

<b>JRPP No:</b>	2010SYW011
<b>DA No:</b>	DA/76/2010
<b>Assessment Officer:</b>	Helena Miller (Independent Planning Consultant – MG Planning Pty Ltd)
<b>Property:</b>	Lot 1 DP 81084, Lot 1 DP 89526, Lot 1 DP 504298, Lot 1 DP 79624, Lot 1 DP 79102, Lot 2 DP 89526, Lot 1 DP 615141, Lot 58 DP 869379 subject to right of carriageway, Lot A DP 160406, 171-187 Parramatta Road & 58-60 Victoria Street, GRANVILLE NSW 2142
<b>Amended Proposal:</b>	Demolition, tree removal and construction of a part 4, and part 8 storey mixed use development containing 93 residential apartments, 1705 sqm of ground level retail floor space over two levels of basement carparking accessed from Parramatta and Duke Roads. Approval is also sought for the construction of 4 dual occupancies (containing 8 dwellings) along the Victoria Street frontage of the site. The application is integrated development as an Aquifer interference approval is required under the Water Management Act 2000. The application is also required to be determined by the Western Sydney Joint Regional Planning Panel
<b>Date of receipt:</b>	09 February 2010 3 August 2010 (amended plans received)
<b>Applicant:</b>	Beraci Pty Limited
<b>Owner:</b>	Beraci Pty Limited
<b>Submissions received:</b>	39 in relation to initial plans 147 in relation to amended plans
<b>Property owned by a Council employee or Councillor</b>	No
<b>Issues:</b>	Permissibility of residential land use under Draft Parramatta LEP 2010 (new comprehensive EPI), bulk height and scale, compatibility with surrounding context, privacy and overlooking, boundary interface issues, access traffic and parking, landscaping, private and communal open space, residential amenity, and noise and air quality
<b>Recommendation:</b>	Refusal



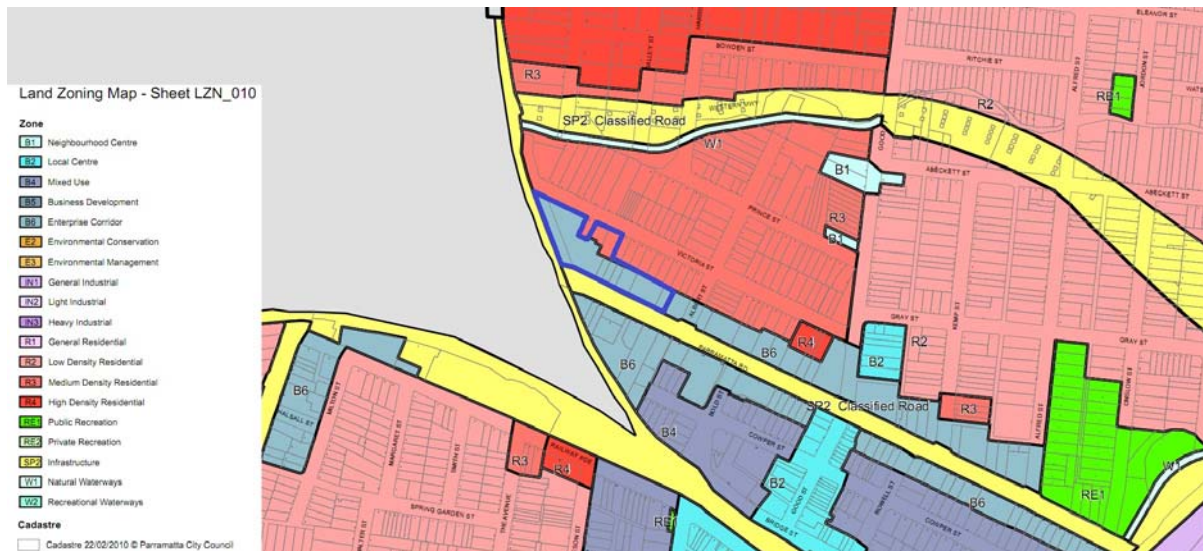


Figure 2: Subject site shown with blue outline under Draft Parramatta LEP 2010

Other relevant legislation / policies:

Parramatta DCP 2005  
 Sydney REP 28 – Parramatta  
 SEPP 55 – Remediation of Land  
 Draft Parramatta DCP 2010

Variations:

Nil

Integrated development:

Yes – Water Management Act 2000 (aquifer interference activity)

Crown development:

No

## The site

Site Area:	Total Site: 8,294 m <sup>2</sup> Mixed Use part of site: 5611.5m <sup>2</sup> Duplex part of site: 2673m <sup>2</sup> (Note: 9.5m <sup>2</sup> not included in MU or duplex site)
Easements/rights of way:	Nil
Heritage item:	No
In the vicinity of a heritage item:	Yes
Heritage conservation area:	No
Site History:	<p>2005 – pre lodgement application – proposal for 12 town houses and RFB containing 156 units – not lodged</p> <p>2005 – DA/1071/2005 – Refused on 13 June 2006. DA for Demolition and construction of mixed use development comprising an 8 storey building fronting Parramatta Road containing 2 retail tenancies and 128 apartments over 2 levels of basement carparking. Approval also sought for 4 dual occupancies (containing 8 dwellings) fronting Victoria Street.</p> <p>2007 – 82a Review of DA/1071/2005 refused on 10 December 2007.</p> <p>2007 – Appeal 10538/2007 lodged in Land and Environment Court. Appeal dismissed on 4 July 2008.</p>

## Subject DA History

Date – 9 February 2010	Application lodged with Council
Date – 15 February 2010	Letter sent to applicant requesting SEPP 65 review panel fees, amended acoustic report, masterplan or masterplan waiver, Arts plan, details of external finishes for dual occupancies, details of waste removal contractor, revised waste management plan, details of private open space for dual occupancies (duplex) 8, a revised Statement of Environmental Effects and revised architectural plans.

Date – 26 February 2010	“Stop the clock” letter sent to applicant requesting payment of integrated development processing fees (Office of Water) and Air Quality report within 14 days.
Date – 5 March 2010	Letter from applicant in response to Council’s letters of 15 February and 26 February 2010. Note: applicant advised that no air quality report necessary.
Date – 17 April 2010	On site meeting held.
Date – 6 May 2010	Applicant attended meeting at Council with Sue Weatherley to discuss progress of application. Compliance summary prepared by MG Planning provided to applicant.
Date – 24 May 2010	Sue Weatherley sent email to Nexus Environmental Planning Pty Ltd (applicant’s town planner) outlining concerns identified in relation to the project.
Date - 28 May 2010	Letter from applicant’s town planner clarifying a number of matters raised in compliance summary.
Date – 10 June 2010	Meeting held at Council with applicant and consultants, Sue Weatherley of Council and Helena Miller independent planning consultant. Major concerns with current application outlined to applicant including (1) height of ground floor and elongated part of the mixed use building, (2) access to communal open space, (3) privacy and overlooking, (4) setback to rear and (5) height of car park access on rear boundary. Applicant undertook to amend plans and resubmit. Council advised application would be readvertised.
Date - 1 July 2010	Applicant submitted preliminary amended plans for review by Council and independent assessment planner.
Date - 3 August 2010	Amended Plans formally submitted to Council.
Date – Aug. 2010 to Jan 2011	Air quality report submitted by applicant and assessed by external consultant, outstanding RTA concurrence fee paid by applicant, amended plans submitted, further information requests made by RTA and Railcorp to the applicant, further traffic and engineering information submitted by applicant to RTA and Railcorp.

Date – Feb 2010 to April 2011	Applicant in liaison with Railcorp to address their requirements having regard to proposed excavation greater than 2m within 25m of the railway corridor. No final advice has been received from Railcorp at the date of writing.
Date - 10 February 2011	Letter received from RTA providing concurrence and raising no objections to the application.
Date – 15 February 2011	Council wrote to applicant advising that Draft LEP 2010 had been forwarded to the Minister for gazettal and is now considered imminent and certain. The letter also requested an amended SEE addressing the implications of the LEP particularly in relation to prohibition of residential development in B6 Enterprise Corridor zone.
Date – 4 March 2011	Council emailed applicant following up on request for amended SoEE addressing Draft LEP 2010.
Date – March – April 2011	Various correspondence between applicant and Railcorp including submission of additional information to address Railcorp requirements.
Date – 28 March 2011	Meeting held between Council and applicant.
Date – 1 April 2011	Applicant submitted letter addressing non compliance of the proposal with the Draft LEP 2010.
Date – 15 April 2011	Railcorp requested further information to address vertical settlement and impact of proposal on rail assets.
Date – 27 April 2011	Additional information submitted by applicant.
Date – 4 and 9 May 2011	Council followed up with Railcorp re: comments.
Date –10 - 11 May 2011	Various emails advising that application would be considered at JRPP meeting of 23 June 2011.

## SECTION 79C EVALUATION

### SITE & SURROUNDS

The site is an irregularly shaped block bounded by Parramatta Road to the south, the unformed road Duke Street to the west, residential development fronting Victoria Street and commercial development fronting Parramatta Road to the east and Victoria Street to the north. The western half of the site has dual frontages to both Parramatta Road and Victoria Street whilst the eastern half backs onto detached residential housing fronting Victoria Street. The site also surrounds a single detached dwelling house (64 Victoria Street) generally in the north western corner.

