

JOINT REGIONAL PLANNING PANEL
(SYDNEY WEST)

JRPP No	2014SYW097
DA Number	DA/490/2015
Local Government Area	Parramatta
Proposed Development	Demolition and construction of a 16 storey mixed use development containing 2 ground floor retail tenancies and 97 residential units over 2 levels of basement car parking.
Street Address	2-6 Bold Street and 80-82 Cowper Street, GRANVILLE
Applicant/Owner	Applicant - Designer Home Constructions Pty Ltd Owner - Mr G Namnour
Number of Submissions	Three Submissions
Regional Development Criteria (Sched 4A of the Act)	Schedule 4A – Clause 3 – General Development over \$20 Million.
List of All Relevant s79C(1)(a) Matters	BASIX SEPP, Infrastructure SEPP, SEPP (Urban Renewal), Sydney Harbour Catchment SREP (Deemed SEPP), SEPP 55, SEPP 65 and Residential Flat Design Code PLEP 2011 and PDCP 2011.
Recommendation	Refusal
Report by	Denise Fernandez, Senior Development Assessment Officer

Assessment Report and Recommendation Cover Sheet

File No:	DA/490/2014
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S79C ASSESSMENT REPORT

Environmental Planning & Assessment Act 1979

SUMMARY

DA No:	DA/490/2014
Property:	Lots 19 and 20 DP 7553, Lot 21 DP 7553, Lot 18 DP 7553, Lot 17 DP 7553 and Lot 22 DP 651169. 2-6 Bold Street and 80-82 Cowper Street, GRANVILLE
Proposal:	Demolition and construction of a 16 storey mixed use development containing 2 ground floor retail tenancies and 97 residential units over 2 levels of basement car parking.
Date of receipt:	30 July 2014
Applicant:	Designer Home Constructions Pty Ltd
Owner:	Mr G Namnour
Is the property known to be owned by a Council employee or Councillor?	No
Political donations/gifts disclosed:	None disclosed on the application form
Submissions received:	3 submissions
Recommendation:	REFUSAL
Report author:	Denise Fernandez

Legislative requirements

Zoning:	B4 Mixed Use under PLEP 2011
Additional Legislation	None
Other relevant Environmental Planning Instruments (EPIs)	BASIX SEPP, Infrastructure SEPP, SEPP (Urban Renewal), Sydney Harbour Catchment SREP, SEPP 55, SEPP 65 and Residential Flat Design Code
PCC Planning Controls & Policy	Section 94A Contributions Plan, Parramatta Development Control Plan 2011, Policy for the handling of unclear, insufficient and amended development applications

Heritage item?	No
Heritage Conservation Area?	No
Nearby item or Cons. area?	No
Archaeological heritage?	No
Integrated development	No
Designated development	No
Crown development	No
Delegation	JRPP
Relevant site history	YES

PL/110/2013 – Pre-lodgement meeting for a 9 storey mixed use development comprising of 96 apartments and 600m² of commercial floor area. The potential development was reviewed by the Design Excellence Advisory Panel (DEAP). A summary of the issues raised by DEAP are as follows.

- The proposal is an overdevelopment of the site, exceeding both the maximum height and FSR.
- As a result, the building is of an excessive bulk and scale with poor amenity.
- Proponent to consider separate building forms and break the building into two with a longer form running north/south
- Panel was concerned with the internal planning of the units – too many south facing units.
- The eastern elevation does not appear to provide units natural ventilation.
- Internal corridors offer poor amenity
- The proposal does not achieve satisfactory setbacks and fails to provide sufficient landscape area and deep soil.
- The Panel did not support the residential option on the ground floor.
- The Panel was concerned that the interface between the proposed use and the Railcorp land between Bold Street and the site offers a very poor urban design outcome.
- Basement carparking design appears to contain issues and discrepancies, in particular the RLs and ramp strategies.
- The overall architectural strategy for the proposal was not sufficiently developed to allow for Design Excellence assessment.

SECTION 79C EVALUATION

PERMISSIBILITY

The proposal is for a mixed use development. The site is zoned B4 Mixed Use under Parramatta Local Environmental Plan 2011. The proposed works are permissible with consent.

