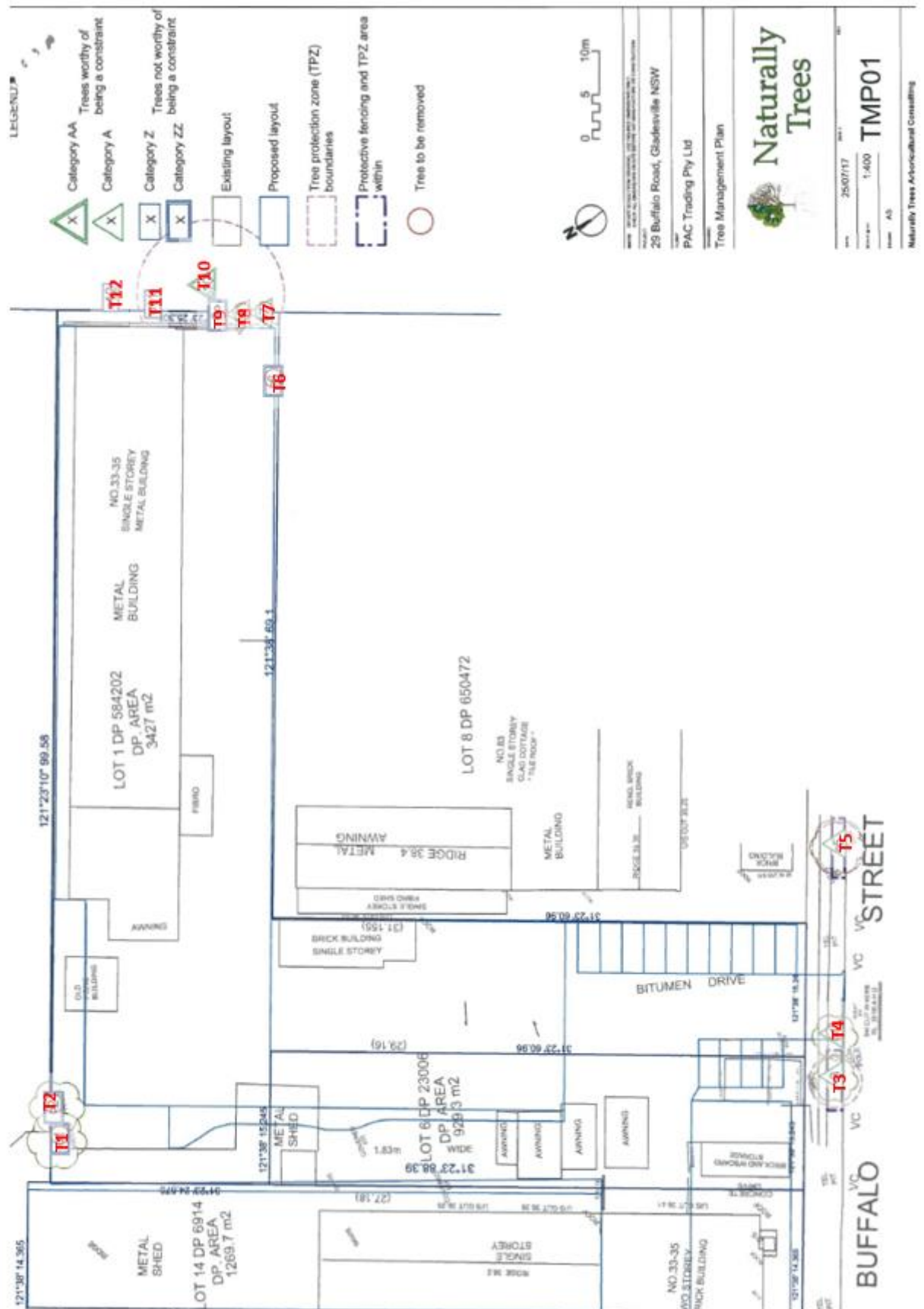


Figure 16: Location of trees on the site and adjoining properties

ITEM 2 (continued)

The trees assessed are also listed in the below table:

Tree	Species (Common Name)	Proposed Recommendation
1	<i>Ligustrum sp.</i> Privet	Arborist Report: Remove* Plans and supplementary report: Retain
2	<i>Ligustrum sp.</i> Privet	Arborist Report: Remove * Plans and supplementary report: Retain
3	<i>Tristaniopsis laurina</i> Water Gum	Retain & Protect
4	<i>Tristaniopsis laurina</i> Water Gum	Remove
5	<i>Tristaniopsis laurina</i> Water Gum	Retain & Protect
6	<i>Ligustrum sp.</i> Privet	Remove
7	<i>Toona ciliata</i> Red Cedar	Remove
8	<i>Toona ciliata</i> Red Cedar	Remove
9	<i>Ligustrum sp.</i> Privet	Retain & Protect
10	<i>Eucalyptus saligna</i> Sydney Blue Gum	Retain & Protect
11	<i>Cupressus sp.</i> Cypress Pine	Retain & Protect
12	<i>Syncarpia glomulifera</i> Turpentine	Retain & Protect

* The Arborist report originally submitted proposed to remove Trees 1 and 2, which conflicted with the architectural plans. The Applicant has since provided a supplementary report to assess the impact on Trees 1 and 2 which has recommended retention of these trees.

Tree 3, 4 and 5 are located within the Council reserve. Tree 4 is proposed to be removed due to the conflict with the new driveway and crossover location.

With regards to two (2) of the site trees (*Toona ciliata*), being Trees 7 and 8, the removal of these trees is required for installation of the new hard paved access along the southern site boundary as well as construction of a new boundary retaining wall. Whilst these trees do contribute to the overall amenity of the site, retention is not considered to be feasible in this instance and re-design to allow the retention of these trees is not considered to be warranted. Tree 6 is an exempt species and is also proposed to be removed.

The remaining trees (i.e. Trees 3, 5, 9, 10, 11 and 12) are proposed to be retained.

ITEM 2 (continued)Proposed use

The applicant describes the proposed uses as *“bio-degradable and cost effective packaging solutions for the food and retail industry. The proposal will primarily act as a warehouse and distribution centre for the company with the proposed office space, meeting rooms and conference room all being ancillary to this use”*.

Details of the proposed use are as follows:

- Occupation of Warehouse 1 and 2.
- The hours of operation are Monday to Friday, 8.00am to 5.00pm.
- Maximum staff number of 25 people.
- 20 to 40 deliveries to and from the site are anticipated on a daily basis.

The Applicant has proposed the front building (see **Figure 10**) to contain 2 retail uses on the ground floor and storage areas on the first floor. The Statement of Environmental Effects (SEE) has stated that the use of this building as a retail premises will be subject to a separate approval process. For the purposes of this assessment report, the use of the building is considered as retail.

4. Background21 December 2016

Development application lodged.

19 April 2017

A letter was sent to the applicant advising of the following issues that were required to be addressed:

Planning Issues

- **Setback** - *A greater setback is to be provided to the south-east side boundary that adjoins the residential dwellings along Nelson Street, with additional landscaping to provide a buffer between the proposed warehouse and residential dwellings.*

While no specific guidance is provided regarding setbacks in the Ryde DCP 2014 or other Council policies, SEPP (Exempt and Complying Development Codes) 2008 requires a side setback of 4.5m for industrial buildings with floor area between 1,000m² and 5,000m² that adjoin a residential zone, in addition to a 3m landscape setback. This is considered to be a reasonable separation and treatment between the boundary of the site and residential dwellings to reduce the visual amenity impacts of the development.

ITEM 2 (continued)

- **Height** – The application is submitted with a Clause 4.6 variation for an 18.5% height variation with the sole justification of flood levels for the variation.

The extent of the height variation due to the flood levels is not supported and the development is to be amended to comply with Council's maximum height controls under Ryde LEP 2014.

In particular, Warehouse 1, which is not within a flood zone for the south eastern portion of the site and sits 1.77m above the 100 year ARI flood event level, is to be reduced in height to comply with the maximum height Ryde LEP 2014. A variation will not be supported in this part of the site.

Should the amended plans continue to propose a variation to the height control, a full assessment of the flood impacts and required finished floor levels across the extent of the development, and resultant maximum height of the building is to be presented to Council.

- **South eastern elevation plan and perspective** – an elevation plan, perspective view and section plan of the proposed development from the south – east of the site is to be provided – i.e. as viewed from the rear of the properties along Nelson Street. The perspective should take into consideration level differences. The section plan is to show the existing ground level of the rear of adjoining properties on Nelson Street.
- **Tree removal & Arborist Report** – it is noted that there are a number of significant trees along the site boundary adjoining the residential dwellings along Nelson Street. None of these trees are noted on the plans, the survey plan or in the submitted documentation.

The survey plan is to be updated to identify the location of these trees and an Arborist Report is to be prepared and submitted to Council to identify assess the impacts of the amended design on these trees which are to be protected and retained.

- **Retaining wall** – the owner of 4 Nelson Street has advised that there is a retaining wall along their adjoining boundary with the site. The survey plan is to be updated to identify the height of this wall and plans amended to address how this wall will be retained or replaced.

Environmental Health Officer

- **Waste Management Plan** – A construction waste management plan is to be submitted which addresses the construction phase of the development.
- **Site contamination** – There is no information on Council's record to identify the previously use of the site. Aerial photographs indicate that the

ITEM 2 (continued)

site was used as a metal storage scrap yard. There is also a past history of water pollution which was drained onto the property from the neighbouring premises. Council's Environmental Health Officer requires the submission of a Preliminary Site Contamination Report to confirm that there is no contamination to be address.