The site has a frontage of approximately 136m to Parramatta Road, 101m to the unformed Duke Street road reservation and two frontages of 60m and 40.1m to Victoria Street respectively. The site has a total area of 8,294m<sup>2</sup>. It is generally flat with a minimal fall across the site to the south.

The site currently accommodates 5 detached dwelling houses fronting Victoria Street, a single storey furniture showroom fronting Parramatta Road at the eastern end of the site and a part one and part two storey furniture showroom ("Living in Style" Furniture) adjoining to the west, also fronting Parramatta Road. The remainder of the site is vacant and either grassed or covered by hardstand. A bitumen area is located centrally within the site accessed off Victoria Street that serves as a car park and rear entry / loading dock for the furniture showroom. In addition a second parking area is located off Parramatta Road to the east of the single storey furniture showroom.

Development surrounding the site is primarily single storey detached residential development in Victoria Street (with one two storey house) with commercial development comprising predominantly bulky good retail (furniture showrooms, car dealerships, smash repair, car rental etc) fronting Parramatta Road. The predominant built form is single and two storey with some higher rise commercial and residential development located outside of the site's immediate surrounds (i.e. to the east along Goode Street).

### THE PROPOSAL

The original development application was submitted seeking development consent for:

- Construction of 8 x two storey duplex dwellings with maximum FSR ranging from 0.40:1 to 0.50:1 (min. floor area of 140 m<sup>2</sup> and maximum of 150m<sup>2</sup>) at the rear of the property fronting Victoria Street. The proposed allotments have a minimum lot size of 301m<sup>2</sup> and maximum lot size of 368m<sup>2</sup> (Note: Initially no subdivision plan was submitted - presumably in error);
- A mixed use building of part 8 storeys and part 4/5 storeys comprising:
  - 2005m<sup>2</sup> of commercial floor space plus 182m<sup>2</sup> in a mezzanine level;

- 104 residential units including 15 x 1 bedroom units, 70 x 2 bedroom units, 19 x 3 bedroom units;
- Basement car parking over 2 levels for 180 cars including 138 residential spaces and 42 commercial spaces (including 17 disabled spaces);
- Communal open space area at the rear of the mixed use building; and
- Construction of part of Duke Street to access the site.

Following public exhibition of the original application a number of significant concerns were identified through the initial assessment, in submissions and by the Joint Regional Planning Panel. These issues were discussed with the applicant and amended plans were subsequently submitted. The primary changes made in the amended plans were:

- Ground floor retail space height reduced to 4.5m from previous height of 6m;
- Height of the component of the building with long frontage to Parramatta Road (elongated part of the building) reduced from 4 residential levels to 3 residential levels (note total height now proposed is 4 storeys including 1 retail level at ground floor with 3 residential levels above);
- The tower component of the building has been moved 1.5m closer to Parramatta Road to increase the setback to rear adjacent to the private allotment (64 Victoria Street);
- The ground floor retail was split into two tenancies and residential lobbies reconfigured to provide improved access to the rear communal open space;
- The former mezzanine level was deleted (which previously provided only for access to the rear communal open space);
- The slab over the vehicular access ramp was lowered and the roof landscaped;
- Fixed horizontal privacy louvres were added to all rear (north) facing balconies;
- Skylights were added to the top level residential units (as a result of deletion of 1 level);
- Details were provided of division of storage spaces in the basement levels;
- Planter boxes were added / widened on Level 1 and additional fence and landscaping provided; and
- Seating and a children's playground area was added to the ground floor communal open space at the rear of the building.

The proposal (as amended) therefore seeks consent for the construction of a new mixed use building fronting Parramatta Road which is part 4 storeys (eastern part) and part 8 storeys (tower to the west) in height. The development comprises a total of 93 residential apartments on levels 1-3 of the eastern wing of the building and on levels 1-7 in the tower element to the west of the site. It also provides for 1705m<sup>2</sup> of retail floor space on the ground floor in the form of two tenancies with pedestrian access from a lobby off Parramatta Road and internal access from the basement car park. In addition 4 dual occupancies (comprising 8 new dwelling in attached two storey form) are proposed with access off Victoria Street. Car parking for 180 cars is



proposed in two basement levels accessed off Parramatta Road beneath the mixed use building and a driveway proposed off Duke Street (to be constructed).

Details of the proposal (as amended) are therefore as follows:

- Construction and subdivision of 8 x two storey duplex dwellings (dual occupancy) with maximum FSR ranging from 0.40:1 to 0.50:1 (min. floor area of 140m<sup>2</sup> and maximum of 150m<sup>2</sup>) at the rear of the property fronting Victoria Street. Proposed allotments have a minimum lot size of 301m<sup>2</sup> and maximum lot size of 368m<sup>2</sup>;
- A mixed use building of part 8 storeys and part 4 storeys comprising:
  - 1705m<sup>2</sup> of commercial floor space;
  - 93 residential units including 14 x 1 bedroom units, 63 x 2 bedroom units, 16 x 3 bedroom units;
  - Basement car parking over 2 levels for 180 cars including 138 residential spaces and 42 commercial spaces (including 17 disabled spaces). Note: maximum number of spaces permissible 196;
- Communal open space area comprising 1125m<sup>2</sup> including tables and seats and children's playground; and
- Construction of part of Dukes Road to access the site.

## **PERMISSIBILITY**

### **Parramatta LEP 2001**

The proposed uses are defined as mixed use development (main building) and dual occupancy (development fronting Victoria Street) development under Parramatta LEP 2001.

The relevant definitions are as follows:

*“mixed use development” means one or more dwellings attached to or on the same parcel of land as a building used or intended to be used for a non-residential purpose permissible on the land, whether or not the dwelling or dwellings will be used in conjunction with that non-residential use; and*

*“dual occupancy” means two separate self-contained dwellings on a single allotment of land.*

The proposal satisfies the definitions outlined above and is permissible in the respective zones with dual occupancy development being proposed within the Residential 2(a) zone and mixed use development being proposed within the Mixed Use 10 zone under Parramatta LEP 2001.

### **Draft Parramatta LEP 2010**

At the time of the lodgement of the subject application Draft LEP 2010 was under preparation. However in the interim period the draft instrument has been publicly advertised and was adopted by Council on 13 December 2010 to be forwarded to the Minister for gazettal. The Draft LEP has now been submitted to the Department

of Planning and Infrastructure and it is understood that gazettal is likely in June 2011.

Draft LEP 2010 zones the majority of the subject site B6 Enterprise Corridor, including notably that part of the site which fronts Victoria Street in the north western corner which is currently zoned Residential 2(a) under Parramatta LEP 2001 (refer Figure 3 below). Residential development is not permissible in the B6 Zone. In addition under the Draft LEP the maximum permissible height on that part of the site zoned B6 is 15m with a maximum permissible FSR of 2.0:1. Accordingly the proposed residential development is not permissible under the Draft LEP.

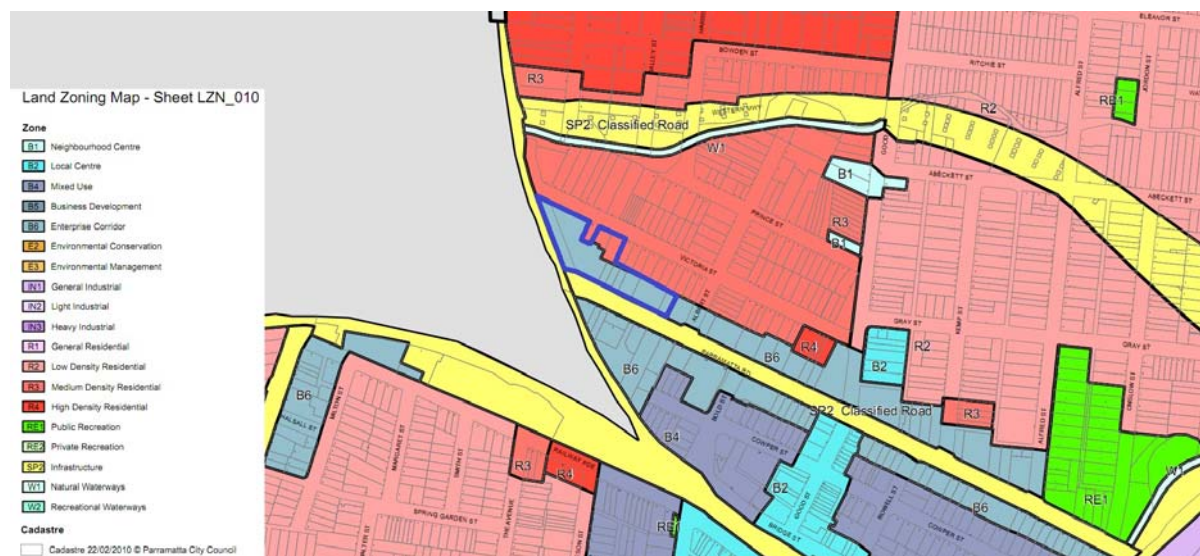


Figure 3: Zoning under Draft LEP 2010

It is considered that the Draft LEP indicates that Council has determined that residential development fronting Parramatta Road is not appropriate and has accordingly acted to prohibit the use and to allow commercial development only fronting the roadway. Similarly Council has decided to reduce the scale of development permissible on the subject site allowing a maximum height of 15m rather than the currently permissible 5-6 storeys (notwithstanding that the current proposal exceeds this limit and proposes a maximum of 8 storeys on part of the site). The draft instrument also applies a maximum FSR of 2:1 where no maximum FSR currently applies to land within Zone 10 Mixed Use.