PROPOSAL IN DETAIL

The subject application seeks approval for the following:

- Demolition of 2 factory buildings and concrete driveways.
- Consolidation of 6 lots.
- Construction of a 16 storey mixed use development comprising of 97 residential units and 2 retail tenancies.
- Two levels of basement parking and at grade parking to include 134 spaces.
- Site works and perimeter landscaping.
- The residential component of the development comprise of:
 - 3 x studio units
 - 23 x 1 bedroom units
 - 63 x 2 bedroom units
 - 7 x 3 bedroom units
 - 1 x 4 bedroom unit
- Strata subdivision of the residential units.

It is noted that the subject application does not seek approval for the occupation of the ground floor retail tenancies.

SITE & SURROUNDS

The site is an amalgamation of six allotments, located on the corner of Cowper Street and Bold Street and is irregular in shape. The allotment has a primary frontage to Bold Street and a secondary frontage to Cowper Street. The site has a combined area of 2203.6m² with a gradual fall of approximately 1.55 metres from the south of the site to the north.

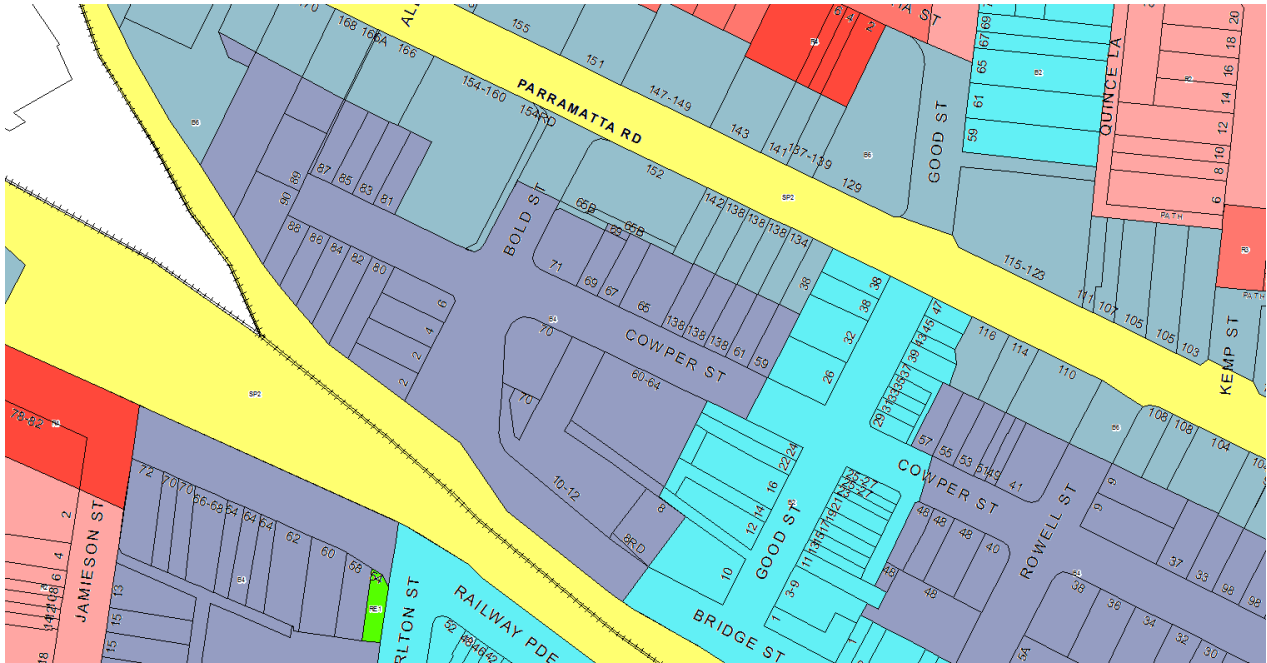
The current improvements on the site include a factory building on 80 and 82 Cowper Street. The remaining sites with a frontage to Bold Street is currently vacant.

It is noted that the land adjacent to the site to the east (fronting Bold Street) is Railcorp owned land.

The immediate locality comprises of a mixture of land uses consisting of a rail corridor, railway station, industrial buildings, commercial units, retail premises and high density residential developments. The development site is within proximity to Parramatta Road, Granville railway station and Parramatta CBD.

SURROUNDING DEVELOPMENT & PLANNING CONTEXT

The subject site is surrounded by multiple zones which result in the varied development pattern expected of a location within proximity to a town centre (Granville CBD) and a rail corridor. The following image is of the zones within proximity to the site.