Traffic

- *Inconsistencies between drawings regarding swept path diagrams and insufficient detail to demonstrate compliance with Australian Standards.*

Stormwater – Drainage Engineer

- *Show the existing Council's trunk drainage accurately on the stormwater and architectural plans. If the drainage line does not follow the easement centre line, the easement shall be adjusted and registered.*
- *The floor level shown on the stormwater plans and architectural plans do not match.*
 - *In some locations, proposed floor levels are below the 100 year ARI (Average Recurrence Interval) flood level plus the freeboard of 500mm.*
 - *In some locations, floor levels are set high for the purpose of car parking underneath.*
- *A 7 m wide x 0.5 m high channel/culvert is proposed to convey the major overland flows. Insufficient details are provided on the drawing. A drainage plan showing chainages, existing drainage system, inlet and outlet flow structures and flood levels shall be prepared.*
- *A drainage system longitudinal section drawn at a scale of 1:100 or 1:200 horizontally and 1:10 or 1:20 vertically and showing the proposed channel and the existing drainage system to ensure sufficient cover is maintained.*
- *The existing Council's drainage line is old and its conditions shall be assessed first in order to propose an overland flow channel over the pipe line. Council shall be provided with an electronic closed circuit television report (CCTV report) prepared by an accredited operator that assesses the condition of the existing drainage network.*
- *Council does not support construction of an overland flow channel on top of the old drainage line. There will be practical difficulties for the Council to carry out pipe maintenance works or replace the drainage line without demolishing the overland flow channel. Therefore, it is recommended to replace the existing drainage line to the current design standard – 20 year ARI (Average recurrence interval). Construction of an overland flow channel over a new drainage line is permitted.*
- *The model files shall be provided to Council for its assessment.*
- *Foundation piers should be located outside Council's easement and be a minimum of 1.00m from the outside face of the existing stormwater conduit.*

ITEM 2 (continued)**Stormwater Management – Development Engineer**

- *All DRAINS analysis (utilised in the design of the stormwater drainage system and flood analysis) must be provided to clarify the data.*
- *The plans do not clarify the treatment or location of the public drainage infrastructure traversing the site. This may (or may not) be located in the easement.*
- *The submitted stormwater drainage system proposes a significant stormwater drainage line (300mm in diameter) to traverse the easement (there is only one OSD unit on the site). This can complicate any maintenance of public drainage infrastructure services. To address this, the OSD storage and discharge control will need to be divided into separate systems, located on either side of the public drainage infrastructure. Both are to discharge to a single connection point at the rear of the property.*
- *The proposed driveway crossover will extend over an existing kerb inlet pit. To insure the inlet capacity of this infrastructure is maintained, the development works will be required to revert this to a trafficable butterfly grate plus install a new extended kerb inlet pit adjoining the crossover and fronting the site, to ensure the inlet capacity of this infrastructure is maintained. Details of this work are to be provided.*

Impact on Private Drainage Easements

There are two existing private easements which traverse the lot and the application has not clarified their status nor whether there has been any consultation with the beneficiaries of these easements.

The following matters are to be addressed:

- *There is an existing drainage easement located on the eastern portion of the lot which is defined only by a single line. The terms of the easement (as per Council records) are also unconventional. The applicant is to provide confirmation from the beneficiary that they are satisfied by this arrangement.*
- *A second easement traverses the western portion of the lot. The applicant is to confirm the terms and conditions of this easement as it may potentially accommodate drainage services for 25 Buffalo Street.*

12 May 2017

An email was received from the applicant requesting an extension beyond the 28 day timeframe indicated in Council's letter dated 19 April 2017 and a meeting with Council's Engineer to discuss design solutions.

24 May 2017

A meeting was held with the applicant to discuss the issues raised in the initial request for information.

ITEM 2 (continued)31 May 2017

An email was sent from Council advising that storage areas are added to GFA/FSR.

15 June 2017

An email was received from the applicant requesting an extension to 14 July 2017 due to delays in investigation and redesign work. The request was granted by Council.

13 July 2017

An email was received from the applicant requesting an extension to 31 July 2017 to submit the information requested by Council in its letter dated 19 April 2017. The request was granted by Council.

17 August 2017

Additional information submitted to Council including:

- Amended architectural plans;
- Amended stormwater plans and report; and
- A Clause 4.6 variation request to vary the building height development standard.

17 August 2017 to 1 September 2017

The amended plans and documentation was notified in accordance with the Ryde Development Control Plan 2014.

29 August 2017

Second Request for Further Information (RFI) from Council's City Works Department (CW) sent to the applicant advising:

"The proposed development may affect the existing flowpath and flood levels at neighbouring properties. There needs to be some justification for the use of a 1D hydraulic model (Hec-RAS) rather than a 2D model that would probably more accurately account for complex site conditions. In the event 1D approach is adopted, this plan shall clearly show all the section widths and locations."

13 February 2018

A meeting with the applicant held to discuss the RFI issued by CW. The applicant questioned the validity of the issues raised in the RFI which differed from their initial RFI issued on 29 May 2017.

It was agreed that Council's CW Engineer would undertake a review of RFI comments and provide feedback to the applicant at a later stage.

6 March 2018

Revised comments received from CW, the content of which did not expand upon the above noted RFI.

ITEM 2 (continued)

In response to an internal meeting undertaken on 19 March 2018 between Assessment Officers and CW Engineers, a number of options to address the flooding and drainage issues were discussed. It was agreed that two options would be elaborated on in revised comments to the applicant.

17 April 2018

An email was sent to applicant identifying outstanding planning related issues, which included staging of the development, proposed use of the development, floor area, parking and retention and location of trees on the site.

27 April 2018

A meeting with the applicant was undertaken to discuss the issues raised by CW. A summary of the main points of discussion are:

“Flood study/modelling

- *The submitted flood modelling shall be refined to reflect the horizontal alignment of the proposed channel through the site and that cross-sections are perpendicular the flow path.*
- *The extent of the cross sections shall be based on the extent of obstructions/barriers that exist at the boundaries with neighbouring properties. With this in mind, it is considered warranted that additional cross-sections be provided in Buffalo Road, spanning not only the front of the property but extending across the frontage of 27 Buffalo Road where it is anticipated overland flow enters through the neighbouring lot.*
- *Consideration is to be given in regards to the flow entering the site from 27 Buffalo Road. If this is an impermeable barrier, the investigation needs to clarify this with further evidence.*
- *Flood modelling of the existing and proposed developments shall be provided for comparison.”*

17 May 2018

In response to the discussions during the meeting on 27 April 2018, the Applicant submitted additional flood analysis. No TUFLOW modelling was provided with this information.

21 May 2018

A letter was sent to the applicant identifying outstanding planning related issues, which included staging of the development, use of the development, details of building height and floor area and parking. These issues remained unresolved from the RFI sent on 17 April 2018.

14 June 2018

The applicant provided GFA/FSR Calculation plans and table (Revision 4) and clarification on the use and staging of the development.

ITEM 2 (continued)22 June 2018

Council sent an email to the applicant requesting latest issue of architectural and landscape plans.

2 July 2018

The Applicant submitted additional information to Council including the following:

- Amended architectural plans (Issue E); and
- Amended Landscape Plans (Issue D).

28 September 2018

A letter requesting further information was forwarded to applicant containing comments from CW Drainage identifying that the submitted information is inadequate and TUFLOW modelling should be undertaken.

18 January 2019

The applicant provided a revised Flood Assessment Report.

18 February 2019

An email was sent to the applicant following a review by CW Drainage of the revised Flood Assessment Report. This email identified a number of issues with the revised Flood Report including the absence of adequate TUFLOW modelling.

19 February 2019

The applicant provided a response to the issues raised in the email from Council dated 18 February 2019 and also provided TUFLOW modelling.

12 March 2019

An email was sent to the applicant with respect to a request for a further meeting by the applicant. A summary of the outstanding drainage issues were included in the email.

8 April 2019

An email was sent to the applicant requesting flood modelling and report prior to an upcoming meeting on 1 May 2019 to enable Council staff to review and respond accordingly. The information was requested to be received prior to 15 April 2019 at the latest.

15 April 2019

The Applicant provided the requested flood modelling by email.

16 July 2019

It was identified in a meeting held with the applicant that the revised Flood Report had inadequate information to address the issues previously raised. A date of 30 July 2019 was agreed upon to submit the information required to address these issues.

ITEM 2 (continued)1 August 2019

An email was sent to the Applicant requesting update on the submission of requested information.

13 August 2019

An email was received by Council from the Applicant's Engineer with link to flood modelling and report.

8 November 2019

A letter was sent to the Applicant identifying outstanding planning, arboricultural and contamination issues that had not been addressed in the amended plans, including:

- **Site Contamination.** The Applicant's Site Investigation report states that further investigations were required to determine the suitability of the site for the development given the history of the site and considerable number of chemicals of potential concern identified on the site.
- **Variation to Building Height Development Standard.** The written Clause 4.6 variation request provided by the Applicant is inadequate, and Council requested that the development be amended to fully comply with the 10m height restriction for the site.
- **Retention of trees.** The Arborist report provided by the Applicant recommended the removal of two trees (Tree 1 and 2) on the adjoining property. Given owner's consent was not provided for the removal of these trees, the Applicant is required to demonstrate these trees can be retained.

12 November 2019

The Applicant provided a Phase 1 Contamination Land Soil Investigation in an attempt to address the Site Contamination issue identified in the RFI letter dated 8 November 2019.

6 December 2019

The Applicant provided the following information in response to the RFI letter dated 8 November 2019:

- Revised Architectural Plans (Revision F) modifying the building height.
- A 'Preliminary Tree Inspection Report' to be read in conjunction with the previous Arborist Report that assesses the impact of the development on Trees 1 and 2 on the adjoining property.

5. Planning Assessment

An assessment of the development in respect to Section 4.15 of the *Environmental Planning and Assessment Act 1979* is detailed below.

ITEM 2 (continued)**5.1 State Environmental Planning Instruments****State Environmental Planning Policy No. 55 – Remediation of Land**

The development has been assessed with regard to the criteria specified in SEPP 55. Clause 7 of SEPP 55 states the following:

7 Contamination and remediation to be considered in determining development application

- (1) A consent authority must not consent to the carrying out of any development on land unless—
 - (a) it has considered whether the land is contaminated, and*
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.**
- (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*

A Preliminary Site Investigation report prepared by Douglas Partners dated June 2017 was submitted with the development application. This report identified that based on site history information and the site walkover, the following potential sources of contamination and associated contamination of potential concern were identified:

- Filling of unknown origin potentially present across the whole of the site.
- Fuel and turpentine storage in ASTs.
- Historical and current activities including use and storage of solvents, turpentine potentially manufacture and/or storage of laminated and chemical products and cabinet making.
- Existing buildings on the site.
- Adjacent land uses of light industrial units.

The report concludes as follows:

“Based on a review of site history information and a site walkover, it is considered that the potential for contamination is limited to the sources

ITEM 2 (continued)

provided in Table 6. In order to address the impacts, it is recommended that a detailed site investigation (DSI) be undertaken to characterise the soil and groundwater quality and to assess the suitability of the site for the proposed development.

The investigation should also include a preliminary waste classification to inform disposal options for any surplus soils generated by the redevelopment process (which is assumed to include basement excavation), under which circumstances any necessary remediation may be undertaken during the course of bulk excavations. It is therefore recommended that intrusive soil and groundwater sampling is undertaken at the development site.

As some of the buildings on the site are considered likely to contain hazardous building materials, a hazardous materials survey of the buildings is also recommended”.

As such, Council requested that the Applicant provide a Phase 2 contamination report the demonstrated that the site is suitable for the proposed development.

The Applicant then prepared an additional Phase 1 Contaminated Land Soil Investigation prepared by Environmental Advisors and dated 11 November 2019 in an attempt to address the issues raised by Council.

This report advised of the following:

“Anbei wish to satisfy the information request dated 25 October 2019 for a Phase 2 DSI of soil and groundwater. Anbei also wish to continue momentum with the development application by submitting further information on contamination assessment by the next scheduled Council meeting on 12 November 2019.