A small part of the site (north eastern corner fronting Victoria Street and to the east of the privately owned allotment) is zoned R3 Medium Density Residential under Draft LEP 2010. Under the Draft LEP a minimum allotment size of 550m<sup>2</sup> applies to this land, with a maximum height of 11m and maximum FSR of 0.6:1. Notwithstanding the minimum allotment size Council can consent to subdivision of dual occupancy development (refer Clause 4.1(4C)). The current proposal provides for four (4) dual occupancies (8 dwellings) on this land to be subdivided down to a minimum allotment size of 301m<sup>2</sup> (ranging between 301m<sup>2</sup> and 368m<sup>2</sup>). This part of the development is permissible under the Draft LEP.

Under Section 79C of the Environmental Planning and Assessment Act 1979, in determining a development application, a consent authority is to take into consideration the range of matters outlined therein including the provisions of:

- (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority...*

As noted above Draft LEP 2010 has been publicly exhibited and has been forwarded to the Minister to be made. Having regard to this it is considered that the draft LEP is now “certain and imminent” and will be made in its current form. This view was confirmed by the Land and Environment Court in its ruling in *Global Organisation for Divinity v Parramatta City Council [2011] NSWLEC 1027*. In the case the assessor specifically noted that the LEP is now “certain and imminent as a whole”. There is now no uncertainty about the future zoning or planning provisions that will apply to the subject site.

In determining the application consideration must therefore be given to (1) the imminence and certainty of the LEP in its current form; and (2) the fact that once the LEP is gazetted the proposed use will be prohibited and therefore in the future no other similar developments will be allowed.

The weight given the Draft LEP must now therefore be much more than a draft instrument that is in the early stages of preparation and which is not viewed as either certain or imminent in its current form.

Section 79C requires the consent authority to consider a proposed instrument that has been the subject of public consultation. In determining how much weight to give to the draft LEP it is noted that the draft instrument will put in place zoning and development controls that differ radically from those currently in place. The changes do not relate to minor matters of merit but rather the permissibility of the development itself. It is therefore considered that if weight is given to the draft LEP provisions this would necessitate the refusal of the application as following gazettal the development would be prohibited. This reflects Council’s view that residential development along the Parramatta Road Corridor is clearly not appropriate.

In addition to the implications of Draft LEP 2010, the proposed development should also be considered in its context. If the context of the site were such that the proposal were surrounded by existing development of a similar form and scale then it may be appropriate for the development to be allowed notwithstanding the imminent prohibition. However the surrounding development comprises primarily single storey detached residential development in Victoria Street and commercial development fronting Parramatta Road. The predominant built form is single and two storey with some higher rise commercial and residential development located outside of the site’s immediate surrounds (i.e. to the east along Goode Street). The immediately surrounding context does not include high rise residential apartments / mixed use development fronting Parramatta Road. Accordingly it is considered that the proposed development is not consistent with the existing site context.

Having regard to the above it is considered that the proposed development is not permissible in the proposed zone under Draft LEP 2010 nor is it consistent with the existing development context. If approved the development would be inconsistent with both the existing and future character of the area. Notwithstanding that the proposed development is currently permissible under Parramatta LEP 2001, having regard to Council's intentions for the future of the area as set out in the imminent new LEP, Parramatta Draft LEP 2010, it is considered that the application should be refused.

It is noted that Draft LEP 2010 includes a savings provisions in the form of clause 1.8A as follows:

***1.8A Savings provisions relating to development applications***

*If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had been exhibited but had not commenced.*

This provision enables the application to be determined, regardless of whether Draft LEP 2010 is made at the time of determining the subject application.

## **REFERRALS**

Note: In considering the referrals below, it should be noted that the development assessment process has been long and protracted given delays in gaining RTA and Railcorp concurrences. The referrals below do not therefore give consideration to the land use permissibility issue arising from the imminent gazettal of Draft LEP 2010 as outlined above.

### **EXTERNAL REFERRALS**

#### **Office of Water**

The application is 'integrated development' as an Aquifer Interference approval is required under the Water Management Act 2000. Accordingly the application was referred to the Office of Water which advised that it determined that:

- A Licence under Part 5 (section 112) of the Water Act 1912 (for temporary construction dewatering) is **not required** in relation to this development as it is currently proposed, and
- An Approval under Part 3 (section 91) of the Water Management Act 2000 (for a controlled activity) is **not required** in relation to this development as it is currently proposed.

However the advice notes:

*However Council may wish to apply a requirement for the subject development to incorporate a tanked basement design for other reasons not considered by the*

*NSW Office of Water (such as potential ground surface settlement or geotechnical engineering issues).*

*Care should be applied in disposing of any tailwater generated from the dewatering pumping (approvals from other agencies or the consent authority may be required) and the potential impacts of potentially aggressive groundwater on the building and at discharge locations should be carefully considered before excavation commences.*

Should the application be recommended for approval a condition of consent could be applied in this regard.

### **Sydney Regional Development Advisory Committee (Roads and Traffic Authority)**

The subject site has frontage to a classified road and proposes more than 75 dwellings and has therefore been referred to the Sydney Regional Development Advisory Committee (SRDAC) for review in accordance with the requirements of State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure 2007). The Committee identified a number of outstanding issues in relation to the proposed driveway which it required to be resolved prior to it issuing its concurrence to the proposed vehicular crossing off Parramatta Road. These matters have been resolved to the satisfaction of the RTA (confirmed by letter dated 10 February 2011). The Committee therefore granted its concurrence to the proposed driveway crossing subject to the inclusion of recommended conditions of consent. Should the matter be recommended for approval these conditions could be incorporated into any development consent.

### **Railcorp**

The proposed development includes excavation greater than 2m in depth within 25m of a rail corridor and as such has been referred to the rail authority (Railcorp) for concurrence in accordance with Clause 86 (2) and (3) of the SEPP Infrastructure 2007. Under the SEPP approval of the application cannot be granted without Railcorp's concurrence.

The requirement for Railcorp concurrence has been the subject of protracted negotiations between the applicant and Railcorp. At the date of writing Railcorp has not yet issued its concurrence to the proposal and has advised as at 18 March 2011 that further engineering information is required to address their concerns. However, in light of the proposed refusal of the application it is considered that it not necessary to await Railcorp concurrence prior to determining the subject application.

### **Parramatta Council SEPP 65 Design Review Panel**

The original proposal was referred to Council's SEPP 65 Design Review Panel for comment. The Panel provided the following comments:

1. *A proposal of this scale in this location is generally supported by the Panel. It could provide an example of how higher density development might be achieved along Parramatta Road.*
2. *The proposal is based on a discussion with Council officers of an envelope for the development. The Panel supports the envelope proposed.*
3. *It is noted that overlooking will be prevented by the provision of horizontal louvres on balconies on all levels.*
4. *The Panel would support the provision of (moveable) shutters on the balconies to the south to further ameliorate noise impacts. The Panel considers that balconies enclosed in this way should not be included in the calculated floor space.*
5. *The Panel considers that the 25% requirement for deep soil on this site is excessive given the highly urban nature of the site, but that the area that is avoidable [sic] for deep soil planting should be planted with canopy trees.*

The Panel concluded by noting that the application did not need to be reviewed by the Panel again.

## INTERNAL REFERRALS

### **Development Engineer**

The proposal was referred to Council's Development Engineer for review. The following comments were provided:

*The proposal satisfies the requirements of Council's controls and can be supported, subject to standard and/or special conditions of consent.*

### **Traffic and Transport Investigations Engineer**

The proposal was referred to Council's Traffic and Transport Investigations Engineer for review. In summary the following comments were provided:

- *The proposed number of parking spaces is acceptable,*
- *Dimensions etc of car parking levels comply with relevant Australian Standards,*
- *The information contained in the traffic and Parking Assessment Report is noted and is considered acceptable ,*
- *Access arrangements off Duke Street and Parramatta Road considered acceptable,*
- *In conclusion based on the analysis and information submitted with the DA, the proposal is not expected to have a significant impact on this section of Parramatta Road, Duke Street & Victoria Street and its surround road network. The proposed development can be supported on traffic and parking grounds provided that the disabled parking spaces on 2 basements levels should be widened to comply [with] AS2890.6-2009.*

Conditions have been proposed should the application be recommended for approval.

## **Landscape**

The application was referred to Council's Tree Management and Landscape Officer for review. The referral indicated that the proposal satisfies Council's controls and can be supported subject to imposition of conditions of consent in relation to tree removal, advanced tree planting, replacement street trees, alternate tree species (as specified), grass verge reinstatement, final inspection of completed landscape works by a qualified Landscape Architect/Designer, and landscaping to be completed prior to occupation.