DESIGN EXCELLENCE AND URBAN DESIGN

Granville Town Centre and the surrounding sites are experiencing a surge of development as a result of rezoning and an increase in development densities under Parramatta Local Environmental Plan 2011. These changes are in reflection of the vision of the SEPP (Urban Renewal) and to accommodate a growing population.

It is imperative that the initial developments within this growth area demonstrate design excellence. Given the prominence of the subject site, an emphasis is placed upon good urban design as it would be considered as a benchmark design for the wider area. Developments must therefore take into consideration the recommendations from DEAP to ensure design excellence.

The proposal as amended does not in this instance achieve design excellence as evidenced by the lack of support from DEAP, Council's Urban Designers and its unsatisfactory compliance with the principles of SEPP 65 and the RFDC.

It is noted that the amended development proposes a departure to the maximum height. As the development does not achieve design excellence Council cannot support the variation or the development and is therefore recommended for refusal.

An assessment of the proposal and the departure pursuant to Clause 4.6 of PLEP 2011 is found elsewhere in this report.

ENVIRONMENTAL PLANNING INSTRUMENTS

STATE ENVIRONMENTAL PLANNING POLICY 55 – REMEDIATION OF LAND

The consent authority is required to consider State Environmental Planning Policy No. 55 (SEPP 55) prior to determining a development application. The following provisions of SEPP 55 have been considered in the assessment of the development application:

(7) Contamination and remediation to be considered in determining development application

- (1) A consent authority must not consent to the carrying out of any development on land unless:
 - (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.
- (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.
- (3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.
- (4) The land concerned is:
 - (a) land that is within an investigation area,
 - (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,
 - (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital-land:
 - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
 - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

ASSESSMENT

The subject site comprises six allotments namely, 2, 4 and 6 Bold Street and 80 and 82 Cowper Street. The site is not identified in Council's records as being contaminated. However, part of the subject site (ie 80-82 Cowper Street) has a history of industrial uses including a tow truck depot and a vehicle and tyre repair premises. As such, the application was submitted with a Preliminary Site Investigation Report.

An assessment of the application has been undertaken on the basis of Clause 7(1), 7(2) and 7(3) of SEPP 55 and the *Managing Land Contamination Planning Guidelines 1998* for assessing potential contamination of a site. The following is a checklist of the evaluation.

- Is the planning authority aware of any previous investigations about contamination on the land? What were the results including any previous evaluations?

Planning Comment:

Council records show no evidence of previous investigations for contamination of the land the subject of this application.

- Do existing records held by the planning authority show that an activity listed in Table 1 has ever been approved on the subject land? (The use of records held by other authorities or libraries are not required for an initial evaluation).

Planning Comment:

Council records show that the site is currently and historically been used for the purposes of a vehicle and tyre repair shop or 'engine works' which is a use listed in Table 1 below.

Acid/alkali, plant and formulation	Landfill sites
Agricultural/horticultural activities	Metal treatment
Airports	Mining and extractive industries
Asbestos production and disposal	Oil production and storage
Chemicals manufacture and formulation	Paint formulation and manufacture
Defence works	Pesticide manufacture and formulation
Drum re-conditioning works	Power stations
Dry cleaning establishments	Railway yards
Electrical manufacturing (transformers)	Service stations
Electroplating and heat treatment premises	Sheep and cattle dips
Engine works	Smelting and refining
Explosives industry	Tanning and associated trades
Gas works	Waste storage and treatment
Iron and steel works	Wood preservation

Table 1: Some Activities that may cause contamination

- Was the subject land at any time zoned for industrial, agricultural or defence purposes?

Planning Comment:

The current zoning for the site is B4 Mixed Use under Parramatta Local Environmental Plan 2011. Council's records show that the sites were zoned Mixed Use 10 under the previous Local Environmental Plan 2001 which allowed industrial uses.

- Is the subject land currently used for an activity listed in Table 1 above?

Planning Comment:

A portion of the subject site (80-82 Cowper Street) is currently used for the purposes of a vehicle and tyre repair shop (categorised as 'engine works' under Table 1). This use has been in operation since 1997.

The Phase 1 Report notes that the site known as 2-6 Bold Street was previously used for residential purposes until 2002 when these dwellings were demolished. However, Council's aerial maps indicate that these dwellings were not present on the site by 2000.