Due to the limiting factors of available timeframe and presence of structures, the completion of a Phase 2 DSI by 12 November 2019 was not feasible, however, it was considered achievable to perform a limited soil investigation and obtain an idea of the broad contamination status of soils across the site. This approach is more closely aligned to the stages approach of contaminated land assessment outlined in NEPM and will allow further soil and ground water investigation to be undertaken in a more targeted manner”.

This report concludes that:

“the site could be made suitable for on-going commercial/industrial usage, however, based upon the identified areas and contaminants of potential concern, we cannot completely rule out the potential for undetected soil hotspots or impact to groundwater”.

ITEM 2 (continued)

Council's Environmental Health Officer has raised concerns above the use of the site given the site's history, chemical store on the site and possible site contamination. A Phase 2 Site Contamination investigation is required to be conducted to rule out any possible land or groundwater contamination.

The Applicant has failed to demonstrate that the site is suitable for the proposed use given the potential impact to groundwater. This is of particular concern given the site's proximity to Buffalo Creek, which is located approximately 230m north east of the subject site.

This therefore forms reason for refusal of the application.

State Environmental Planning Policy (Infrastructure) 2007

The site has 11KV and Low Voltage Overhead powerlines running along the front of the proposed site. Accordingly clause 45 of the Infrastructure SEPP applies. This clause requires the consent authority to give written notice to Ausgrid inviting comments about potential safety risks, and take into consideration any response to the notice that is received within 21 days after the notice is given.

In this regard, Ausgrid were notified of the proposal and have provided conditions to be included should approval be granted to the application.

5.2 Ryde Local Environmental Plan 2014 (RLEP 2014)

The RLEP 2014 commenced on 12 September 2014 as the new environmental planning instrument applicable to the City of Ryde.

Permissibility

The site is located within the 'IN2 – Light Industrial' zone under the RLEP 2014.

The proposal includes a number of different uses, including 'Warehouse distribution centre', 'retail premises' and offices (ancillary to the warehouse).

The Warehouse distribution centre (and ancillary offices) is permissible in the zone subject to consent.

The building at the front of the site (i.e. addressing Buffalo Road) is identified within the Statement of Environmental Effects (SEE) and architectural plans as having a 'retail' use. Despite the SEE stating that *"the use of the proposed retail spaces will be subject of separate approval processes"*, it is considered that this application, should it be approved, would be granting approval with a retail use for this building.

The RLEP 2014 defines "retail premises" within the hierarchy of "commercial premises", which is prohibited within the IN2 Light Industrial zone.

As such, the retail building is not permissible within the zone.

ITEM 2 (continued)

Objectives of the Zone

The objectives of the zone are:

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*

The development fails to satisfy all of the above objectives, as the proposal fails to minimise adverse effect of the proposed use on other land uses. The adverse impact of the proposed development on other land uses includes the following:

- The proposal adversely impacts a tree (Tree 1) located on the adjoining property (located on 23 Higginbotham Road).
- The height of the proposed buildings exceeds the maximum height of buildings of 10m, presenting unacceptable bulk and scale to adjoining residential properties to the south east and adversely impacting their amenity.
- The Applicant has failed to demonstrate that the proposal will not result in contaminated groundwater, which is of particular concern given the site's proximity to Buffalo Creek to the north east.

Furthermore, the proposed retail use would prevent the proposal from satisfying the first objective of the zone, as it would result in a use that is not intended for the zone.

Part 4 – Principal Development Standards

The following development standards apply to the site:

Clause (Permitted)	Proposed	Compliance
4.3 – Height of Buildings (see discussion after this table under Clause 4.6)		
10m	Warehouse 1: 11m (+1m)* Warehouse 2: 10.8m (+0.8m)* Retail: 8.7m	No (10%) No (8%) Yes
4.4 – Floor Space Ratio		
1.00:1 (5,626m ²)	0.72:1 (4,053m ²)	Yes

* It is noted that the architectural plans incorrectly identify the building height of Warehouse 1 and 2, as the building height is not measured from the existing ground level, rather, is measured from the “minimum ground level due to flooding”. The calculation is shown in **Figures 17** and **18** below.

ITEM 2 (continued)

Incorrect 10m
height plane

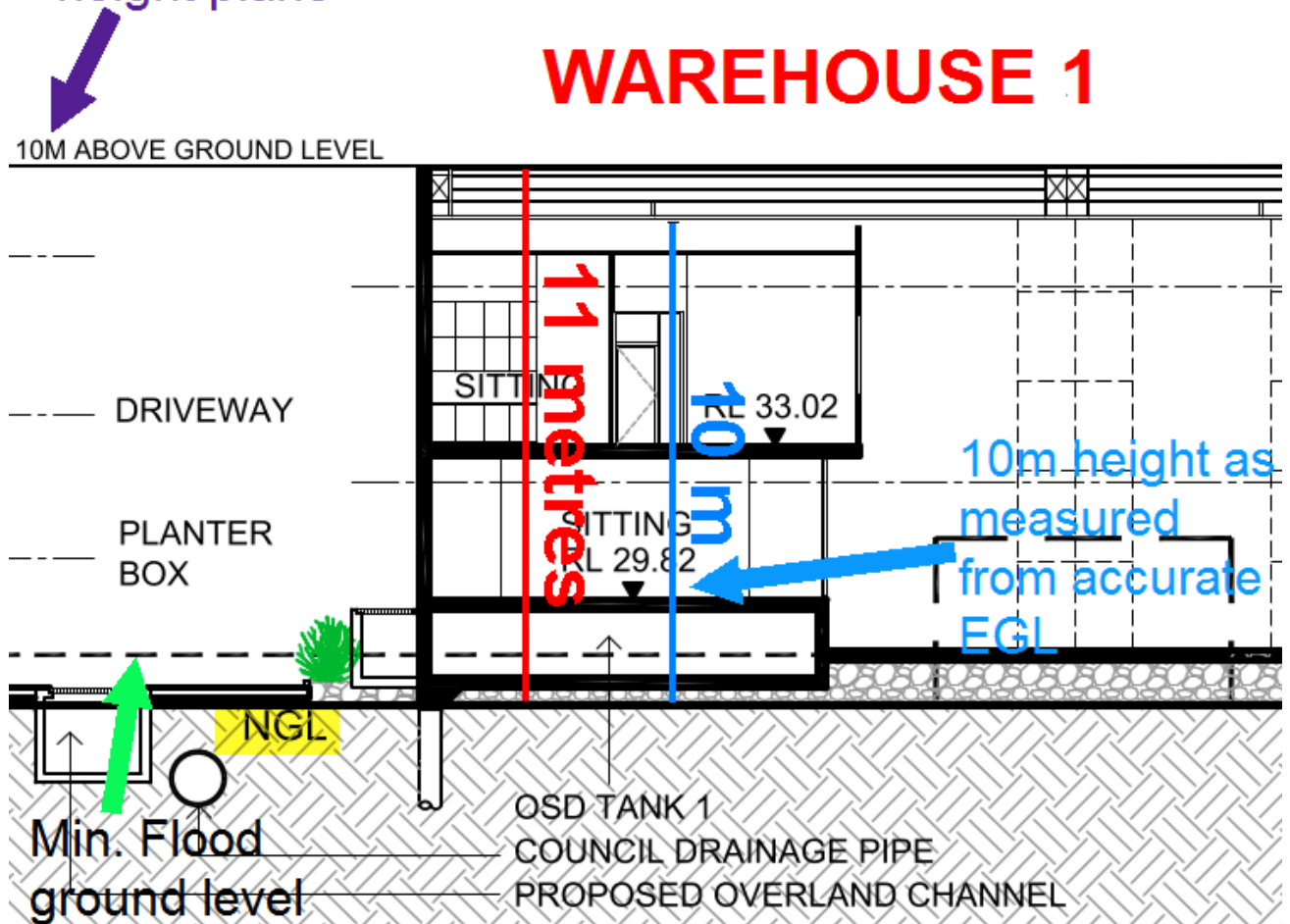


Figure 17: Extract (marked up) from Section A-A showing correct building height for Warehouse 1 at 11m

ITEM 2 (continued)

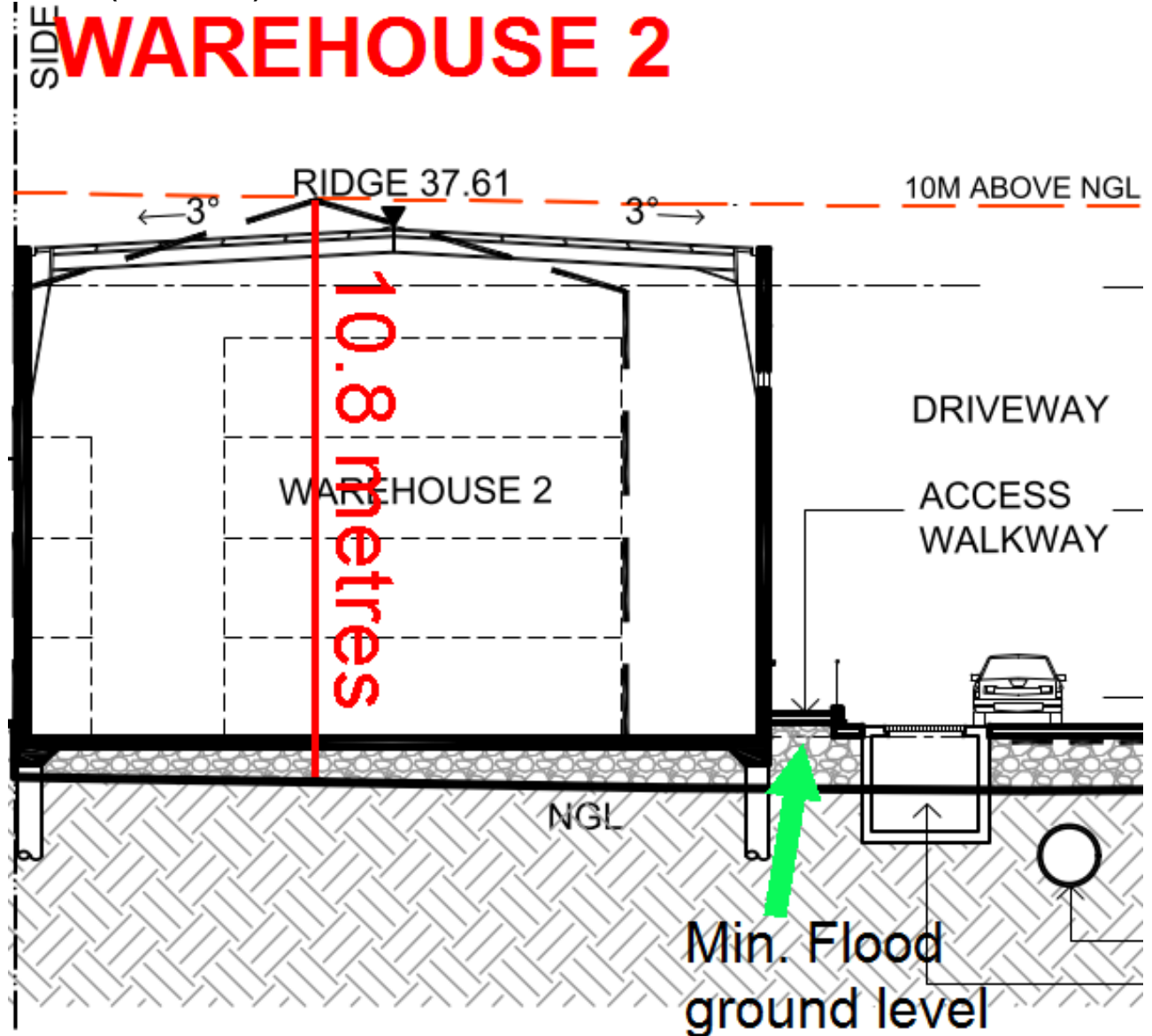


Figure 18: Extract (marked up) from Section B-B showing correct building height for Warehouse 2 at 10.8m

As such, the development does not comply with the development standard imposed under Clause 4.3 of the RLEP 2014.