Council's landscape architect also provided advice on the appropriate paving treatment and conditions have been recommended in this regard should the application be recommended for approval.

## **Heritage**

The application was referred to Council's Heritage Advisor as the site is within the vicinity of the following heritage items listed under Parramatta LEP 1996 (Heritage and Conservation):

- 20 Victoria Street, Granville – a single storey residence
- 22 and 24 Victoria Street, Granville – semi detached dwellings
- 53,55,57,59 & 61 Victoria Street, Granville – a row of single storey terraces
- 1,3,5,7,9 Albert Street, Granville – a group of detached dwellings
- 12 Albert Street, Granville – a detached residence
- 20 and 22 Albert Street, Granville – semi detached dwellings
- 24 and 26 Albert Street, Granville - semi detached dwellings
- 178 (also known as 176A) Parramatta Road, Granville – a substation
- 138 Parramatta Road, Granville – a commercial building
- 57 Good Street (cnr Parramatta Road, Granville) - shops

The following comments were provided:

*The following heritage matters were considered:*

- *The relatively large proposal affects several properties, none of which contain heritage items;*
- *The site is in the relative proximity of several listed heritage items, however, none are immediately adjoining or immediately across the road from the site. It will be possible to see the newly proposed development from the direction of various heritage items in the area, however, the impact on the views to these significant items is not considered critical;*
- *The buildings to be demolished as part of the proposal are not of heritage interest in their own right;*
- *The Aboriginal sensitivity of grounds is low;*

- *The Archaeological potential of the affected grounds is considered low and should any relics be discovered, the significance of those relics is not likely to exceed the local level;*
- *The site is not within any of the Conservation Areas, and it is out of and at some distance from the Harris Park Area of National Significance, but this impact is not seen as important or overly detrimental given that main significant views from the area are to the north, while the proposal is to the south of the Area.*
- *The Parramatta City Council's Heritage Committee has reviewed the proposal at its meeting of the 17 February 2010 and raised no objection to the proposal.*

In summary the heritage advisor concluded:

1. *It is considered that from the strictly heritage perspective the proposal is within the acceptable limits of potential impact and there is no objection to it;*
2. *It is recommended to contact the Heritage Branch of the NSW Department of Planning and establish whether a Permit to disturb grounds will be sought before works can be approved.*
3. *Given the size and nature of the proposed development, it is recommended to refer the proposal to Council's Urban Design advisors.*

## **Urban Design**

The original application was referred to Council's Senior Urban Design advisor for review. In addition to detailed comments addressed in the body of this report the following improvements were recommended:

- *At least some of the lobbies and entrances are to provide continuous views and access from Parramatta Road to the outside communal area to improve the access between common space and apartments above and provide better address for the common open space.*
- *The provision of deep soil should be clarified*
- *The dog leg hall to the lobby should be redesigned to have clear direct views along it and be more directly linked to the street entrance.*
- *Much greater resolution should be provided for the common open space and the public spaces surrounding the building, including the footpaths and driveways.*
- *The width of the paired drives in Victoria Street should be reduced to a single driveway entrance 3.5 m wide at the kerb line and expanding to 6 m (double driveway entrance) at the property boundary.*
- *The drive areas on the private duplex properties should be paved with permeable materials to soften the large paved expanse.*
- *The wide garage door to Parramatta Road should be of high quality materials, and include some transparency and lighting to improve street surveillance and appearance.*
- *The applicant should state how noise attenuation is being achieved for the windows directly abutting Parramatta Road and for the balconies with both louvres (i.e. are the louvres of sufficient closure to stop noise/) and the glass fronted balconies.*



- *The figured dimension of the setback from Parramatta Road should be provided.*

The amended proposal was subsequently referred back to Council's Senior Urban Design advisor who noted that it addresses a number of concerns raised and those that are not addressed are not major. It was also noted that the reduced building height in the amended proposal is more compatible with the height in the Draft LEP 2010 and the existing houses to the north.

Council's urban design advisor's recommendations included conditions relating to materials and transparency of the garage door on Parramatta Road, provision of permeable paving to duplex driveways and requirement for further detail of driveway crossover on Parramatta Road. These conditions should be included if the application is recommended for approval.

## **Environmental Health**

The application was referred to Council's Environmental Health Officer for review in relation to acoustic impacts. Conditions of consent were proposed should the application be recommended for approval including the imposition of recommendations contained in the Noise Assessment submitted with the application in relation to construction components and operational conditions re: noise levels emitted from mechanical plant.

## **Air Quality**

An air quality assessment prepared by PAE Holmes was submitted by the applicant at the request of Council given the location of the site adjacent to Parramatta Road and having regard to issues raised in public submissions and the initial assessment of the original application. This report was independently reviewed by AECOM on behalf of the Council. The review concluded that the report prepared by PAE Holmes was generally appropriate and that the proposed development is not likely to be impacted by adjacent road activity. However it was recommended that additional information be sought from PAE Holmes in relation to:

- *Justification for background NO<sub>2</sub> and PM<sub>10</sub> concentrations;*
- *Slower vehicle speed modelling due to congestion during peak hour; and*
- *Clarification of the number of non-electric trains passing the site and the potential impact that these trains may have on the development.*

These matters were referred to the applicant and a supplementary report was prepared by PAE Holmes. This report was considered by Council's consultant AECOM who advised that:

*AECOM generally concur with the findings of the original report that the proposed facility is not likely to be impacted by adjacent road activity. The additional information provided by PAE Holmes in response to AECOM's letter further clarifies issues raised by AECOM. Although further clarification of the issues raised by this current review would strengthen the report it is unlikely that this would change PAE Holmes findings.*

## **Contamination**

The application was referred internally for advice on contamination. The referral did not raise any issues in relation to contamination rather conditions of consent were proposed should the application be recommended for approval.

## **Catchment Management**

The application was referred to Council's Supervisor Catchment Management for review in relation to flooding impacts. The referral noted that the site is not affected by the 100 year ARI flood. The referral did not raise any objection to the proposal but recommended conditions of consent should the application be recommended for approval.

## **Arts Plan**

The Arts Plan submitted with the application was referred to the City Culture, Tourism and Recreation Unit for comment. The advice indicated that the initial framework is commendable and that the initial site analysis identifies a number of strong site specific concepts and opportunities to integrate artworks with the building. The referral notes that all artworks generated / commissioned for the site should be site specific and evidence supporting this should be made available with the submission of additional documentation to Council. Conditions of consent were proposed that would ensure completion of the Arts Plan prior to construction should the application be recommended for approval.

## **Crime Prevention**

The application was referred to Council's Community Crime Prevention Officer for comment in consultation with the NSW Police Local Area Command. The referral indicated that no objection is raised to the development from a crime prevention perspective. It also states that the development will improve the streetscape at the subject location. While the referral raised no objection to the proposal it notes that the application does not include any details in relation to security and design features such as lighting in the car park, security alarms and surveillance cameras to be installed within the complex, access control or graffiti resistant external finishes. Accordingly conditions of consent were recommended in this regard should the application be recommended for approval.

## **PUBLIC CONSULTATION**

In accordance with Council's Notification DCP, owners and occupiers of surrounding properties were given notice of the original application for a 14 day period between 24 February 2010 and 17 March 2010. In response 39 submissions were received, many in the form of proforma letter. The issues raised within those submissions are summarised below.

- The proposal is not consistent with the zone objectives,

- The proposal is not in keeping with character of the local area particularly in relation to the low density nature of Victoria Street,
- The proposal is an overdevelopment of the site in terms of bulk, height and scale
- Traffic, parking and noise impacts in Victoria Street,
- The site is not a corner site and therefore the prevailing maximum FSR in the mixed use zone is 2:1 and not 2.5:1 and therefore the development does not comply with the maximum FSR,
- Overlooking of, and privacy impacts on, adjoining properties in Victoria Street,
- Air quality concerns given site located on Parramatta Road,
- Poor quality and lack of communal open space,
- The proposal does not comply with Council maximum height limit (8 storeys proposed, maximum 5 or 6 storeys permissible),
- Overshadowing and safety and security concerns, and
- Flooding.

As noted above, subsequent to exhibition of the original application amendments were made to address concerns raised through the assessment, in the public submissions and by the JRPP. Amended plans were submitted on 3 August 2010. These amended plans were placed on public exhibition from 11 August 2010 to 1 September 2010. 147 submissions were received. Issues raised in these submissions were generally consistent with the comments made on the original application and in addition included:

- The proposal is not consistent with the zone objectives,
- Inconsistent with character of the local area particularly in relation to the low density nature of Victoria Street,
- Traffic and parking,
- Crime and pollution, safety concerns,
- Non compliance with planning controls including LEP, DCP and SEPP 65,
- Impact of Land and Environment Court decision,
- Air Quality,
- Lack of Open space,
- Impact on infrastructure,
- Privacy and overlooking,
- Overshadowing,
- Loss of ventilation, air flow, and
- Pollution.

These issues and issues raised in relation to the original proposal have all been addressed in this report.

