

ATTACHMENT 1: ISSUES AND RESPONSES

City of Ryde Response to Advice on Assessment

**1-5 Khartoum Road, Macquarie Park
SSD 63235720: Building E Data Centre.**

**Submission Date: 18 September 2025
COR2025/146/4**

1. Response to Request for further information – Response Table – City of Ryde Council

Council Comment Date – 22 July 2025	Applicants' response	Closing Comment
Planning Agreement Status The Applicant and Council are in initial discussions in respect of the applicants proposed VPA. No agreement has been reached regarding the terms of the offer and negotiation are ongoing. As per Council's previous submission, no determination can occur until a VPA is negotiated and executed between the parties. Council reiterates that as the development relies on Clause 7.7 of the RLEP2014, a Voluntary Planning Agreement (VPA) is to be executed with the application. This has not happened. Until such time and that VPA is agreed to by both parties, the application is unable to be determined.	Stockland's Voluntary Planning Agreement (VPA) letter of offer received both Council's CEO and Infrastructure Coordination Committee (ICC)'s support on 5 June 2025, enabling legal draft of the VPA to commence. A draft VPA document was issued by Council's lawyers to Stockland on 22 August 2025 and is currently under review.	On 24 June 2025, Council's Executive Leadership Team provided in-principle support to the draft VPA offer (dated 24 November 2024). A draft VPA has been prepared by Council's solicitors and is currently under review by Stockland. If the VPA has not been executed prior to the application being determined, a deferred commencement condition must be imposed requiring the execution of the agreement prior to the consent becoming operational. A draft condition can be provided if required.
Security Fencing Council notes the applicant's commercial constraint regarding removing security fencing, particularly noting that without a fence, the data centre will be unable to enable Tier 1 Data Customers to use the facility. The commercial constraint of removing fencing is acknowledged, however as the data centre is proposed in a commercial/ residential centre the impact of such fencing on the future character of the precinct can be detrimental. It is acknowledged that the applicant may not be able to achieve total removal of security fencing, however further exploration of design alternatives to providing fencing be demonstrated and minimize impacts, particularly along the primary frontages of Talavera Road and Murrel Street, which will be key activation and pedestrian	Stockland understands the need to create an attractive public domain in Macquarie Park. As acknowledged a fence is required in the locations proposed to meet minimum security requirements of Tier 1 Data Centre customers including government agencies. The visual impact of the entire context of the public domain works should be considered to meet the objective of an attractive public domain. The physical fence structure which must comply with certain security Australian Standards is setback from the boundary where possible. Further a layering design response has been implemented through providing boundary landscaping to support softening of the public domain area. An important third element is how the built form façade, which the eye is ultimately drawn to as the backdrop, is designed to be visually dynamic. This is particularly pronounced along Murrel Street (Road 22). The built form façade is angled intentionally	Council has put forward its concerns regarding this matter and leaves this matter to DPHI to ensure that the obligations outlined by the applicant are appropriately reflected in the final version of the plans.

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throughfares under the Macquarie Park Design guide. Matter for DPHI to Consider. Council notes that there are numerous data centre applications that propose security fencing. Without Clear Guidance on planning and development of these data centres, operational driven built form outcomes will occur; demanded by Data Customers that create perverse planning outcomes that don't achieve appropriate place making. It's recommended that DPHI take a holistic look at data centres and consider developing a detailed Design Guide, particularly for Data Centres that are proposed in metropolitan centres. It is clear that data centres-built forms and outcomes are driven by commercial requirements, rather than best planning practise that focus on people and place. It is clear there is a disconnect between contemporary Urban Planning practises that focus on place making outcomes when compared and strict commercial requirements that cater to data customers. There needs to be a reasonable balance between place making and the built forms responsibility in ensuring that occurs, whilst ensuring that the functionality and operations of these uses cater and enhance these experiences.	to create visual interest at a human pedestrian scale to support a softened and attractive appearance. The proposal therefore can meet the objective of an attractive public domain and meet functional requirements for this use. Noting the above if further treatment is deemed as required Stockland can further mitigate impact by choosing an alternate colour palette.	
Use of Clause 6.7 and Additional Advice/resolution a. Use of Clause 6.7 of the RLEP 2014. The Applicants response regarding Council's contention regarding using Clause 6.7 of the RLEP 2014 is noted. Council's has reviewed the legal advice provided by Minter Ellison and does not agree. Council's advice on this matter as stated in its RTS Submission 30 May 2025	Stockland maintains its position that Clause 6.7 of the RLEP is a development standard and not a prohibition. This is confirmed by the attached legal advice from Minter Ellison (Appendix A), which distinguishes Clause 6.7 from the provisions considered in the AS Investment and Karimbla cases which were raised by Council. Unlike those cases, Clause 6.7 regulates the configuration and use of ground floor areas, rather than imposing a blanket prohibition tied to land attributes. On this	Council has further reviewed this matter, and our previous position remains unchanged following the receipt of internal legal advice. Other examples of cases that support Council's position include, <i>AS Investment Co Pty Ltd v Liverpool City Council</i> [2019] NSWLEC 1054 (AS Investments), where the relevant clause provided: <i>"Maximum number of lots</i> <i>The total number of lots created by the subdivision of land in an area of land identified as "Restricted Lot Yield" on the</i>