Warehouse 1 has a maximum building height of 11m, which exceeds the maximum building height for the site of 10m by 1m (10%).

Warehouse 2 has a maximum building height of 10.8m, which exceeds the maximum building height for the site of 10m by 800mm (8%).

Clause 4.6 – Exemptions to Development Standards.

ITEM 2 (continued)

Whilst the Applicant has not submitted a written Clause 4.6 variation request to accompany the amended plans (Revision F), in which the proposal is presented as complying with the 10m building height, a previous Clause 4.6 requested prepared by Minto Planning Services (dated 15 August 2017) was submitted to vary this development standard.

An assessment of this written request is provided below.

1. Proposed Variation

The development contravenes Clause 4.3 by 0.8m to 1m which equate to variations of between 8% and 10% respectively.

As stated above, the written request submitted by the Applicant reflected different building heights, stating that the maximum building height for the development is 11.6m (16% variation). Irrespective of the difference in the variations presented, the written request is still assessed against the amended proposal below.

2. Principles of Exceptions to Development Standards**2.1. Clause 4.6 - Exceptions to Development Standards**

A consent authority may grant development consent for developments that do not comply with identified development standards, where it can be shown that flexibility in the application of the standard would achieve better outcomes for and from the development.

This assessment demonstrates the planning merits of the development which includes the variation of the development standard.

The objectives of Clause 4.6 of RLEP 2014 are as follows:

- a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6(3)(a) and (b) of RLEP 2014 requires the variation request to demonstrate:

- a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

ITEM 2 (continued)

The consent authority when considering a request to vary a development standard must be satisfied that the proposed development will be in the public interest and that the proposed development is consistent with the objectives of the particular standard and the objectives of the zone in which the development is proposed to be carried out.

2.2. NSW Land and Environmental Court: Case LawWehbe v Pittwater Council [2007] NSWLEC 827

The decision of Justice Preston in *Wehbe v Pittwater Council [2007]* expanded the findings of *Winten v North Sydney Council [2001]* and established a five (5) part test for consent authorities to consider when assessing an application to vary a development standard in order to determine whether non-compliance with the development standard is well founded.

The five (5) different ways in which an objection may be well founded are as follows:

- *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- *The underlying objective or purpose of the standard not relevant to the development and therefore compliance is unnecessary;*
- *The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and reasonable;*
- *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Randwick City Council v Micaul Holdings Pty Ltd [2016] NSW LEC 7

In *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSW LEC 7* Preston CJ noted at paragraph 7 that development consent cannot be granted for development that contravenes a development standard unless the consent authority:

- *"Considers the cl 4.6 objections (the requirement in cl 4.6(3)); and*
- *Was satisfied that, first, the cl 4.6 objections adequately addressed the matters required to be demonstrated by cl 4.6(3) (the requirement in cl*

ITEM 2 (continued)

4.6(4)(a)(i)) and, second, the development will be in the public interest because it is consistent with the objectives of the height standard and the FSR standard and the objectives for development within the R3 zone in which the development is proposed to be carried out (the requirement in cl 4.6(4)(a)(ii))”.

Preston CJ noted at paragraph 39 that “the [consent authority] does not have to be directly satisfied that compliance with each development standard is unreasonable or unnecessary in the circumstances of the case, but only indirectly by being satisfied that the applicant’s written request has adequately addressed the matter in subclause (3)(a) that compliance with each development standard is unreasonable or unnecessary”. In this respect, he also noted that in assessing whether compliance with the development standards was unreasonable or unnecessary an established test is consistency with the objectives of the standard and the absence of environmental harm.

Moskovich v Waverley Council [2016] NSWLEC 1015

Commissioner Tour reflected on the recent decisions considering Four2Five and said:

- *“Clause 4.6(3)(a) is similar to clause 6 of SEPP 1 and the Wehbe ways of establishing compliance are equally appropriate [at 50]. One of the most common ways is because the objectives of the development standard are achieved – as per Preston CJ in Wehbe at 42-43.*
- *Whereas clause 4.6(4)(a)(ii) has different wording and is focused on consistency with objectives of a standard. One is achieving, the other is consistency. Consequently, a consideration of consistency with the objectives of the standard required under clause 4.6(4)(a)(ii) to determine whether non-compliance with the standard would be in the public interest is different to consideration of achievement of the objectives of the standard under clause 4.6(3). The latter being more onerous requires additional considerations such as the matters outlined in Wehbe at 70-76. Such as consideration of whether the proposed development would achieve the objectives of the standard to an equal or better degree than a development that complied with the standard.*
- *Establishing compliance with the standard is unnecessary or unreasonable in 4.6(3)(a) may also be based on “tests” 2-5 in Wehbe either instead of achieving the objectives of the standard (Wehbe test 1) or in addition to that test. The list in Wehbe is not exhaustive but is a summary of the case law as to how “unreasonable or unnecessary” has been addressed to the meet the requirements of SEPP 1.*
- *It is best if the written request also addresses the considerations in the granting of concurrence under clause 4.6(5)”.*

ITEM 2 (continued)**3. Consistency with the Objectives of the development standard.**

Clause 4.6(4)(a)(ii) of RLEP 2014 requires a variation request demonstrate that the proposed development is in the public interest as it is consistent with the objectives of the particular standard.

The following assesses the consistency of the proposal against the Objectives of Clause 4.3 of the RLEP 2014 which aim to:

- ***Ensure that street frontages of development are in proportion with and in keeping with the character of nearby development.***
- ***Minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area.***
- ***Encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure.***
- ***Minimise the impact of development on the amenity of surrounding properties.***
- ***Emphasise road frontages along road corridors.***

In addressing the Objectives of the development standard, the author of the request to vary the development standard states:

“The proposal is also considered to be consistent with the objectives of Clause 4.3 - Height of Buildings in that:

- *The proposal will provide for development which will not impact upon the amenity of adjoining properties.*
- *The proposal will not result in any unreasonable streetscape or character impacts.”*

Comment

The author of the Clause 4.6 variation request does not directly address each objective of the development standard.

Furthermore, it is not agreed that the development satisfies the objectives of the development standard for the following reasons:

- The development is not considered to be in proportion with the nearby development, which generally adhere to the 10m maximum building height.
- The Applicant has failed to demonstrate that the proposal has minimal impact on the surrounding properties, as the proposal would result in an

ITEM 2 (continued)

unacceptable impact on a tree located on the adjoining property as well as potential contamination to the groundwater.

As such, the proposal is not considered to be consistent with the objectives of Clause 4.3 – Height of Buildings of the RLEP 2014.

4. Consistency with the Objectives of the IN2 Light Industrial Zone

Clause 4.6(4)(a)(ii) establishes that it should be demonstrated that the proposed development is in the public interest as it is consistent with the objectives of the zone.

The following assesses the consistency of the proposal against the Objectives of the zone which aim to:

- ***Provide a wide range of light industrial, warehouse and related land uses.***
- ***Encourage employment opportunities and to support the viability of centres.***
- ***Minimise any adverse effect of industry on other land uses.***
- ***Enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.***
- ***Support and protect industrial land for industrial uses.***

Comment

The author of the Clause 4.6 variation does not directly address each objective of the IN2 zone, however, states that:

“The proposed development is in my opinion in the public interest because it will provide for 2 warehouse buildings upon the site in a manner which is otherwise compliant with the requirements of the enabling SEPP, LEP, the applicable zone objectives and the objectives of the particular standard”.

As previously mentioned in this report, the proposal is not considered to be consistent with all the objectives of the IN2 zone, as the proposal fails to minimise adverse effect of the proposed use on other land uses.

Therefore, the written request fails to demonstrate the proposal is consistent with the zone objectives.

5. Assessment

The following provides an assessment of the variation proposed.

ITEM 2 (continued)**5.1 Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?**

In the Clause 4.6, the author states:

"It is my opinion that compliance with the requirements of Clause 4.3 is both unreasonable and unnecessary in the circumstances of this case for the following reasons:

- The proposed non-compliance is attributable to the need to locate the floor level for any new development above the flood levels applicable to the site.*
- Compliance with the both the flood level and the 10m height control would significantly limit the ability for the site to be developed in accordance with the objectives for the zone and would not allow for the provision of functional warehouse spaces upon the site.*
- The proposed non-compliance will not in my opinion result in any amenity impacts upon adjoining properties.*
- The proposal in my opinion will not result in any unreasonable impact upon either adjoining properties or the streetscape as a result of the non-compliance.*

On this basis it is my opinion that strict compliance with the standard is unreasonable and unnecessary in the circumstances of this case."

Comment

Council contends that the flood constraint on the site is not sufficient justification for the variation to this development standard. It is considered that the proposal could be designed to comply with the 10m maximum building height whilst being consistent with the objectives of the zone and providing a functional warehouse space for the site.

It is not considered that the minimum floor level required to mitigate the site's flood constraint renders the 10m building height development standard unreasonable, as the Applicant has not demonstrated that a warehouse development that is consistent with the zone objectives and compliant with this development standard is unable to be developed on the site.

In this respect, the claim that the development standard is unreasonable and unnecessary is not supported and Council contends that the development standard is reasonable and necessary in order to maintain the local character.

5.2 Are there sufficient environmental planning grounds to justify contravening the development standard?

ITEM 2 (continued)

In response to this question, the author of the Clause 4.6 variation states:

“It is considered that a contravention of the development standard is justified given the flooding affectation applicable to the site and the need to locate floor levels above the applicable flood level.”

Comment

As outlined above, the planning grounds provided by the author of the request relate solely to the flood levels across the site. The flood constraint applicable to the site is not considered to be so restrictive that it would prevent a warehouse development that complies with the applicable development standards.

Accordingly, the applicant’s request does not include appropriate analysis to demonstrate why there are sufficient environmental planning grounds to justify not complying with the standard.