**Amended Plans****Yes****Summary of amendments****Below**

Amendments made to the original application are as follows:

- Ground floor retail space height reduced to 4.5m from previous height of 6m,
- Height of the component of the building with long frontage to Parramatta Road has been reduced from 4 residential levels to 3 residential levels (note total height 4 storeys including 1 retail level with 3 residential levels above),
- The tower component of the build has been moved 1.5m closer to Parramatta Road to increase setback to rear adjacent to private allotment,
- Split ground floor retail into two tenancies and reconfigure residential lobbies to provide improved access to rear communal open space,
- Deletion of mezzanine level (which previously only provided for access to rear communal open space),
- Slab over vehicular access ramp lowered and landscaping provided above,
- Addition of fixed horizontal privacy louvres to all rear facing balconies,
- Addition of skylights to top level residential units,
- Division of storage spaces in basement levels,
- Addition of / widening of planter boxes on Level 1, and
- Addition of seating to ground floor communal open space.

**Amended Plans re-advertised or re notified****Yes****Reason amended plans were not re-advertised or re notified:****N/A**

An on-site meeting was held in relation to the original development proposal on 17 April 2010. The meeting was attended by members of the public, Councillors, Council planning staff, the independent assessment planner and the applicant and their representatives. Issues raised by members of the public at the meeting were consistent with the issues raised in formal submissions as outlined above.

**ENVIRONMENTAL PLANNING INSTRUMENTS****STATE ENVIRONMENTAL PLANNING POLICY 55 – REMEDIATION OF LAND**

In accordance with the provisions of SEPP No. 55, as the site has a history of commercial, industrial and residential uses, a preliminary site audit investigation and statement was completed. The investigation identified that contaminant levels at concentrations higher than the site assessment criteria were encountered in soil samples obtained at 2 separate sample locations on the site and that further investigation and testing would be required.

The preliminary site audit was referred to Council's environmental health officer who advised that the application was appropriate subject to conditions of consent requiring further investigations / remediation etc. prior to issue of the construction certificate should the application be recommended for approval. Conditions would require a detailed contaminated site investigation, a site Remedial Action Plan (RAP), a site validation report following remediation, groundwater assessment, an assessment of water in relation to dewatering, controls on collection, transportation and disposal of contaminated waste, controls on cut and fill material and compliance with the Protection of the Environment Operations Act 1997 in relation to pollution etc.

## **STATE ENVIRONMENTAL PLANNING POLICY – BASIX**

The application is accompanied by a BASIX certificate that lists commitments proposed by the applicant. The requirements outlined in the BASIX certificate have been satisfied in the design of the proposal.

## **STATE ENVIRONMENTAL PLANNING POLICY (URBAN RENEWAL) 2010**

On 15 December 2010, the NSW Government published State Environmental Planning Policy (Urban Renewal) 2010 (Urban Renewal SEPP). The Urban Renewal SEPP outlines the necessary criteria and steps for identifying an existing urban precinct as a potential candidate for renewal and revitalisation. The first three precincts identified under the SEPP are Redfern-Waterloo, Granville town centre and the Newcastle CBD.

The key principle of the SEPP is to integrate land use planning with existing or planned infrastructure to create revitalised local communities, greater access to public transport and a broader range of housing and employment options. This is also sometimes referred to as transit oriented development.

The subject site falls under the Granville Potential Precinct Map. In accordance with Clause 10 of the SEPP, the proposed development is consistent with the objective of developing the potential precinct for the purposes of urban renewal as the proposed development provides for:

- (a) development of higher density housing or commercial or mixed development,

and is unlikely to restrict or prevent the following:

- (c) access to, or development of, infrastructure, other facilities and public domain areas associated with existing and future public transport in the potential precinct.

## **SYDNEY REGIONAL ENVIRONMENTAL PLAN NO. 28 - PARRAMATTA**

The parking requirements on the subject land are controlled under SREP 28 with the site being land outside of the City Centre Precinct and not being within 400m of a railway station or transit corridor (Note: Parramatta Road in this location is not

considered to be a transit corridor). The maximum number of car parking spaces that may be allowed on the subject site under SREP 28 is as follows:

Control	Requirement	Compliance
<b>Parking (not within 400m of transit corridor or railway station)</b> 1 space per 1 bdrm 1.2 spaces per 2 bdrm 1.5 spaces per 3 bdrm Plus 0.25 visitor space / dwelling 1 space per 30m <sup>2</sup> for retail	Maximum allowed:  14 75.6 24 23.25 56.83  Total maximum permitted 193 spaces  Provided: 180 spaces 138 – residential 42 - commercial	Yes

The proposed parking provision is less than the maximum allowed for under SREP 28 therefore the proposal complies with this requirement.

## PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2001

The relevant matters to be considered under Parramatta Local Environmental Plan 2001 for the proposed development are outlined below.

### (a) General Requirements

Development standard	Comment	Discussion
CI 16 Permissible within zone?	Yes	Land zoned part Res. 2(a) and Part Mixed Use 10. Proposed uses permissible in respective zones.
CI 21 Is the site flood affected? If yes will the development satisfy CI 2 (a)-(e)?	No	Not applicable
CI 22 Is the site contaminated?	Yes	Site assessment report prepared and conditions of consent recommended should approval be recommended
CI 23 Is excavation or filling of land proposed?	Yes	Excavation required to construct basement carpark. Relevant matters have been considered.
CI 30 Is the site subject to a masterplan?	No	Site greater than 5000m <sup>2</sup> in area. MP not required if site analysis study to Council's satisfaction is submitted with DA. Site analysis prepared and considered acceptable.

CI 31	Is the site adjacent to the Parramatta River foreshore	No	Not applicable
CI 32	Affected by a Foreshore Building Line	No	Not applicable
CI 33	Is tree removal proposed	Yes	Consent sought for tree removal. Appropriate replacement planting proposed subject to conditions
CI 34	Will the proposal have any impact on Acid Sulphate Soils?	No	Not applicable
CI 36	Is Dual Occupancy development prohibited on the land?	No	Not applicable
CI 37	Is terrace development permissible on the subject land	Yes	Not applicable as no terrace development proposed.
CI 38	Does the land size for dual occupancy comply with 600m <sup>2</sup> minimum?	Yes	All allotments created by subdivision of the dual occupancies will be greater than 300m <sup>2</sup> as required.
CI 39	Does the development comply with the maximum permissible height	Yes	Maximum height permissible in 2(a) zone 2 storeys. Development complies. No maximum height in LEP for Zone 10 (refer DCP).
CI 40	Does the development comply with the maximum FSR	Yes	Maximum FSR for dual occupancy development 0.6:1. All dual occupancies 0.4:1 – 0.5:1 FSR therefore comply. No max FSR specified for Zone 10.
CI 47	Does the land abut Zone 7 or 9(d)?	No	Not applicable
CI 48	Is the land along or adjoining a public transport corridor?	Yes	Development consistent with requirements of SREP 18 and will not impact on public transport provision.

## **PARRAMATTA LOCAL ENVIRONMENTAL PLAN 1996 (HERITAGE & CONSERVATION) (PLEP 1996)**

The site is not listed as a heritage item under PLEP1996.

The site is within the vicinity of the following heritage items listed under PLEP1996:

- 20 Victoria Street, Granville – a single storey residence
- 22 and 24 Victoria Street, Granville – semi detached dwellings
- 53,55,57,59 & 61 Victoria Street, Granville – a row of single storey terraces
- 1,3,5,7,9 Albert Street, Granville – a group of detached dwellings
- 12 Albert Street, Granville – a detached residence
- 20 and 22 Albert Street, Granville – semi detached dwellings
- 24 and 26 Albert Street, Granville - semi detached dwellings
- 178 (also known as 176A) Parramatta Road, Granville – a substation
- 138 Parramatta Road, Granville – a commercial building
- 57 Good Street (cnr Parramatta Road, Granville) - shops

The site is not located within a Conservation Area identified under LEP1996.

The site has a low sensitivity rating for aboriginal heritage significance under the Parramatta Aboriginal Heritage Study 2004.

Council's heritage advisor has indicated that from a heritage perspective the proposal is within the acceptable limits of potential impact and there is no objection to it.

### Draft Parramatta LEP 2010

As noted above the subject site is zoned part B6 Enterprise Corridor and part R3 Medium Density Residential under Draft LEP 2010.

Residential uses (defined using the overarching definition of “residential accommodation”) are prohibited in the B6 Enterprise Corridor zone. This zoning applies to the majority of the site including that part of the site fronting Victoria Street in the north west currently zoned Residential 2(a) under Parramatta LEP 2001.

The dual occupancy part of the development is **permissible** in the R3 zone however only a small part of the site is zoned R3 under the LEP. The proposed subdivision is permissible “dual occupancy development”.

In terms of height the Draft LEP contains a maximum height of 15m for development on land zoned B6 and a maximum height of 11m for land zoned R3. The long frontage of the mixed use building (eastern end) fronting Parramatta Road (as amended) and the development fronting Victoria Street complies with this provision. However the tower component of the development (8 storeys or 25.2m in height) does not comply.



Figure 4: Maximum Height under Draft LEP 2010

In regard to FSR the Draft LEP contains a maximum FSR of 0.6:1 (as existing) for land zoned R3 and introduces a maximum FSR of 2:1 for land zoned B6. The overall FSR of the mixed use component of the proposed development is 1.91:1 which complies with the maximum FSR of 2:1.