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remains relevant. Council maintains the opinion that: • Clause 6.7 of the RLEP is not a development standard that can be varied via Clause 4.6 as such being a prohibition clause. b. Additional Advice and Resolution In the interests of collaboratively resolving the matter to enable a consent to be granted, whilst ensuring the applicants objectives for parking on site are met, Council suggests that the applicant undertake further detailed testing on the site to enable the parking be characterised as a basement (as defined by the standard instrument). Councils internal design team has reviewed the possibility of sinking the ground floor by approximately 1m to enable that space to be categorised as a basement and confirms it is achievable. The Applicant is encouraged to explore the following scenario: • The Applicant is to demonstrate that the ground floor area is predominately below ground. This can be done by sinking the floor layout, by approximately 1m. • With the parking area sunk by approx. 1m, the space would be categorised as a basement, not ground floor. • Based on the site levels, it appears compliant in terms of internal driveway compliance. • The applicant is to note that any basement crest is to be elevated above the PMF.	basis, Clause 6.7 falls within the definition of a development standard under the EP&A Act and is capable of variation pursuant to Clause 4.6. The Clause 4.6 request submitted with the application is therefore valid and must be considered by the consent authority.	<i>Dwelling Density Map must not exceed the number shown on that map for that area."</i> In <i>AS Investments</i>, Gray C considered the structure of the LEP. Subdivision was permissible, but the relevant clause then acted as a prohibition in certain areas and circumstances to overcome the standard clause requirement. Similarly, in respect of clause 6.7, the RLEP provides that certain land is zoned E3 and certain development consistent with the Standard Instrument is permitted in that zone. Clause 6.7 operates to regulate the character of certain types of permissible development. In construing the instrument, it is also relevant that the provision does not appear under "Part 4 Principal Development Standards". "Part 6 Additional local provisions" of the LEP contains provisions that generally regulate the character and features of types of development. For example, when development involves earthworks, how that development should be carried out. Clause 6.7 may be characterised in a similar way, as it specifies the character of development occurring at the ground floor in the E3 zone. Council reiterates its position that Clause 6.7 is a prohibition and not a development standard. The advice outlined in the leftmost column (under Point 'b') should be adopted by the applicant. The applicant has not attempted to consider the option suggested by Council. The DPHI, as the consent authority, should review this matter further.

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Flooding Council considers the updated flood study inadequate, noting the absence of pre- and postdevelopment flood maps, afflux maps and comparative modelling data. It is particularly concerned that floodwaters appear to be diverted to the adjoining property at 17–23 Talavera Road, which it finds unacceptable. Council also stresses that the existing stormwater system in Talavera Road is under-sized and must be upgraded to prevent surcharge and protect the data centre's critical infrastructure. It requests that civil plans for the drainage upgrade be prepared or, failing that, will seek conditions of consent requiring the works.	A meeting was arranged with Council's Flood Engineer on 25 August 2025 at Stockland's request. The purpose of the meeting was to clarify Council's RFIs, given Council's comments appear to have overlooked the information provided on several occasions and/or misunderstood the flood report. Stockland's position, as demonstrated in the Northrop Flood Assessment report is that the existing conditions remain unchanged. This is because the adjoining development at 17-23 Talavera Rd (with its recent DA approved works) have made the site generally flood free. As a result, the existing flood behaviour in the vicinity of the subject site is expected to remain unchanged post development and therefore does not trigger a requirement to upgrade Council's stormwater network. Please refer to Attachment B for a detailed response to each of the matters raised in Council's RFI.	Council would like to seek clarification on whether the consultant is relying on the construction of a wall within 17–23 Talavera Road, as part of SSD-24299707-Mod 1, for the site's flood protection. If so, there would be some concerns. For SSD-24299707-Mod 1 (17-23 Talavera Rd), it was clearly communicated to the applicant that the stormwater pipe and drainage easement must not be encroached. In this regard, the following items are currently exhibited on the Planning Portal: • Easement clearance plan, structural design details, and structural design certificate. • The proposed wall is not shown on the stamped architectural, structural, stormwater management plans and landscape plans. • Construction must be carried out strictly in accordance with the stamped approved plans, which do not indicate a wall. If the consultant can confirm that the development site is flood-immune without reliance on a wall within 17–23 Talavera Road, Council will be in a position to support the proposal from a flooding perspective. This matter requires further attention from the applicant.

EPA Comment Date – 28 MAY 2025	Applicants' response	Closing Comment
Air quality The EPA previously identified air quality issues with exceedances for Nitrogen Dioxide at multiple residential receivers (Receivers R1 to R3) during routine maintenance and testing (Scenario 2) and cumulative simultaneous testing with existing adjacent data centres (Scenario 3). The EPA understand the applicant will undertake three-dimensional computational fluid dynamic modelling to complement existing air quality dispersion modelling. This modelling will provide a more accurate assessment of potential impacts on sensitive receptors. The EPA is willing to be consulted further should this information be provided, as it would recommend air quality conditions to DPHI for consideration and potential inclusion in any approval for the project.	ARUP has undertaken additional computational fluid dynamics (CFD) modelling. The results indicate some minor exceedances of Nitrogen Dioxide at sensitive receivers under certain scenarios. However, it is noted that the final design and configuration of adjacent developments on the site are not yet resolved, and as such it is proposed that further CFD modelling be undertaken once those designs are locked in to ensure compliance with the relevant criteria. Should the towers proceed, future CFD modelling and associated mitigation measures will be assessed and implemented, individually or in combination, to ensure the project operates without causing adverse air quality impacts at nearby sensitive receivers. For further detail, please refer to Attachment C for ARUP's advice.	Given the applicant's response to the matter indicates uncertain results and the possibility of exceedance of contaminants, it is suggested that DPHI seek further modelling and clarity around how this issue will be addressed prior to the issue of any approval. The terms of the consent must ensure that adequate modelling is carried out and mitigations measures are incorporated in the design to ensure the project operates without causing adverse air quality impacts at nearby sensitive receivers.

End Submission