5.3 Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

In response to this question, the author of the written request states:

“The proposed development is in my opinion in the public interest because it will provide for 2 warehouse buildings upon the site in a manner which is otherwise compliant with the requirements of the enabling SEPP, LEP, the applicable zone objectives and the objectives of the particular standard.

In this regard it is submitted that in relation to the objectives for the IN2 - Light Industrial zone as detailed below that the proposal which seeks to provide for a high quality warehouse and distribution centre upon the site is consistent with these objectives.

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*

The proposal is also considered to be consistent with the objectives of Clause 4.3 - Height of Buildings in that:

ITEM 2 (continued)

- *The proposal will provide for development which will not impact upon the amenity of adjoining properties.*
- *The proposal will not result in any unreasonable streetscape or character impacts.”*

Comment

As previously discussed in this report, Council contend that the proposal is not consistent with either the zone objectives or the objective of Clause 4.3 of the RLEP 2014, and as such, the proposed development is not considered to be in the public interest.

5.4 Whether or not non-compliance with the development standard raises any matter of significance for state or regional environmental planning?

In response to this question, the author of the Clause 4.6 variation states:

“It is my opinion that contravention of the standard does not raise any matters of significance for State or Regional environmental planning.”

Comment

Agreed.

5.5 Public benefit of maintaining the development standard?

In response to this question, the author of the Clause 4.6 variation states:

“It is my opinion that there is no public benefit in maintaining the development standard in this instance given the public benefit provided and the absence of any unreasonable detrimental impacts.”

Comment

It is considered that the contravention of this development standard will set an undesirable precedent in the area. Furthermore, the applicant has failed to demonstrate that the proposal will result in unreasonable impact on the streetscape and adjoining properties.

Therefore, Council contend that the maintaining the development standard is of public benefit.

5.6 Matters required to be taken into consideration by the secretary before granting concurrence?

There are no additional matters to be considered.

ITEM 2 (continued)

Planning Circulars PS 17-006 issued 15 December 2017 advises when Councils may assume the Secretary's concurrence to vary development standards.

"Only a full Council can assume the Secretary's concurrence where the variation to a numerical standard is greater than 10%, or the variation is to a non-numerical standard. The determination of such applications cannot be made by individual council officers unless the Secretary has agreed to vary this requirement for a specific council. In all other circumstances, individual council officers may assume the Secretary's concurrence.

As the development proposes to vary the development standard by only 10%, Council's individual officer may assume the Secretary's concurrence.

5.7 Considerations arising from 'Wehbe and Four2Five'?

The five part test established by Preston J in *Wehbe v Pittwater Council* [2007] NSWLEC 827 and furthered in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 are considered below:

Wehbe Five Part Test

- *Would the proposal, despite numerical non-compliance be consistent with the relevant environmental or planning objectives?*

The proposal is not considered to be consistent with the relevant environmental or planning objectives.

- *Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard is unnecessary?*

The underlying objective or purpose of the standard is relevant to the development thereby making compliance with Clause 4.3 necessary.

- *Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable?*

The underlying objective or purpose would not be defeated were compliance required.

- *Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that departs from the standard, making*

ITEM 2 (continued)

compliance with the development standard by others both unnecessary and unreasonable?

Council has not abandoned or destroyed the development standard.

- *Is the “zoning of particular land” unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land. Consequently compliance with that development standard is unnecessary and unreasonable?*

The IN2 Light Industrial zoning of the land is reasonable and appropriate, particularly in that it abuts an R2 Low Density Residential zone. Therefore, the development standard is also reasonable and appropriate in order to protect the characteristics of both zones from the effects of over-development.

6. Conclusion

The proposed development is inconsistent with the objectives of both the development standard and the IN2 Light Industrial zone.

Therefore, the proposed variation to the development standard is not supported.

Other relevant clausesClause 5.10 – Heritage conservation

Comment was sought from Council's Heritage Advisor as the development site is located within the vicinity of the Field of Mars Reserve, which is an item of heritage significance (listed on Schedule 5 of the RLEP 2014).

No objection was raised from Council's Heritage Advisor given that the proposal will not result in any adverse visual impacts on the broader setting of the Field of Mars Reserve.

Clause 6.1 – Acid sulfate soils

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

The site is located within Class 5 Acid Sulfate Soils land and within 200m of Class 3 land (as identified on the 'Acid Sulfate Soils Map').

Clause 6.1(2) requires development consent to be provided for the carrying out of works within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5.0m Australian Height Datum and by which the water table is likely to be lowered below 1.0m Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

ITEM 2 (continued)

Given that the development proposes minimal excavation works (due to the drainage issues identified on the site), the development will not result in the lowering of the water table below 1.0m Australian Height Datum.

Clause 6.2 - Earthworks

Clause 6.2 requires consideration of the impact of earthworks in relation to environmental functions, processes, neighbouring uses, cultural and heritage items and features of the surrounding land.

The following matters are required to be considered:

- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development.***

The site is affected by flood hazard. Council's City Works Drainage Engineer has reviewed the application and is satisfied that the proposed development will not adversely affect the flood impact on nearby properties, and that the post-development condition has reduced the flood hazard in the area.

- (b) *the effect of the development on the likely future use or redevelopment of the land.***

The proposed excavation is to facilitate the future development of the site. The proposal involves excavation for small section of the proposed buildings and for stormwater works.

- (c) *the quality of the fill or the soil to be excavated, or both.***

The *Preliminary Site Investigation for Contamination* and subsequent *Limited soil investigation report* provided by the Applicant has identified the potential for contamination to exist on the site as a result of current and historical land uses at and surrounding the site. Both of these reports recommend a Phase 2 detailed site investigation involving the analysis of soil and groundwater samples.

The Applicant has failed to provide a Phase 2 report, and has concluded that:

“the site could be made suitable for on-going commercial/industrial usage, however, based upon the identified areas and contaminants of potential concern, we cannot completely rule out the potential for undetected soil hotspots or impact to groundwater”

ITEM 2 (continued)

Therefore, the Applicant has failed to demonstrate that the site is suitable for the proposed development in regard to the quality of the soil to be excavated.

(d) the effect of the development on the existing and likely amenity of adjoining properties.

The development is likely to impact two (2) 'exempt' weed species (*Ligustrum lucidum* – *Broadleaf Privet*) as a result of the proposed driveway slab and stormwater infrastructure to be constructed adjacent. These trees whilst listed as exempt under Part 9.5 of the Ryde DCP 2014 are located on the adjoining allotment and must be retained and protected as part of the proposed development.

Whilst these trees are resilient to construction related stresses, it is considered unlikely that Tree 1 will tolerate the level of impact proposed and therefore the proposal as submitted is not supported.

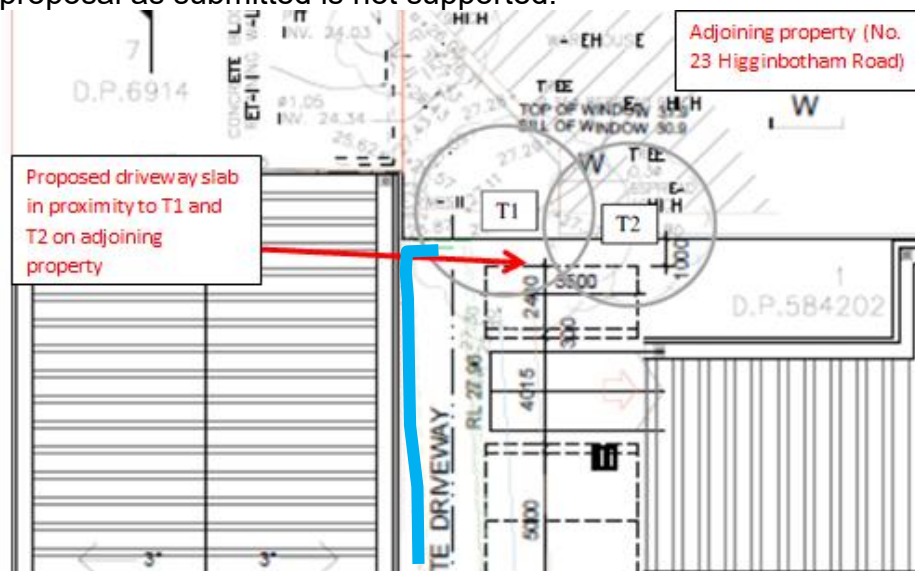


Figure 19: Location of trees on subject site and adjoining properties that may be affected by proposal (proposed stormwater infrastructure shown in blue)

(e) the source of any fill material and the destination of any excavated material.

No information has been provided in regard to either the source of fill or the destination of excavated materials and conditions of any consent would be required to address these matters.

(f) the likelihood of disturbing relics.

Given the location of the site and its previous development, it is considered unlikely that any relics would be disturbed.

ITEM 2 (continued)

- (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area.***

Concern has been raised in relation to the impact of the development on the groundwater. Given the site's proximity to Buffalo Creek to the north east, the proposal cannot be supported due to the potential risk to this waterway.

- (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.***

The proposed development has failed to demonstrate that the impact of the development has been mitigated in relation to the impact on the adjoining trees and site contamination.

6.4 – Stormwater management

The objective of this clause is to minimise the impacts of urban stormwater on land and on adjoining properties, native bushland and receiving waters.

Clause 6.4(3) states:

“Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*
- (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*
- (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.”*

The application has been considered by the Stormwater and Catchments team of Council's City Works Department and Council's Development Engineer with respect to stormwater management.

Both parties do not raise any objections to the proposal subject to conditions.

5.3 Draft Environmental Planning Instruments

There are no draft environmental planning instruments that affect the site.

5.4 Development Control Plans

ITEM 2 (continued)

City of Ryde Development Control Plan 2014 (RDCP 2014)

The development has been assessed with regard to the following parts of RDCP 2014:

- Part 8.1: Construction Activities.
- Part 8.2: Stormwater Floodplain Management.
- Part 8.3: Driveways.
- Part 9.2: Access for People with Disabilities.
- Part 9.3: Parking Controls.
- Part 9.5: Tree Preservation.

An assessment of the development in accordance with the Parts 8.1, 8.2, 8.3 and 9.2 of the RDCP 2014 has been undertaken by Council's Development Engineer and City Works department. No issue has been raised by either department as detailed in the 'Referrals' section of this report subject to the inclusion of conditions in any consent of the development.

Part 9.3 – Parking Controls

Part 9.3 requires the development to provide the following on-site car parking:

Use	DCP Requirement	Proposed	Compliance
Warehouse (3,557m ²) 1 space per 300m ² GFA	11.8 spaces	30 spaces	Yes (+5 spaces)
Retail (247m ²) 1 space per 25m ² GFA	9.8 spaces		
Office (249m ²) 1 space per 40m ² GFA	6.2 spaces		
Total	24.8 (25) spaces	30 spaces	Yes (+5 spaces)

The proposed development complies with the required parking rates specified under the RDCP 2014.