- To the planning authority's knowledge was, or is, the subject land regulated through licensing or other mechanisms in relation any activity listed in Table 1?

Planning Comment:

The Preliminary Site Investigation Report notes that a request to WorkCover to search Dangerous Goods Licence database was undertaken to identify if the property is currently, or had previously been licensed for the storage of dangerous goods. The response from WorkCover shows that the site is not, and has not previously been licensed for the storage of dangerous goods.

- Are there any land use restrictions on the subject land relating to possible contamination such as notices issued by the EPA or other regulatory authority?

Planning Comment:

The Preliminary Site Investigation Report notes that the EPA contaminated land public register was inspected to determine if any notices have been issued for the site by EPA under the *Contaminated Land Management Act 1997* or if the site is registered under the *Protection of the Environment Operations Act 1997*. The inspection revealed that the site was not listed under the provisions of these Acts nor is the site located in close proximity to a listed property. The report further notes that the site is not listed on EPA's database of properties for which a notification has been received (under the provisions of the Contaminated Land management Act 1997) due to site contamination.

Does a site inspection conducted by the planning authority suggest that the site may have been associated with any activities listed in Table 1?

Planning Comment:

A number of site inspections were undertaken during the course of assessment. As previously mentioned, a portion of the site is currently being used for a tyre and vehicle repair premises.

- Is the planning authority aware of information concerning contamination impacts on land immediately adjacent to the subject land which would affect the subject land?

Planning Comment:

No. As previously noted the portion of the site to the east is undeveloped and up until 2000 was used for residential purposes. The site to the west on 84 Cowper Street has been used as a showroom for kitchen furniture since 1991. The remaining land

immediately to the south has always been used as rail corridor.

- Has the applicant for development consent carried out the investigation required by subclause 7(2) of SEPP 55 and provided a report on it to the consent authority?

Planning Comment:

A Preliminary Site Investigation Report was submitted to Council with the application which found that the site contained low and below levels of chemical contaminants that would present an unacceptable risk to human health and the environment for a high density residential land use setting. As such, the site is suitable for the proposed mixed use development. The report however notes that further soil sampling is necessary prior to the redevelopment in order to appropriately classify the soils within the footprint of the proposed basement area for off-site disposal purposes.

The Report does not in this case recommend the preparation of a Phase 2 (Detailed Site Investigation) Contamination Report.

Council's Health Officer has also reviewed the application and the Preliminary Site Investigation Report. Upon review, Council's Health Officer raised no objections on contamination grounds.

In view of the above evaluation, and considering the requirements of SEPP55 and the Managing Land Contamination Planning Guidelines 1998, it is considered that the site is suitable for its proposed use and Clause 7 of SEPP 55 is satisfied. The Phase 1 Report also states that the site is *"to be suitable for the proposed mixed use development"*.

Had the application been recommended for approval, a condition would have been imposed on the consent with regards to the requirement for further soil sampling as per the recommendations of the Report.

STATE ENVIRONMENTAL PLANNING POLICY – BASIX

The amended proposal was not submitted with amended BASIX Certificates. As such, the lack of submission of an amended BASIX Certificate will form part of the reason for refusal.

SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005 (DEEMED SEPP)

The site is not located on the foreshore or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development.

STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

The application is not subject to clause 45 of the SEPP as the development does not propose works within the vicinity of electricity infrastructure.

The application is subject to clause 85 and 86 of the SEPP as the development is located adjacent to a rail corridor. The application was initially referred to Railcorp whom in response requested additional information to assist with their assessment. Concurrently, the design of the development was also revised in accordance with DEAP and Urban Design comments. Whilst the applicant has submitted the additional information required by Railcorp, the amended proposal was not referred to Railcorp as Council is not satisfied with the urban design of the development. Thus, it was unnecessary to refer the amended development to Railcorp for their consideration as Council did not support the proposal. As such, Council considers the development to be unsatisfactory with regards to this matter. It is also noted that the consent authority cannot approve the application without concurrence from Railcorp.