Compliance with Draft LEP 2010 is outlined below in addition to the discussion above.

	<b>CONTROL</b>	<b>PROPOSED</b>	<b>COMPLIES</b>
Zoning	Part Zone B6 Enterprise Corridor – residential accommodation prohibited	Mixed Use Mixed use development including residential proposed	No – residential not permissible
	Part Zone R3 – Medium Density Residential (rear on Victoria Street)	Dual Occupancies	Yes
Height	15m (4 storeys) (fronting Parramatta Road)	Long frontage to Parramatta Road (13.2m / 4 storeys)	Yes
		Tower - 26.9m / 8 storeys	No
	11m (fronting Victoria Street)	5.7m	Yes
FSR	2:1 (fronting Parramatta Road)	Overall max FSR 1.91:1	Yes
	0.6:1 (fronting Victoria Street)	Max 0.5:1	Yes
Min Lot Size in R3 Zone	550m <sup>2</sup> However subdivision of dual occupancy development permitted	Allotments proposed range from 301- 368m <sup>2</sup>	Yes

The majority of the proposal is not permissible under Draft LEP 2010 and the tower component does not comply with the maximum height.

## **DEVELOPMENT CONTROL PLANS**

Although it has been concluded above that the proposed development is not acceptable having regard to Draft Parramatta LEP 2010, an assessment has been undertaken against DCP 2005 for completeness and is provided at Appendix 1.

In summary, the proposal does not comply with DCP requirements for rear setbacks (one dual occupancy and mixed use building), height of the tower, streetscape character, building form and massing, building envelope and visual privacy.

## **RESIDENTIAL FLAT DESIGN CODE**

An assessment of the proposal against the provisions of the Residential Flat Design Code is provided at Appendix 1. In summary, the residential component of the Mixed Use building does not comply with requirements of the Residential Flat Code for deep soil and internal circulation as outlined above. It generally complies with other requirements.

## **PARRAMATTA S94A DEVELOPMENT CONTRIBUTIONS PLAN 2008**

The proposal, if approved, is subject to S94A development contributions as the value of works exceeds \$200,000. The value of the proposed works is \$24,174,643 (levy 1% total cost).

### **PLANNING AGREEMENTS**

The proposed development is not subject to a planning agreement entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F.

### **REGULATIONS**

There are no specific regulations that apply to the land to which the development application relates.

### **LIKELY IMPACTS**

The compliance of the proposed development against numerical controls is outlined in detail above. In general the development complies with the majority of numerical controls currently applicable to the site. However most significantly the proposed residential land use **is not permissible** on that part of the subject land that is proposed to be zoned B6 under Draft Parramatta LEP 2010 which is currently with the Minister to be made. In addition the development is not consistent with the site context with existing development in the area being primarily single and two storey residential development on the Victoria Street frontage and commercial development fronting Parramatta Road. Further, given the proposed zoning change, the development will not be consistent with the future character, nature or scale of development in the vicinity.

The development also gives rise to a variety of potential impacts. The main issues associated with the proposed development are height, bulk and scale, privacy and overlooking, boundary interface issues, access, traffic and parking, noise and air quality and setbacks. These matters are discussed in further detail below.

#### Consistency with character of area

The proposed development is a form of development (mixed use with commercial development at ground floor and residential development above) which does not currently exist in the immediate vicinity and which will be prohibited upon gazettal of Draft LEP 2010. Accordingly the development is currently out of character with the immediate neighbourhood, and will be inconsistent with the desired future character of the area as articulated in the future planning controls for the site.

The dual occupancies proposed with frontage to Victoria Street are considered to be consistent with the existing height, bulk and scale of development in the immediate area however the four allotments proposed at the north western extent of the site are not permissible under Draft LEP 2010. As noted above this land is proposed to be rezoned to Zone B6 Enterprise Corridor and residential development is not permissible within the zone.

#### Height, Bulk and Scale

The proposed mixed use building as amended is 4 storeys (ground floor retail plus 3 levels of residential above) in that part of the building with the long frontage to Parramatta Road (eastern end). The tower component at the western end of the site is 8 storeys in height (ground floor retail plus 7 levels of residential above) and exceeds the maximum 5-6 storey height limit under the Parramatta DCP 2005.

The mixed use building is considerably higher, more dense and bulkier than existing development in the immediate locality and exceeds the height limit of 15m which will be imposed following the gazettal of Draft LEP 2010.

Given the imminent planning controls to be introduced for the site, it is considered that notwithstanding that the development is currently permitted it is inconsistent with both the existing and future height, bulk and scale of development in the locality.

#### Privacy and Overlooking

As noted above the part of the mixed use building with long frontage to Parramatta Road (eastern end) was previously proposed as 5 storeys (ground plus 4 storeys of residential above). In an attempt to address concerns raised in regard to privacy and overlooking one residential storey was deleted from the development in the amended plans submitted 3 August 2010. In addition privacy screens and/or planter boxes were added to all north (rear) facing balconies to prevent direct overlooking of the neighbours rear yards.

The tower component of the development is similarly proposed to have all balconies screened to prevent overlooking however it is noted that this component of the development is closer to the rear boundary (minimum of approximately 6.5m in the north western corner). Overlooking as a result of this part of the development primarily affects the new dual occupancies which are proposed as part of the subject development and the existing (recently constructed) privately owned dwelling at 64 Victoria Street. These dwellings would be negatively impacted by the proposal with an 8 storey building a minimum of 6.58 – 6.86 metres from their rear boundary. Although overshadowing will not be an issue these dwellings will be affected by building bulk and height as well as potential overlooking from north facing windows.

It is therefore concluded that the proposal will result in an adverse privacy and overlooking impact on properties to the north including 64 Victoria Street.

### Boundary Interface Issues

Following on from the height issue discussed above, it is noted that the subject site currently has a split zoning Zone 10 Mixed Use fronting Parramatta Road and Zone 2(a) Residential fronting Victoria Street to the north. The location of a low density residential zone immediately adjacent to a mixed use zone which allows development to a height of 5-6 storeys and a maximum FSR of up to 2.5:1 is fundamentally the most significant concern with the subject site. The location of a high density commercial / residential use immediately adjacent to detached residential dwellings will necessarily give rise to significant land use conflicts.

Through Parramatta Draft LEP 2010 Council has proposed to rectify this existing issue by rezoning the majority of the site to Zone B6 Enterprise Corridor. Residential development is not permissible in this zone and the maximum height permissible is reduced to 15m (generally 4 storeys). Part of the site fronting Victoria Street will also be rezoned to R3 Medium Density residential thus creating a buffer zone between the commercial development fronting Parramatta Road. These changes will minimise the potential for land use conflicts that currently exists.

Having regard to the potential land use conflicts that would arise from the proposed development and considering the impact of Draft LEP 2010 which is now considered to be certain and imminent it is considered that the proposed development is not acceptable in its context and should therefore be refused.

### Access, Traffic and Parking

The subject development proposes access off Parramatta Road for commercial traffic and off Duke Street (to be constructed) via Victoria Street for residential traffic. The proposal provides for 180 car parking spaces and concerns have been raised by local residents that Victoria Street and the surrounding road network does not have the capacity to accommodate the additional traffic generated by the development.

The traffic report submitted with the application was referred to Council's traffic engineer who provided advice that the proposed parking numbers and car park layout are acceptable, that access arrangements are appropriate and that the proposal is not expected to have a significant impact on the surrounding road network. Notwithstanding it is considered for other zoning and land use compatibility reasons that the proposed development is not acceptable in the circumstances.

### Noise and Air Quality

The subject site is located immediately adjacent to Parramatta Road and the railway line and is within close proximity to the M4 Motorway. To ensure the site is suitable for residential development an air quality assessment report has been prepared by the applicant's consultants which indicates that the air quality at the site is acceptable for residential development notwithstanding the impact of Parramatta Road, the railway and the M4. Given the large number of public submissions that raised the issue of air quality on the site, an independent review of the air quality assessment was commissioned by Council. AECOM undertook an assessment of the report submitted by the applicant and concurred with the findings that the

proposed development is not likely to be impacted by adjacent road activity. AECOM did however recommend that additional information be sought from the applicant's air quality consultant on a number of matters. This information has been provided and AECOM have provided further advice that they are now satisfied with the report.

In terms of noise impacts, a noise impact assessment report has similarly been prepared which makes recommendations about construction materials and noise emissions from mechanical plant to ensure an appropriate noise environment within the development. Council specialist officers have reviewed the noise impact assessment and concur with its finding and recommendations. It is considered that the recommendations of the noise impact assessment should be included as conditions of consent should the application be recommended for approval.

### Setbacks

Parramatta DCP 2005 requires that the rear setback for mixed use development in North Granville shall be 40% of the length of the site with the setback for corner sites being 40% of the length and width of the site. As the site depth varies from 34 to 41.5m, rear setbacks of between 13.6 and 16.6m would be required to comply with this requirement. The proposed mixed use component of the development does not comply with this requirement having a rear setback of between generally between 9-15.5m and down to approximately 6.5m for the tower component.