Part 9.5 – Tree Preservation

Comment was received from Council's Consultant Landscape Architect as detailed in the 'Referrals' section of this report. The proposal is considered to have an adverse impact on Tree 1 located on the adjoining property at No. 23 Higginbotham Road. Notwithstanding Part 9.5 of the RDCP 2014 identifying this tree as "exempt" weed

ITEM 2 (continued)

species, landowner's consent has not been provided to enable the removal of this tree.

As such, the impact on Tree 1 forms reason for refusal of the application.

5.5 Planning Agreements OR Draft Planning Agreements

There are no planning agreements or draft planning agreements for this development.

5.6 Section 7.11 Development Contributions Plan 2007 (Amendment 2010)

Council's current Section 7.11 Development Contributions Plan 2007 (Interim Update (2014) effective 1 May 2018 requires a contribution for the provision of various additional services required as a result of increased development density.

The contribution that would be payable (subject to approval) with respect to the increased floor area on the subject site (being for non-residential development outside the Macquarie Park Area). Given the recommendation of this report is for refusal, these calculations have not been provided in this report.

6. The likely impacts of the development

The proposed development is considered to have an adverse environmental impact for the following reasons:

- The proposal would impact a tree on the adjoining property (No. 23 Higginbotham Road).
- The proposal fails to demonstrate that the proposal will not result in contamination of the groundwater.
- The non-compliance with the building height development standard results in an unacceptable impact on the character of the area.

7. Suitability of the site for the development

Given the proposal does not meet the requirements in regard to maximum building height, it is considered that the site is unsuitable for an industrial development of this size.

Furthermore, the Applicant has not demonstrated that the site is suitable with respect to the potential contamination, with potential for "undetected soil hotspots or impact to groundwater" identified in the Phase 1 Contaminated Land Soil Investigation Report provided by the Applicant.

ITEM 2 (continued)

The proposal also includes a retail building, which is not permissible within the IN2 Light Industrial zone under the RLEP 2014.

8. The Public Interest

Given the above assessment, it is not considered that approval of the application would be in the public interest as the site is not suitable for the proposed development and the proposal fails to achieve the objectives of the IN2 zone.

9. Submissions

In accordance with RDCP 2014 Part 2.1 Notice of Development Applications, the proposal was advertised in the Northern District Times dated 25 January 2017 and owners of surrounding properties were given notice of the application. In response, sixteen (16) submissions objecting to the development were received.

The submissions raised the following issues:

- ***Building height.***
- ***Building setback.***
- ***Amenity (includes privacy, overshadowing, visual impact, noise and stormwater runoff).***
- ***Traffic and parking.***
- ***Tree removal.***
- ***Out of character with the area.***
- ***Location of existing retaining wall.***
- ***Quality of documentation.***

As a result of design changes to address issues raised in Council's letter, the development was re-notified to surrounding property owners from 8 August 2017 to 24 August 2017. During this notification period, additional design changes were undertaken to reduce the massing of Warehouse 1 at the interface to the adjacent residential properties to the southeast. The design changes included the establishment of a setback and a 'stepping down' of the building envelope.

Therefore, a third neighbour notification was undertaken from 17 August 2017 to 1 September 2017. A total of seven (7) submissions objecting to the amended development were received.

The submissions were received from the following properties and are shown in **Figure 20** below:

Address	
7 Nelson Street, Gladesville	15 College Street, Gladesville
4 Nelson Street, Gladesville	2 Nelson Street, Gladesville
8 Nelson Street, Gladesville	18 College Street, Gladesville

ITEM 2 (continued)

Address	
6 Nelson Street, Gladesville	10 Nelson Street, Gladesville
3 Orient Street, Gladesville	12 Nelson Street, Gladesville
25 College Street, Gladesville	9 Buffalo Road, Gladesville
2 Nelson Street, Gladesville	18 Buffalo Road, Gladesville



Figure 20: Location of properties objecting to the development application (property shown with blue star)

The amended plans that were received by Council on 6 December 2019 were not re-notified given the amendments only related to a slight reduction in building height for part of Warehouse 1. It is noted that the height shown on the amended plans received on 6 December 2019 is incorrect.

The issues raised in these submissions are discussed below.

- **Building height**

“The proposed building height does not comply with the building height control in Ryde LEP 2014 and is out of scale with buildings in the area.”

ITEM 2 (continued)Comment

The proposed development exceeds the maximum permitted building height of 10m by between 0.8m and 1m.

The Applicant has failed to provide sufficient justification for the variation to the building height development standard, and as such, this forms reason for refusal of the application.

- **Building setback**

“The setback of the development to the shared boundary with residential properties which is supposed to be 4.5m is only 2.6m.”

Comment

In the absence of any setback controls in RDCP 2014 or other Council policies, it was suggested to the applicant that a side setback of 4.5m be established to the shared boundary with the adjacent residential properties to the south east.

While the proposal has been amended to provide a setback less than the suggested 4.5m setback, being 3m, the height of the development has been reduced at the interface to the residential properties by introducing a ‘step’ in the building envelope to Warehouse 1.

The resulting mass of the development 5.9m in height for a distance of 7.5m from the shared boundary and on this basis is considered to maintain a suitable level of amenity to the adjacent residential properties and therefore achieves the intent of the setback control.

This setback is consistent with the recent Land & Environment Court approval adjoining the site at No. 23-25 Higginbotham Road.

Therefore, this concern does not warrant refusal of this application.

- **Amenity**

“The development will impact our privacy, block natural sunlight, overshadow our properties and block natural sunlight.”

Comment

While Part 3.3 Dwelling Houses and Dual Occupancy (attached) of Ryde DCP 2014 does not apply to the subject development application, the affected properties and source of the objections are from residential dwellings facing Nelson Street.

In this regard, Part 3.3 sets the controls and the acceptable level of solar access and of overshadowing for dwelling houses within the R2 Low Density zone.

ITEM 2 (continued)

Section 2.14.1(e) of this Part contains the following controls relating to solar access for neighbouring properties:

“e. For neighbouring properties ensure:

- i. sunlight to at least 50% of the principal area of ground level private open space of adjacent properties is not reduced to less than two hours between 9am and 3pm on June 21; and*
- ii. windows to north-facing living areas of neighbouring dwellings receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of their surface, where this can be reasonably maintained given the orientation topography of the subject and neighbouring sites”.*

Figures 21 to 23 below identifies the overshadowing as a result of the development as proposed.



Figure 21: Overshadowing at 9.00am on 21 June.

ITEM 2 (continued)



Figure 22: Overshadowing at Noon on 21 June.

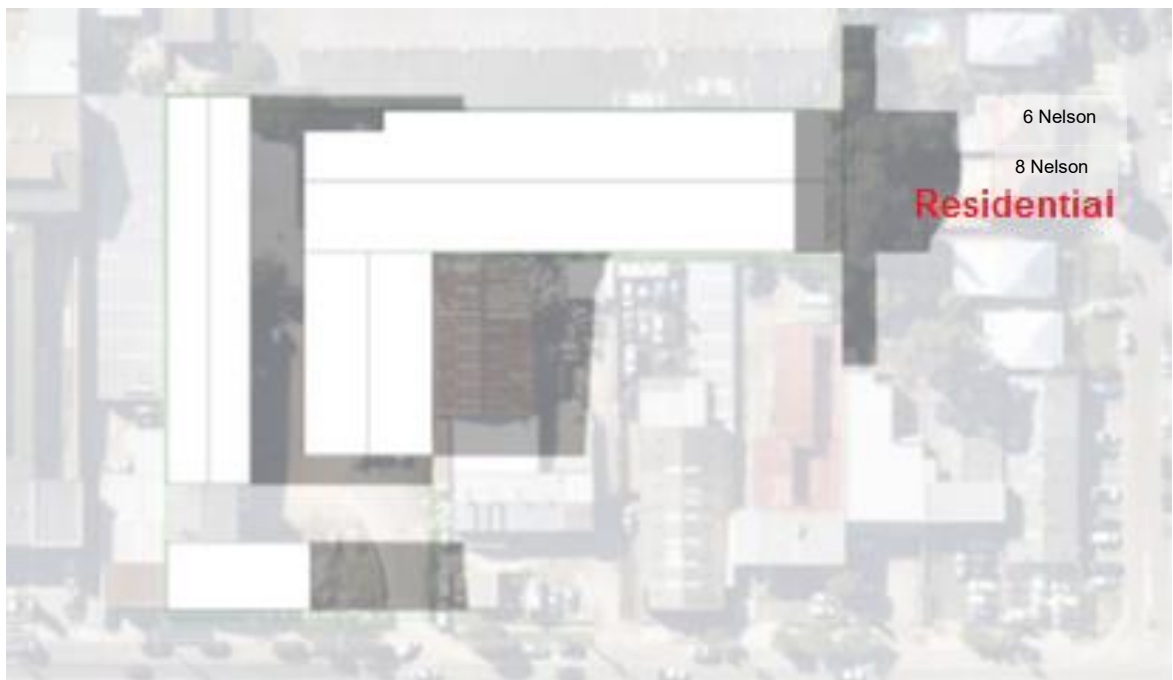


Figure 23: Overshadowing at 3.00pm on 21 June.

The most affected residential properties are Nos. 6 and 8 Nelson Street which will partly overshadowed at 3.00pm as a result of the proposed development. The extent of overshadowing caused by the development however will still comply with the relevant controls with:

ITEM 2 (continued)

- i. sunlight to at least 50% of the principal area of ground level private open space of adjacent properties is not reduced to less than two hours between 9 am and 3 pm on June 21 with solar access still achieved to the rear yards of the properties between 9 am and 12 noon; and
- ii. windows to north-facing living areas of neighbouring will not be affected by the development which is situated to the west of the affected residential properties.

Therefore, this concern does not warrant refusal of the application.

- **Character of the area**

“The scale and appearance of the proposed warehouse is totally out of keeping with the character and history of the adjoining properties.”

Comment

The subject development is situated at the boundary of the IN2 Light Industrial and R2 Low Density Residential zoning. Each of these zones have different objectives and characters.

To expect an industrial development to be ‘in keeping with’ the scale and appearance of residential properties on R2 zoned land is unreasonable. The land has different height and floor space controls applying and permit different types of development.

However, the overall height of the development does not comply with the maximum building height for the land zoned IN2 Light Industrial, and its scale therefore is not considered in keeping with the character of the light industrial precinct of Buffalo Road.

Additionally, the proposed retail use is not permissible in the zone, and is therefore considered incompatible with the surrounding light industrial area.

This forms reason for refusal of the application.

- **Tree retention**

“The application indicates there is no significant vegetation on the site. This is incorrect.”

Comment

This submission was received following the first notification of the DA, with amended plans being provided following a number of letters from Council requesting additional information. Additional information included a Landscape Plan prepared by Site Design & Studios (dated 24 August 2017) and Arborist Report prepared by Naturally Trees (dated 25 July 2017). The proposal includes the removal of 4 trees, including one exempt species, one street tree and two site trees.