The application is also subject to Clause 87 of the SEPP as the development is located adjacent to a rail corridor where rail vibrations and noise is likely. An amended Acoustic Report was submitted and reviewed. Concern is raised that to meet the maximum dBA levels for bedrooms pursuant to Clause 87, that the windows that address the rail corridor are to be closed at all times. Consequently, this reduces cross ventilation and internal amenity particularly for the single aspect south / south-east facing units. DEAP also raised concerns with regards to the balconies that address the rail corridor and that these areas are not appropriately ameliorated from rail noise. On this basis, the proposal cannot be supported.

The application is not subject to clause 101 of the SEPP as the site does not have frontage to a classified road.

The application is not subject to clause 102 of the SEPP as the average daily traffic volume of either Bold Street or Cowper Street is less than 40,000 vehicles.

The application is subject to clause 104 of the SEPP as the development proposes more than 75 dwellings on a site that is located within 90 metres of a classified road (Parramatta Road). The application was referred to the Roads and Maritime Services whom raised no objections to the amended proposal subject to conditions of consent.

STATE ENVIRONMENTAL PLANNING POLICY 65 - DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT

SEPP 65 applies to the development as the building is more than 3 storeys in height and contains a residential component.

DESIGN EXCELLENCE ADVISORY PANEL (DEAP)

The application that was reviewed by DEAP on 3 occasions (10 September 2014, 10 December 2014 and 10 September 2015). The latest comments from DEAP are as follows:

- The DEAP submission is not comprehensive enough to allow for a detailed review by Panel. A project of this scale and importance requires larger scale plans and several detailed sections at ground level to provide evidence of a cohesive public domain interface with the street edge.
- The Panel is of an opinion that the proposal requires extensive design development as there is currently no tower/podium articulation, insufficient detail of the podium and poor resolution of the tower element.
- The lack of detailed documentation did not allow Panel to understand the materiality and architectural language.
- The Panel expressed concerns with the ground floor as it appears to be below natural ground level along the eastern and northern edges of the site. This will have serious

implications with internal flooding, impact on retail space and the placement of its entry along these edges, restrictions on casual surveillance and poor public domain / building edge interaction.

- The applicant justified the breach in height by stating that the amended proposal was narrower. However, upon review, Panel states that the tower appeared not only taller, but marginally wider.
- Most unit layouts result in bedrooms accessed either from the dining or living room spaces.
- The balconies that address the railway corridor has not been designed to address train noise, restrict the ability to throw missiles on to the tracks and meet any Railcorp requirements.
- The Panel had advised in a previous meeting that the tower and podium language should differ. However, the amended proposal does not illustrate this.
- The development is to be further refined to ensure adequate external solar control devices that form part of the architectural expression.

In summary, the Panel notes, “....irrespective of several submissions the proposal has not been sufficiently resolved to achieve an acceptable degree of design excellence. This prominent corner site requires a high degree of architectural resolution as it will be the benchmark and catalyst for future development in this precinct”.

Planning comment on DEAP advice

As the amended proposal does not have the endorsement of DEAP which therefore fails in achieving design excellence, Council cannot support the proposal. As such, the application is recommended for refusal.

DESIGN QUALITY PRINCIPLES

SEPP 65 sets 10 design quality principles. The following comments are noted with regards to the development and the principles.

RFDC design quality principle	Response
1. Context	NO The development does not respond nor contribute to its context. Given the prominence of the site, the development requires a high degree of architectural resolution. The amended proposal has not achieved this and does not have the support of DEAP.
2 and 3. Built form and scale	NO The development breaches the maximum height for the site. However, the variation to the height cannot be justified given that the design of the development does not achieve design excellence. In this regard, the design is not an appropriate built form.
3. Density	Yes The development provides 97 apartments. Given its location on the periphery of the Granville Town Centre and Parramatta Road, such development density is expected and is evidenced by the maximum FSR for the site, which the proposal does not exceed in this instance.
4. Sustainability, resource, energy & water efficiency	NO An amended BASIX Certificate has not been submitted. In this regard, it cannot be ascertained whether the building meets the required energy and water efficiency targets.