Given that the proposal is located adjacent to single storey detached residential development and will be 4 and 8 storeys in height it is considered that the proposed setbacks are unacceptable. The reduced setback will give rise to issues of overlooking to the rear yards of properties to the north (notwithstanding proposed screens) and visual bulk. This is not considered appropriate and is proposed to be rectified by the change in maximum height proposed by Draft LEP 2010. Accordingly it is considered that the proposal is not appropriate in terms of setbacks.

## **SUITABILITY OF THE SITE**

The potential constraints of the site have been assessed and it is considered that the site is unsuitable for the proposed development having regard to all relevant matters.

## **SUBMISSIONS & PUBLIC INTEREST**

186 submissions in total (39 initially and 147 in response to amended plans) were received in response to the notification of the application. The issues raised within these submissions have been discussed within this report.

Having regard to all relevant matters it is considered that the proposed development is contrary to the public interest, being inconsistent with both the existing and future character of the area having regard to Draft LEP 2010 which has been prepared by Council and which is now considered to be imminent and certain. Upon gazettal of the Draft LEP the proposed development would be prohibited.

## Conclusion

After consideration of the development against Section 79C of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, it is concluded that on balance the proposal is unsuitable for the site and is contrary to the public interest.

Having regard to all relevant matters, the proposed rezoning of the site under Draft LEP 2010 clearly demonstrates that Council has reconsidered the appropriateness of residential development on the subject site and has considered it to be inappropriate. The proposed zoning and development standards embodied within Draft LEP 2010 indicate a clear decision by Council to alter the zoning to allow only commercial development fronting Parramatta Road with a reduced maximum height of 15m.

In addition it is considered that the proposal is not consistent with the current site context which is primarily low scale commercial development fronting Parramatta Road and single and two storey detached residential development fronting Victoria Street. Accordingly notwithstanding the existing zoning, it is considered that the application should be refused as:

- it is inconsistent with the proposed zoning of the site under Draft LEP 2010,
- the proposed residential development is prohibited under Draft LEP 2010,
- the development is inconsistent with the maximum height permissible on the subject site under Draft LEP 2010,
- the development is inconsistent with the development context in which it is proposed to be located,
- the development is inconsistent with controls contained within existing Parramatta DCP 2005 including rear setbacks, height of the tower, streetscape character, building form and massing, building envelope and visual privacy,
- the development is inconsistent with controls contained within the Residential Flat Design Code for deep soil and internal circulation, and
- the development would result in adverse environmental impacts on neighbouring properties including privacy and overlooking and visual bulk and scale.

## Recommendation

Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979 it is recommended that the Joint Regional Planning Panel as the consent authority REFUSE Development Application No. 76/2010 for the following reasons:

- the proposal is inconsistent with the proposed zoning of the site under Draft LEP 2010,
- the residential component of the proposed mixed use development is prohibited under Draft LEP 2010,
- the dual occupancies 5-8 are prohibited under Draft LEP 2010,

- the development is inconsistent with the maximum height permissible on the subject site under Draft LEP 2010,
- the development is inconsistent with the development context in which it is proposed to be located,
- the development is inconsistent with controls contained within existing Parramatta DCP 2005 including rear setbacks, height of the tower, streetscape character, building form and massing, building envelope and visual privacy,
- the development is inconsistent with controls contained within the Residential Flat Design Code for deep soil and internal circulation, and
- the development would result in adverse environmental impacts on neighbouring properties including privacy and overlooking and visual bulk and scale.

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## Report prepared by:

***Helena Miller***

***Independent Planning Consultant, Director, MG Planning Pty Ltd***

**Signature:**




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## Peer Review:

I have read the Section 79C assessment worksheet and endorse the manner in which the development application has been assessed. I concur with the recommendation.

***Mark Leotta***

***Service Manager***

***Development Assessment Services***

**Signature:** .....

**Date:** .....

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**Peer Review:**

I have read the Section 79C assessment worksheet and endorse the manner in which the development application has been assessed. I concur with the recommendation and determine this application under Delegated Authority PB002 (DA with NO submissions).

I authorise the Development Assessment Officer whose name appears above to sign all plans and paperwork in relation to this determination.

***Sue Weatherley***  
***Group Manager***  
***Outcomes and Development***

**Signature:** .....

**Date:** .....

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## **APPENDIX 1**

### **COMPLIANCE TABLES**

## PARRAMATTA DEVELOPMENT CONTROL PLAN 2005

Development Control	Proposal	Compliance
<b>Preliminary Building Envelope</b>		
DUPLEX (DUAL OCCUPANCY) COMPONENT OF THE DEVELOPMENT		
<b>Frontage</b> Minimum 15m	17.75 – 36.5m	Yes
<b>Height</b> Maximum of 2 storeys and a maximum building height of 9m	Max. 2 storeys and 5.85m	Yes
<b>Street Setback</b> Is the setback consistent with the prevailing setback within the range of 5-9m	5.2m	Yes
<b>Rear Setback</b> Minimum 30% of the length of site or 6m (small lot)	Duplex 1 – 53% (20m) Duplex 2 – 45% (16.8m) Duplex 3 – 40% (12m) Duplex 4 – 34% (9.2m) Duplex 5 – 39% (11.8m) Duplex 6 – 41% (12.2m) Duplex 7 – 39% (11.8m) Duplex 8 – 20-27% (4.5-6m)	Yes Yes Yes Yes Yes Yes Yes Yes No
<b>Side Setback</b> Minimum 1.5m	Zero lot line and: Duplex 1 – 1.5m Duplex 2 – 3.1m Duplex 3 – 3.9m Duplex 4 – 3.1m Duplex 5 – 4.0m Duplex 6 – 3.7m Duplex 7 – 3.7m Duplex 8 – 4-9.2m	Yes Yes Yes Yes Yes Yes Yes Yes
<b>Deep Soil</b> 30% of site deep soil zone (min 50% at rear of site and 15% at front of site). Minimum dimension 4m x 4m. Requirement m <sup>2</sup>	Duplex 1 – 64% (199m <sup>2</sup> ) Duplex 2 – 61% (226m <sup>2</sup> ) Duplex 3 – 67% (230m <sup>2</sup> ) Duplex 4 – 57% (172m <sup>2</sup> ) Duplex 5 – 62% (223m <sup>2</sup> ) Duplex 6 – 63% (220m <sup>2</sup> ) Duplex 7 – 61% (200m <sup>2</sup> ) Duplex 8 – 62% (192m <sup>2</sup> )	Yes Yes Yes Yes Yes Yes Yes Yes
<b>Landscaping</b> Minimum of 40% of the site to be landscaped (inclusive of deep soil zone)	Duplex 1 – 64% (199m <sup>2</sup> ) Duplex 2 – 61% (226m <sup>2</sup> ) Duplex 3 – 67% (230m <sup>2</sup> ) Duplex 4 – 57% (172m <sup>2</sup> ) Duplex 5 – 62% (223m <sup>2</sup> ) Duplex 6 – 63% (220m <sup>2</sup> ) Duplex 7 – 61% (200m <sup>2</sup> ) Duplex 8 – 62% (192m <sup>2</sup> )	Yes Yes Yes Yes Yes Yes Yes Yes

<b>Dual Occupancies</b> Attached dual occupancies should not be in form of paired, mirror image housing	Variation in built form (window placement, materials etc.) provided. Dual occupancies not mirror images.	Yes
<b>Private Open Space</b> Minimum of 100m <sup>2</sup> and min. dimension of 6m	Duplex 1 – 160m <sup>2</sup> Duplex 2 – 228m <sup>2</sup> Duplex 3 – 185m <sup>2</sup> Duplex 4 – 145 m <sup>2</sup> Duplex 5 – 202m <sup>2</sup> Duplex 6 – 192m <sup>2</sup> Duplex 7 – 176m <sup>2</sup> Duplex 8 – <100m <sup>2</sup>	Yes Yes Yes Yes Yes Yes Yes No
<b>Parking</b> 2 spaces for dwellings > 125m <sup>2</sup>	1 garage and one hard stand (stacked) provided	Yes
Garages max 6.3m wide or 50% of street elevation of building whichever is lesser	3m and less than 50% of frontage	Yes
Garages a min. 300mm behind front building line	300mm recess	Yes
Separate residential from commercial	Separated	Yes
<b>Dual Occupancy</b> Minimum site area of 600m <sup>2</sup> and minimum frontage of 15m	DO 1-2 - 681m <sup>2</sup> DO 3-4 – 645m <sup>2</sup> DO 5-6 – 707m <sup>2</sup> DO 7-8 – 640m <sup>2</sup>	Yes Yes Yes Yes
For subdivision equal or similar proportions of site area to be provided and minimum frontage of 7.5m for each dwelling	Minimum frontage approx. 8.9m	Yes
<b>MIXED USE COMPONENT OF THE DEVELOPMENT</b>		
<b>Height</b> Maximum of 5 Storeys – additional storey (i.e. 6 storeys) may be permitted on corner lots to reinforce the corner element	Long frontage to Parramatta Road (eastern end) - 4 storeys	Yes
	Tower element – 8 storeys	No
<b>Street Setback</b> Nil – non residential 2m - residential	Min 2 – 8m	Yes
<b>Rear Setback</b> 40% length of site Corner sites 4% of length and width of site	Site depth varies from 34 – 41.5m. Required setback 13.6 – 16.6m. 9 - 15.5m setback proposed	No
<b>Side Setback</b> Nil	N/A	N/A
<b>Minimum Site Frontage</b> Minimum 18m	136m to Parramatta Road	Yes
<b>Landscaping</b> Rear Setback is to be landscaped	Rear setback landscaped	Yes
<b>Ground Floor Uses</b> To be non residential	Ground floor use retail	Yes
<b>FSR</b>		