ITEM 2 (continued)

The above-mentioned documents were reviewed by Council's Consultant Landscape Architect who advised that tree removal including two site trees is supported.

However, the impact of the proposal on a tree located on No. 23 Higginbotham Road is considered unacceptable. This forms reason for refusal of the application.

- **Complying development requirements for industrial development**

"The proposed development contravenes normal practise and State Planning Guidelines for complying developments between residential and industrial areas with regard to setbacks, height and landscaping."

Comment

SEPP (Exempt and Complying Development Codes) 2008 requires a side setback of 4.5m for industrial buildings with floor area between 1,000m² and 5,000m² that adjoin a residential zone, in addition to a 3m landscape setback. This policy applies to complying development applications sought under this piece of legislation.

The subject application is a development application to be assessed under RLEP 2014. Accordingly these controls do not apply to the subject development.

A merit based assessment has been carried out with regard to the landscaping and built form of the proposed development. The proposed setbacks are considered acceptable, however, the proposal does not comply with the maximum building height development standard set by the RLEP 2014.

- **Quality of documentation**

"Many submissions raise that the documents submitted omit key information, provide incorrect details and inadequately address the impacts of the development on residential amenity."

Comment

Council wrote to the applicant on a number of occasions requesting additional information and amendments to the proposal. Any omission of information or areas requiring additional attention was raised in these letters for the applicant to respond and to assist Council in the assessment of the application.

It is noted that the amended plans provided do not accurately reflect the proposed building height. This forms reason for the refusal of this application.

- **Control of vermin**

"A submission raises concern that retaining trees is imperative in keeping the rat populations down and to provide a barrier between the residential and industrial properties to reduce heat reflection."

ITEM 2 (continued)Comment

The submission advises that a landscaped zone is required to assist in controlling vermin and providing a physical barrier to reduce the heat impacts of the mass of the building on residential properties.

The proposed development includes a 3m setback to the Nelson Street property boundaries. Within this setback, existing trees which are to be retained could provide adequate screening between the lots for the abovementioned purposes.

The proposed development does propose to retain a landscaped setback between the residential properties as raised in the submission, however the ongoing management of vermin is not a matter that is considered to be directly relevant to the determination of this development application.

In relation to vermin control under clause 21 of the *Public Health (General) Regulation 2002*, occupiers of premises are required to take reasonable measures to keep the premises free of fleas, other disease-carrying insects, rats and mice. Where a property is providing a harbourage for disease-carrying pests, Council Environmental Health Officers can order the owner or occupier to take action to place the premises in a healthy condition.

Therefore, this does not warrant the refusal of this application.

10. Referrals

Note: Given the extensive history of this application, only the most recent comments have been provided below:

City Works (Stormwater and Catchments)

The application was referred to the Stormwater and Catchments team of Council's City Works Department on numerous occasions throughout the assessment of the application.

Subsequent to the submission of *Flooding Assessment Report* and *Stormwater Plans* on 13 August 2019 the following comments were provided on 3 September 2019. It is noted that the most recent architectural plans (Revision F) were not referred to City Works, as the amendments did not relate to the stormwater design.

"Referenced documents"

- *Flooding Assessment Report (29-35 Buffalo Road Redevelopment) prepared by GHD dated August 2019.*
- *Architectural Plan Drawings, Project 15-5669, Revision E, prepared by Brewster Murray dated 2 July 2018.*

ITEM 2 (continued)

- *Stormwater Plan Drawings, Revision C, prepared by Brewster Murray dated 14 August 2017.*

Flood-affectation

The site is affected by the Low to High flood risk precincts.

Council drainage infrastructure

An existing 1050 mm diameter pipe traverses the site via a 1.83 wide drainage easement.

Post-development flood impacts

- *Flood hazard: The post-development condition generally reduces the extent of H5/H6 (high) hazard down to primarily H1 (low) hazard except for the area between buildings which remains at H5 category. The Applicant's engineering report has indicated that this is a modelling artefact. Overall, the post-development condition has reduced (but not eliminated) the flood hazard in the area.*
- *Flood level: The post-development flood level increases are primarily contained within the lot and to the frontage on Buffalo Road. It is noted that there are no adverse impacts to adjacent properties and therefore no expected affectation on freeboard levels for adjacent properties. Within the site, the degree of flood hazard as generally been reduced.*

The Stormwater and Catchments team have no objection to approval of the application subject to conditions."

City Works (Traffic)

The application was referred to the Traffic team of Council's City Works Department and the following comments have been provided:

"The traffic report prepared by Transport and Traffic Planning Associates dated July 2017 (Rev D) has been reviewed by Traffic Section.

Traffic generation for the proposed development (i.e. 4,076m² warehouse) is expected to be around 20 vehicle trips per peak hour.

The existing development (i.e. 2,200m² warehouse) would generate about 11 vehicle trips per peak hour. Therefore, the net increase in traffic is expected to about 9 additional vehicle trips per hour. This equates to 1 vehicle every 6 minutes, which is considered negligible on the road network.

ITEM 2 (continued)

From a Traffic perspective there are no objections for the approval of this application subject to conditions.”

Senior Development Engineer

The application was referred to Council’s Senior Development Engineer on numerous occasions throughout the assessment of this application, and the following comments have been provided:

“A summary of the matters raised in the Development Engineering responses so far are;

Response dated 18 April 2017

- The site is burdened by a Drainage easement over a line of pipes emanating from 23 to 27 Buffalo Road. Whilst there does not appear to be a submission from the beneficiary of the easement, it is warranted that some overland flow-path be provided in the event of blockage of this system. The applicant has undertaken this and it is considered warranted that the easement be formalised to ensure it is preserved.*
- A second easement was noted to traverse the western portion of the lot and appeared related to sewer.*
- Various corrections to the stormwater plans were required.*

Response dated 27 November 2018

- Revised stormwater plans were submitted addressing the above matters.*
- The easement matters were addressed.*

Recommendation

In terms of the Development Engineering aspects of the application, there are no issues present and the following conditions are advised.

A review of the Stormwater Asset section comments notes;

- Their conditions do not address the modification of Council drainage infrastructure fronting the site in Buffalo Road. An existing kerb inlet pit is located in the region of the driveway crossover. It is advised that the lintel be replaced with an industrial grate and an additional extended kerb inlet pit be located on the western side of the crossover (upstream) so as to*

ITEM 2 (continued)

maintain the inlet capacity of Councils system. This is addressed by condition of consent.

- CWI have raised concerns regarding the portions of the proposed works encroaching into the easement. This has not been resolved and is therefore addressed in the conditions following. This may result in portions of the structure / development cantilevering over the easement. Where this cannot be achieved, to ensure Council has unfettered access to the easement the applicant will need to register a covenant on the lot requiring these elements to be removed at the request of Council.*
- Their recommended conditions place several flood requirements at the latter stage of the consent (Prior to OC) however these elements are best placed prior to CC so as to be implanted in the design phase. The flood conditions have therefore been reconfigured.*
- It is understood that the development of the downstream lot went to appeal where it was agreed that a Positive Covenant will be registered on the title requiring the owner maintain the flood mitigation system (i.e. open channel) as approved, etc. A similar condition is imposed.”*

Environmental Health Officer

The application was referred to Council’s Environmental Health Department for review of the *Preliminary Site Investigation*. The following comments have been provided:

“The report prepared by Douglas Partners dated June 2017, presents the results of the Preliminary Site Investigation (PSI) for the proposed commercial development at 29 to 35 Buffalo Road, Gladesville.

Based on site history information and the site walkover, the following potential sources of contamination and associated contaminants of potential concern (COPC) have been identified.

S1	<i>Filling of unknown origin potentially present across the whole of the site</i>	<i>Metals, TPH, BTEX, PAH, PCB, OCP, phenol and asbestos</i>
S2	<i>Fuel and turpentine storage in Aboveground Storage Tanks</i>	<i>Metals, TPH, BTEX, PAH, phenols and VOC</i>
S3	<i>Historical and current activities including use and storage of solvents, turpentine, potentially manufacture and/or storage of laminated &</i>	<i>Metals, OCP, OPP, PCB, VOC, phenols and asbestos</i>

ITEM 2 (continued)

	<i>chemical products and cabinet making</i>	
S4	<i>Existing buildings on site</i>	<i>Hazardous building materials such as asbestos, lead based paints, PCB capacitors and/or synthetic mineral fibres (SMF).</i>
S5	<i>Adjacent land uses of light industrial units</i>	<i>Metals, TPH, PAH, VOC and asbestos</i>

As a consequence of the Preliminary Site Investigation, the site is currently not considered suitable for the proposed development and, based on the site history and the considerable number of chemicals of potential concern identified on site.

The environmental consultant has recommended “that a detailed site investigation (DSI) be undertaken to characterise the soil and groundwater quality and to assess the suitability of the site for the proposed development.”

As such, Council requested that the Applicant provide a Phase 2 Contamination Report to demonstrate that the site is suitable for the proposal. The Applicant submitted a Phase 1 Contaminated Land Soil Investigation Report by Environmental Advisor Pty Ltd (dated 11/11/19). This report was reviewed by Council’s Environmental Health Officer, and the following comments were made:

“Reference is made to the submitted Phase 1 Contaminated Land Soil Investigation Report by Environmental Advisor Pty Ltd –dated 11/11/19 for the development at 29-35 Buffalo Road, Gladesville.

The report concluded that the “site could be made suitable for on-going commercial/industrial usage, however, based upon the identified areas and contaminants of potential concern, we cannot completely rule out the potential for undetected soil hotspots or impact to groundwater”. The report also recommends additional soil sampling, further investigation of any underground tanks, pit or sump.

Council’s EHO has previously raised concerns with the use of the site in particular its site history, chemical store on the site and possible ground water contamination.

The location of the proposed development is also very close to Buffalo Creek.

I believe a detail Site Investigation Phase 2 –Site Contamination should be conducted to rule out any possible land or ground water contamination prior to the determination of the Development Application.”

Assessing Officer comment:

ITEM 2 (continued)

Given Council requested that the Applicant provide a Phase 2 Site Contamination report on multiple occasions, a further request for information was not sent to the Applicant following receipt of the above comments from Council's Environmental Health Officer.