5. Landscape	NO As the design of the development is poorly resolved, the opportunities for any meaningful landscaping on the site are limited. With a site that is over 2000m2 in area with 2 levels of basement, on-site and perimeter landscaping should be abundant to improve amenity for the users of the building.
6. Amenity	NO As a consequence of poor design, the development does not achieve satisfactory amenity, either internal or external as evidenced by DEAP's review of the amended design.
7. Safety & security	NO The development provides retail premises on the ground floor that addresses the street. However, as these tenancies are located below street level, surveillance from within the street setback and the public domain are limited.
8. Social dimensions/housing affordability	Yes The unit mix of the proposal provides acceptable housing choice within the area and communal space is satisfactory
9. Aesthetics	NO As noted by DEAP, the external presentation of the development is unsatisfactory. The development proposal does not provide sufficient documentation that allows a clear understanding of materiality or architectural language.

Planning Note:

Given that the amended design does not satisfactorily address the principles, the proposal cannot be considered for approval and will be recommended for refusal.

Integral to SEPP 65 is the Residential Flat Design Code (RFDC), which sets benchmarks for the appearance, acceptable impacts and residential amenity of the development. The development's compliance with the RFDC is assessed below.

RESIDENTIAL FLAT DESIGN CODE

PARAMETER	CONTROL	PROPOSAL	COMPLIANCE
Separation	12m between habitable rooms (up to 4 storeys) 18m between habitable rooms (5-8 storeys)	Nil setback to the site to the west.	NO
Planning Comment It is noted that the site to the west (84 Cowper Street) is a 2 storey warehouse for kitchen furniture. Building separation to protect amenity to the adjoining site to the west is not required whilst the site maintains its current use. However, 84 Cowper Street and the sites immediate to it are zoned B4 Mixed Use. In the event that these sites are redeveloped for residential purposes, building separation is to be provided in accordance with the relevant requirements. As no consideration for the future potential development (and impacts) on the sites adjacent to the subject site, the application cannot be supported. The nearest residential development is located on 67-71 Cowper Street which is approximately 40 metres from the subject site to the north-east.			
Storage	1 bedroom 6m3 2 bedroom 8m3 3 bedroom 10m3	All units are provided with appropriate storage areas located in the basement levels.	Yes

Balconies	Provide primary balconies for all apartments with a minimum depth of 2m.	All primary balconies are more than 2m in depth.	Yes
Residential Ceiling heights	Minimum 2.7m	Ground Floor – 4 metres Upper Floors – 2.7 metres	Yes
Min. Apartment size	1 bedroom 50m2 2 bedroom 70m2 3 bedroom 95m2	Min 50m2 for studio and 1 bedroom Min 75m2 for 1 bedroom + study and 2 bedroom Min 100m2 for 2 bedroom + study and 3 bedroom	Yes
Open Space	The area of communal open space should be between 25-30% of the site area (25% = Min. 550.9m2).	Ground Floor = 120.211 Level 4 = 940.6m2 Rooftop common open space = 353.93m2 Total = 1414.7m2	Yes
Deep Soil	A minimum of 25% of the open space area should be a deep soil zone (Min required = 353.675m2)	297.92m2	NO
Planning Comment As the development is poorly designed, it has not provided sufficient landscaping and deep soil areas.			
Internal circulation	A maximum of 8 units should be provided off a double loaded corridor	A maximum of 6 apartments are accessed per core (2 cores).	Yes
Daylight Access	Living rooms and private open spaces for at least 70% of apartments should receive 3 hours direct solar access on winter solstice	64 Units (69.5% of units) will achieve 3 hours of solar access during the winter solstice.	NO
Planning Comment Whilst the variation may only equate to 1 unit, as the modified application does not achieve design excellence, this departure is considered to be a result of a poor design outcome and in this instance cannot be supported.			
Daylight Access	Limit the number of single aspect apartments with a SW-SE aspect to a maximum of 10% of total units	6 units (6% of the development) have an aspect of SW-SE.	Yes
Natural ventilation	60% of units should be naturally cross ventilated	More than 60% of units will achieve natural cross ventilation. However, this is not acceptable due to recommendations in the Acoustic Report.	NO
Planning Comment Whilst numerically compliant, it is noted that the Acoustic Report recommends that the windows that address the rail corridor be closed at all times to ensure that the bedrooms are ameliorated from the rail noise. This acoustic measure is considered to be unreasonable as it would result in limiting cross ventilation and internal amenity to the units. In this regard, the design of the development has poorly addressed this concern and cannot be supported.			