Max 2:1 and 2.5:1 on corner sites in North Granville	Overall Max FSR of 1.91:1 proposed  2.43:1 on corner part of site and 1.53:1 on remainder (although not separate site)	Yes  Yes Yes
<b>Private Open Space</b> Minimum of 10m <sup>2</sup> per dwelling and min. dimension of 2m  Minimum 10m <sup>2</sup> of communal open space per dwelling (930m <sup>2</sup> required)	All dwellings have at least 10m <sup>2</sup> of private open space in form of balconies (min dimension of 2m complied with)  1525m <sup>2</sup> of communal open space provided	Yes  Yes
<b>Minimum Floor to Ceiling Height</b> Minimum 3.3m for non residential on ground floor and 2.7m above ground floor	Ground floor 4.5m Upper levels 3.0m	Yes Yes
<b>Dwelling Mix</b> 3 bdrm – 10-20% 2 bdrm – 60-75% 1 bdrm – 10-20%	<b>3 bdrm – 17%</b> <b>2 bdrm – 68%</b> <b>1 bdrm – 15%</b>	Yes Yes Yes
<b>Adaptable dwellings</b> 10% of dwellings to be adaptable (comply with AS4299)	9 units (9.7% or approximately 10%) adaptable. Technically 9.3 units required – round down to 9 units.	Yes
<b>General Site Planning Controls</b>		
<b>Views and Vistas</b> Does the development preserve views of significant topographical features such as ridges and natural corridors, the urban skyline, landmark buildings, sites of historical significance and areas of high visibility, particularly those identified in Appendix 3.  Does the building design, location and landscaping encourage view sharing between properties?	No significant views or topographical features evident.	N/A
<b>Water Management</b> <b>Flooding or Grey Area</b> Is the site flood affected or within a grey area?  <b>Stormwater Disposal</b> Is stormwater to be directed to Council's stormwater network? If not, where is it directed?	No  Dual Occupancies (Duplex) directed to OSD basins provided. Rear drains to pipe and connect to council stormwater network in street.  Mixed Use – to be drained to OSD tank and connect to street.	N/A  Yes – Ccl Engineer commented acceptable
<b>Soil Management</b> Are there adequate erosion control measures?	Site detention drawing provided	Yes – Ccl Engineer commented acceptable

<b>Development on Sloping Land</b> Does the design of the dwelling respond to the slope of the site? <i>(Generally speaking FFL should not exceed 500mm above existing NGL)</i>	Not applicable	N/A
<b>Biodiversity</b> Does the proposal minimise impact on indigenous vegetation and naturally occurring soils? Is there additional native vegetation to be planted?	Not applicable	N/A
<b>Landscaping</b> Are natural features on the site, such as existing trees, rock outcrops, cliffs, ledges, indigenous species and vegetation communities retained and incorporated into the design of development?  Are trees planted at the front and rear of the site to encourage tree canopy to soften the built environment, to encourage the continuity of the landscape pattern and to minimise overlooking opportunities between properties?	No natural features to be retained  Yes – landscape designer commented on type of trees. Conditions proposed	N/A  Yes
<b>Building Elements</b>		
<b>Streetscape</b> Does the development respond to the existing character and urban context of the surrounding area in terms of setback, design, landscape and bulk and scale?	Yes – Victoria St Parramatta Road – No	Yes No
<b>Fences</b> Is the front fence a maximum height of 1.2m?  Are front fences a common element in the locality?  Is sheet metal fencing proposed to be used forward of the building line or on boundaries that have an interface with the public domain?	Yes – max. 1.2m timber fence  Yes – low fences common  Yes - Side boundaries only. Acceptable as side fences only	Yes Yes Yes
<b>Building Form and Massing</b> Is the height, bulk and scale of the proposed building consistent with the building patterns in the street?	Victoria St – Yes Parramatta Road – No	Yes No
<b>Attics</b> Is the attic floor area greater than 25m <sup>2</sup> ? Does the attic comply with the definition of attic contain in PLEP 2001?	No attics proposed	Not applicable
<b>Building Façade and Articulation</b> Are the building facades modulated in plan and elevation and articulated to reduce the appearance of building bulk and to express the elements of the building's architecture?  Does the building exceed the building envelope?  If yes, by more than: <ul style="list-style-type: none"> <li>800mm for balconies and eaves:</li> <li>600mm for Juliet balconies and bay windows</li> </ul>	Yes – good articulation in both dual occupancies and mixed use part of development.  Yes – tower element 8 storeys where 6 storeys allowed	Yes  No
<b>Environmental Amenity</b>		
<b>Visual Privacy</b> Are windows, balconies and decks designed to	Dual Occupancies	Yes

minimise overlooking of living areas and private open spaces of adjoining dwellings?	(Duplex) – Yes  Residential in mixed use part of development – all balconies screened to prevent overlooking to north. Residential development on long frontage reduced to 3 storeys to reduce overlooking to private development to north. Windows to tower will have privacy impact.	Partly
<b>Acoustic Privacy</b> Is the dwelling located within proximity to noise-generating land uses such as major roads and rail corridors?	Yes – noise impact assessment prepared which indicates noise will not negatively impact on resident amenity subject to imposition of report recommendations as conditions of consent.	Yes – subject to conditions
<b>Solar Access</b> Does this dwelling and adjoining properties receive a minimum of 3 hours sunlight to habitable rooms and in at least 50% of the private open space areas between 9am and 3pm on 21 June?  Are living areas, such as kitchens and family rooms located on the northern side of dwelling with service areas such as laundries and bathrooms to the south or west?	Yes – development does not result in any significant shadow impacts given site orientation  DO – east and north where possible  Apartments – Majority of units have north orientation	Yes  Yes  Yes – as far as possible
<b>Cross Ventilation</b> Is the minimum floor to ceiling height 2.7m on the ground floor and 2.4m on the first floor?  Is the minimum window head height 2.4m on the ground floor and 2.1m on the first floor?	DO – Ground 3.0m, 1 <sup>st</sup> floor 2.7m  Mixed Use - Yes – Ground 4.5m, above 3.0m  Yes	Yes  Yes  Yes
<b>Waste Management</b> Is the waste management plan satisfactory?	In response to a request from Council an amended Waste Management Plan was submitted. This is considered satisfactory.	Yes
<b>Social Amenity</b>		
<b>Safety and Security</b> Have the principles of CPTED been satisfied within the design?	Council's Community Crime Prevention Officer has provided advice that no objection is raised to the development.	Yes - Condition

	Recommendations re: car park security, building security and external finishes provided which can be included as conditions in any consent.	
<b>Special Character Areas</b>		
Is the site within a Special Character Area?	No	N/A
Is the proposal consistent with the controls in Part 5 of the DCP?		

## RESIDENTIAL FLAT DESIGN CODE

ASPECT	CONTROL	PROPOSAL	COMPLIES?
Building Depth	Depth should be between 10-18m	Building depth ranges from 12 – 22m	Yes – generally, minor non compliance where greater than 18m
Storage	1 bedroom 6m <sup>3</sup> 2 bedroom 8m <sup>3</sup> 3 bedroom 10m <sup>3</sup>	Storage provided in each unit plus additional storage in car park. Condition could be applied to require that minimum requirement for each unit be met.	Yes - Condition
Balconies	Provide primary balconies for all apartments with a minimum depth of 2m.	All balconies comply with minimum 2m dimension	Yes
Ceiling heights	Minimum 2.7m	Floor to floor height of 3000mm proposed therefore complies. Ground floor 4.5m.	Yes
Open Space	The area of communal open space should be between 25-30% of the site area (25%=1402.75m <sup>2</sup> ).	Combined area of 1830m <sup>2</sup> proposed	Yes
Deep Soil	A minimum of 25% of the open space area should be a deep soil zone	Communal open space at ground level totals 1525m <sup>2</sup> . Deep soil part of MU site area calculated at not more than 468m <sup>2</sup> (8% based on site area of 5611.5m <sup>2</sup> ).	No
Internal circulation	A maximum of 8 units should be provided off a double loaded corridor	The 4 storey component of the development complies.  The 8 storey part of the building does not comply having 10 units accessed off a corridor. The lift core is also located at one end therefore providing long distance to units furthest from the lift.	Yes  No
Daylight Access	Living rooms and private open spaces for at least 70% of apartments should receive 3 hours direct solar access on winter solstice	82% of units have an aspect that allows for more than 3 hours solar access.	Yes
Natural ventilation	60% of units should be naturally cross ventilated	64% are cross ventilated.	Yes
Natural ventilation	At least 25% of kitchens should have access to natural ventilation	All kitchens are located in rooms which have windows	Yes
Natural ventilation	The back of a kitchen should be no more than 8m from a window	Yes	Yes