Consultant Landscape Architect (CPS)

The application was referred to Council's Consultant Landscape Architect on multiple occasions. The following summary table was provided in response to the *Arboricultural Impact Appraisal and Method Statement* dated 25 July 2017:

Tree	Species (Common Name)	Proposed Recommendation	CPS Comment
1	<i>Ligustrum sp.</i> Privet	Arborist Report: Remove Plans: Retain	Removal not supported – tree located on adjoining allotment and must be protected
2	<i>Ligustrum sp.</i> Privet	Arborist Report: Remove Plans: Retain	Removal not supported – tree located on adjoining allotment and must be protected
3	<i>Tristanopsis laurina</i> Water Gum	Retain & Protect	Agreed – subject to tree protection conditions & concurrence with Council's public works team/TMO
4	<i>Tristanopsis laurina</i> Water Gum	Remove	Agreed – subject to tree protection conditions & concurrence with Council's public works team/TMO
5	<i>Tristanopsis laurina</i> Water Gum	Retain & Protect	Agreed – subject to tree protection conditions & concurrence with Council's public works team/TMO
6	<i>Ligustrum sp.</i> Privet	Remove	Agreed – exempt species under Part 9.5 of Ryde DCP 2014
7	<i>Toona ciliata</i> Red Cedar	Remove	Agreed – subject to replacement planting conditions
8	<i>Toona ciliata</i> Red Cedar	Remove	Agreed – subject to replacement planting conditions
9	<i>Ligustrum sp.</i> Privet	Retain & Protect	Agreed – subject to tree protection conditions
10	<i>Eucalyptus saligna</i> Sydney Blue Gum	Retain & Protect	Agreed – subject to tree protection conditions
11	<i>Cupressus sp.</i> Cypress Pine	Retain & Protect	Agreed – subject to tree protection conditions

ITEM 2 (continued)

Tree	Species (Common Name)	Proposed Recommendation	CPS Comment
12	<i>Syncarpia glomulifera</i> Turpentine	Retain & Protect	Agreed – subject to tree protection conditions

Following the submission of a supplementary *Preliminary Tree Report* dated 5 December 2019, Council's Consultant Landscape Architect provided the following comments:

"This assessment considers the proposed impact on existing trees as part of a development application for the construction of a new warehouse, office and retail development at the subject site being 29-35 Buffalo Road, Gladesville.

The development is likely to impact two (2) 'exempt' weed species (Ligustrum lucidum – Broadleaf Privet) as a result of the proposed driveway slab and stormwater infrastructure to be constructed adjacent. These trees whilst listed as exempt under Part 9.5 of the Ryde DCP 2014 are located on the adjoining allotment and must be retained and protected as part of the proposed development. Whilst these trees are resilient to construction related stresses, it is considered unlikely that Tree 1 will tolerate the level of impact proposed and therefore the proposal as submitted is not supported.

It is noted that support for the removal of these trees would be provided if owner's consent from the neighbouring property owner was submitted approving their removal. It is recommended that this be suggested to the applicant."

Assessing Officer comment:

Council's Consultant Landscape Architect has assessed that, subject to conditions, Tree 2 is able to be retained. The assessment also concludes that Tree 1 is not capable of retention should the proposal be approved, and given no owner's consent has been provided for the removal of Tree 1, this warrants refusal of the application.

Tree Management Officer

The application was referred to Council Tree Management Officer with respect to the removal of a street tree (T4) on Buffalo Road. The following comments have been provided:

"The supplied plans indicate that the new driveway crossover and layback will be installed at a location that will require the removal of T4.

If this tree is to be removed to facilitate this installation then a replacement tree would be required to replace the lost amenity."

Heritage Advisor

ITEM 2 (continued)

Comment was sought from Council's Heritage Advisor as the development site is located within the vicinity of the Field of Mars Reserve, which is an item of heritage significance (listed on Schedule 5 of the RLEP 2014). The heritage Advisor's comments are provided below:

"The subject site forms a part of the Buffalo Road light industrial precinct, which is largely characterised by warehouse buildings of a varied form and scale, though predominantly utilitarian in their language.

The existing building displays non-descript features which culminate equally in a utilitarian form, attributed to the mid to late 20th century and has little architectural value.

Demolition of the existing building is supported.

While the subject site is within the vicinity of the Field of Mars Reserve, it is in fact, with close proximity only to a narrow allotment that serves as a small throat to the reserve proper.

The intervening development at the rear of the site and on either side of Higginbotham Road obscures a direct line of sight to the reserve and as the proposed development will adopt a scale, height and overall building envelope which is largely consistent with the established building typology within the light industrial precinct, the proposal will not result in any adverse visual impacts on the broader setting of the Field of Mars Reserve.

The proposal is supported accordingly."

11. Conclusion

After consideration of the development against section 4.15 of the Environmental Planning and Assessment Act 1979, the development application is recommended for refusal for the following reasons:

1. The proposed development is not permissible within the IN2 – Light Industrial zone under the RLEP 2014.
2. The proposed development fails to comply with the maximum building height development standard as required by Clause 4.3 of the Ryde LEP 2014. It is not considered that the development is consistent with the objectives of this development standard.
3. The site is not considered suitable for the proposed development given the potential site contamination and impact to the groundwater.

ITEM 2 (continued)

4. The proposed development will adversely impact a tree on the adjoining property. Given owner's consent for the removal of this tree has not been provided, its removal is not permissible.

The proposed development is not considered to be in the public interest.

12. Recommendation

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

1. That Development Application LDA2016/0617 for the construction of two warehouses, a retail/office building, at grade parking for 30 vehicles and landscape, drainage works and the use of the warehouse buildings for the purpose of a warehouse and distribution centre at Nos. 29, 33 & 35 Buffalo Road, Gladesville, be refused for the following reasons:
 - (a) The proposed development is not permissible in the IN2 Light Industrial zone under the RLEP 2014, which prohibits 'retail premises' in the zone.
 - (b) The proposed development exceeds the maximum building height and is inconsistent with the requirements and objectives of Clause 4.3 of the *Ryde LEP 2014*.
 - (c) The proposed development failed to submit a satisfactory written request to vary the building height development standard which complies with Clause 4.6 Exceptions to development standards of the *Ryde LEP 2014*.
 - (d) Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development fails to comply with the provisions of *SEPP 55 – Remediation of Land*, in that it has failed to demonstrate that the site is suitable for the proposed development in its contaminated state.
 - (e) Pursuant to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the development does not comply with the provisions of Part 9.5 of the *Ryde DCP 2014*, as it will have an adverse impact on a tree on the adjoining property.

ITEM 2 (continued)

- (f) Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not suitable for the site as:
- The proposal does not meet key development standards under the relevant planning controls;
 - The site has been identified as potentially being affected by soil contamination.
 - The applicant has failed to demonstrate that the proposed development will not have an adverse impact on the groundwater.
- (g) Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the development is not in the public interest because it fails to achieve the objectives and requirements of the applicable environmental planning instruments.

2. The objectors be advised of the decision.

ATTACHMENTS

- 1 Clause 4.6 Variation
- 2 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

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Report Approved By:

Sandra Mccarry
Acting Senior Coordinator - Major Development

Sandra Bailey
Manager - Development Assessment

Liz Coad
Director - City Planning and Environment

ITEM 2 (continued)

ATTACHMENT 1



Clause 4.6 - Exceptions to Development Standards

The proposed development will result in a built form which has a height in excess of the 10m height of building control as required by Clause 4.3 of the Ryde Local Environmental Plan 2014.

The proposal will result in a maximum building height of 11.6m noting that the non-compliance is varied and does not apply to the entire development.

It is also noted that the non-compliance is directly attributable to the flood levels applicable to the site and a need to provide for usable warehouse spaces which will not be affected by flooding.

Given that the proposal does not comply with the maximum height control and in order for consent to be granted to the proposal a variation pursuant to Clause 4.6 of the LEP is required.

This Clause 4.6 variation has been prepared having regard to the recent decisions of the Land & Environment Court.

It is submitted that the variation is well founded and is worthy of the support of the Council.

The following is an assessment of the proposed variation against the requirements of Clause 4.6.

1. What are the objectives of Clause 4.6 and is the proposal consistent with them.

The objectives of Clause 4.6 of the LEP are:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

It is my opinion, as is demonstrated by the responses to the questions below, that the proposed variation is consistent with the objectives of this clause.

ITEM 2 (continued)

ATTACHMENT 1

Minto Planning Services P/L

2. Is the standard to be varied a Development Standard to which Clause 4.6 applies.

Clause 4.3 is contained within Part 4 of the LEP and which is titled Principal Development Standards. It is also considered that the wording of the Clause is consistent with previous decisions of the Land & Environment Court of NSW in relation to matters which constitute development standards.

It is also noted that Clause 4.3 does not contain a provision which specifically excludes the application of Clause 4.6.

On this basis it is considered that Clause 4.3 is a development standard for which Clause 4.6 applies.

3. Is compliance with the development standard unreasonable or unnecessary in the circumstances of this case.

It is my opinion that compliance with the requirements of Clause 4.3 is both unreasonable and unnecessary in the circumstances of this case for the following reasons:

- The proposed non-compliance is attributable to the need to locate the floor level for any new development above the flood levels applicable to the site.
- Compliance with the both the flood level and the 10m height control would significantly limit the ability for the site to be developed in accordance with the objectives for the zone and would not allow for the provision of functional warehouse spaces upon the site.
- The proposed non-compliance will not in my opinion result in any amenity impacts upon adjoining properties.
- The proposal in my opinion will not result in any unreasonable impacts upon either adjoining properties or the streetscape as a result of the non-compliance.

On this basis it is my opinion that strict compliance with the standard is unreasonable and unnecessary in the circumstances of this case.

4. Are there sufficient environmental planning grounds to justify contravening the development standard.

It is considered that a contravention of the development standard is justified given the flooding affectation applicable to the site and the need to locate floor levels above the applicable flood level.

ITEM 2 (continued)

ATTACHMENT 1

Minto Planning Services P/L

- 5. Is the proposed development in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.**

The proposed development is in my opinion in the public interest because it will provide for 2 warehouse buildings upon the site in a manner which is otherwise compliant with the requirements of the enabling SEPP, LEP, the applicable zone objectives and the objectives of the particular standard.

In this regard it is submitted that in relation to the objectives for the IN2 - Light Industrial zone as detailed below that the proposal which seeks to provide for a high quality warehouse and distribution centre upon the site is consistent with these objectives.

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
- *To support and protect industrial land for industrial uses.*

The proposal is also considered to be consistent with the objectives of Clause 4.3 - Height of Buildings in that:

- The proposal will provide for development which will not impact upon the amenity of adjoining properties.
- The proposal will not result in any unreasonable streetscape or character impacts.

- 6. Whether contravention of the development standard raises any matter of significance for state or regional environmental planning.**

It is my opinion that contravention of the standard does not raise any matters of significance for State or Regional environmental planning.

- 7. What is the public benefit of maintaining the development standard.**

It is my opinion that there is no public benefit in maintaining the development standard in this instance given the public benefit provided and the absence of any unreasonable detrimental impacts.

ITEM 2 (continued)

ATTACHMENT 1

Minto Planning Services P/L

Conclusion

It is therefore my opinion based upon the content of this submission that a variation of the height requirements of Clause 4.3 of the Ryde LEP 2014 is appropriate in this instance.



Andrew Minto
Graduate Diploma (Urban & Regional Planning), Associate Diploma (Health & Building Surveying). CPP, MPIA.
MINTO PLANNING SERVICES PTY LTD
15th August 2017