Natural ventilation	<p>At least 25% of kitchens should have access to natural ventilation</p> <p>The back of a kitchen should be no more than 8m from a window</p>	<p>More than 25% of kitchens are provided with natural ventilation.</p> <p>All units are provided with windows within 8 metres of a kitchen.</p>	Yes
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PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2011

The relevant matters to be considered under Parramatta Local Environmental Plan 2011 for the proposed development are outlined below.

DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
4.3 Height of Buildings Height Map shows that the maximum height of new developments for the subject site is 39 metres.	NO	54.7 metres A Clause 4.6 Variation was submitted. See assessment below.
4.4 Floor Space Ratio Floor Ratio Map shows that the maximum FSR of new developments for the subject site is 4.5:1.	Yes	Ground Floor – 732.036m ² First Floor – 864.736m ² Second Floor – 1019.258m ² Third Floor – 1030.961m ² Fourth Floor – 440.916m ² Level 5 – 15 – 436.216m ² Level 16 – 435.14m ² Roof – 31.5m ² Total = 9352.923m ² Site Area = 2203.6m ² FSR = 4.24:1
4.6 Exceptions to development standards	NO	The application seeks approval to vary Clause 4.3 – Height. Refer to the discussion at the end of this table.
5.1 and 5.1A Development on land intended to be acquired for public purposes Is any portion of the land identified for acquisition for local road widening on the Land Reservation Acquisition Map?	N/A	The site is not identified on this map.
5.6 Architectural roof features	N/A	An architectural roof feature is not proposed
5.9 Preservation of trees	N/A	Tree removal is not proposed.
5.10 Heritage Conservation	Yes	According to the Heritage Item and heritage conservation maps the subject site is not a heritage item or within a heritage conservation area.
5.10.8 Aboriginal Places of Heritage Significance	Low	The site is identified as being of low significance by Council's Aboriginal Heritage Sensitivity Database. The proposal is not considered to impact an aboriginal place of heritage significance.

DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
6.1 Acid sulfate soils		
Is an Acid Sulfate Soils Management Plan Required?	Class 5	The site is identified as containing Class 5 Acid Sulfate Soil. The site is located within 500 metres (approx. 160 metres) from sites containing Class 4 Acid Sulphate Soil. Notwithstanding, the site is not below 5 metres AHD and as such is unlikely to lower the water tables below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land.
6.2 Earthworks		
Are the earthworks associated with the development appropriate?	NO	As Council is not satisfied that the amended development is satisfactory on Urban Design grounds, the amended proposal with regards to engineering and earthworks were not reviewed by Council's Development Engineers. Given this, it is considered that the proposal with respect to these matters is also unsatisfactory.
6.3 Flood planning		
Is the site flood prone?	N/A	The site is not flood prone.
6.4 Biodiversity protection		
Is the site identified as containing biodiversity on the 'Natural Resources – Biodiversity Map'?	N/A	The site is not identified on this map.
6.5 Water protection		
Is the site identified as being riparian land on the 'Riparian Land and Waterways Map'?	N/A	The site is not identified on this map.
6.6 Development on landslide risk land		
Is the site identified as being landslide risk land on the 'Landslide Risk Map'?	N/A	The site is not identified on this map.
6.7 Affected by a Foreshore Building Line		
	No	The site is not located in the foreshore area.

EXCEPTIONS TO DEVELOPMENT STANDARDS WITHIN LEP 2011

Objectives of Clause 4.6 of the PLEP 2011

- The objectives of this clause are as follows:
 - to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The site is subject to a 'scaled' maximum height where the height is reflective of the site area. See table below.

Site area	Maximum height
≤ 950 square metres	15 metres
> 950 ≤ 2,100 square metres	21 metres
> 2,100 ≤ 3,200 square metres	39 metres
> 3,200 square metres	52 metres

The subject site area is 2203.6m² and therefore a 39 metre height maximum is applicable to the site.

The variation sought is as follows:

Maximum height under PLEP 2011	Proposed	Degree of variation and merit
39 metres	Max.54.7 metres	Variation – 15.7 metres Departure of 40.3% from the development standard.

PCC assessment of the exception under clause 4.6:

In assessing an exception to vary a development standard, the following needs to be considered:

1. Is the planning control a development standard?

Yes, Clause 4.3 - Height is a development standard.

2. What is the underlying object or purpose of the standard?

The objectives of Clause 4.3 of PLEP 2011 is to nominate heights that will provide a transition in built form and land use intensity whilst minimising visual impact, disruption to views, loss of privacy and solar access to existing development. With regards to the subject site in particular, Clause 4.3 – Height ensures that the development adequately addresses the corner nature of the site and its position as a gateway location to the Granville Town centre.

3. Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

A request for an exception under clause 4.6 was lodged with the application as the proposed development exceeds the maximum height for the site permitted by Clause 4.3 - Height. The applicant provides the following reasons to support the departure.

- The maximum height for the site is a function of the lot size being less than the 'scaled' lot size, noting that if the 52 metre height control was applied, the extent of the variation would be 6.9% and limited only to the non-habitable floor areas of the development.
- The 39 metre height maximum for the site has limited bearing on the most appropriate height on the site and that the modified proposal presents an appropriate bulk and scale on the site with a podium element and slender tower above.
- The additional height does not generate any additional amenity impacts.
- The proposed height of the building aligns with the likely future character in the locality given the 52 metre height control.
- The development continues to comply with the maximum FSR application to the site.
- The overall height of the development presents as a compatible form of development to the anticipated mixed use buildings that will emerge in the locality.
- The proposal has been designed to ensure that privacy impacts are mitigated and that the proposal does not obstruct views.
- The proposed height does not impact on any items of environmental heritage or view corridors.
- The proposal is not located within a low density area and the proposal represents an appropriate built form on the site that provides for good presentation to the street.

4. Development consent must not be granted for development that contravenes a development standard unless

a.) the consent authority is satisfied that:

- i) The applicant's written consent has adequately addressed the matter required to be demonstrated under subclause (3) and**
- ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out**

The 'scaled' height for the site is reflective of the site area. This provision envisages that larger sites accommodate not only taller buildings but it ensures that amenity to adjoining properties and for the users of the development are not compromised.

However, in the event that the maximum height is to be varied, the development should be considered with higher regard of urban design and a higher measure of merit for Council to support the variation.

Whilst the applicant has provided justification for the departure, it fails to acknowledge the importance of design excellence in considering the variation. DEAP has strongly noted that the *'...proposal has not been sufficiently resolved to achieve an acceptable degree of design excellence'*. As such, it is inconsistent with the objective of the standard being that it has not in this case minimised visual

impact. The poor design of the development results in unacceptable impacts to the streetscape and sets a perilous precedent for future development in the local area.

Consequently, the proposal as amended is therefore inconsistent with the objectives of the B4 Mixed Use zoning applicable to the site as the proposal is not of a quality development that contributes to an active, vibrant and sustainable neighbourhood.

5. Is the exception well founded?

In *Wehbe v Pittwater Council* [2007] NSW LEC 827 Chief Justice Preston of the NSW Land and Environment Court provided further guidance to consent authorities as to how variations to the standards should be approached. Justice Preston expressed the view that there are 5 different circumstances in which an objection may be well founded:

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

The Clause 4.6 exception to the development standard of Clause 4.3 – Height is not well founded and is not worthy of support given that the proposed development fails to achieve design excellence and as a result does not achieve the objectives of the standard nor the objectives of the B4 Mixed Use zoning applicable to the site.

ZONE OBJECTIVES

ZONE OBJECTIVES

The objectives of the B4 Mixed Use zone include:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*

The proposed development is inconsistent with the aim and objective of the B4 Mixed Use zoning applying to the land as the proposed works does not contribute to an active, vibrant and sustainable neighbourhood.

PARRAMATTA DEVELOPMENT CONTROL PLAN 2011

DEVELOPMENT CONTROL	COMPLY	DISCUSSION
2.4.1 Views and Vistas		
Preserve significant features and areas of high visibility	N/A	The site is not identified as containing significant views.
2.4.2.1 Flood affectation	N/A	The site is not identified in Councils database as being flood prone nor is it located in a Grey Area.
2.4.2.2 Protection of Waterways		
Does the site adjoin a waterway?	N/A	The site does not adjoin a waterway.
2.4.2.3 Protection of Groundwater		
Is a basement car park proposed?	Yes	<p>Two levels of basement parking are proposed. The Preliminary Site Investigation states that the Department Natural Resources (DNR) groundwater database was searched to identify wells in the vicinity of the site. 12 registered groundwater monitoring wells identified within 1km of the site. The Report notes that these wells did not encounter groundwater to a maximum depth of 3 metres.</p> <p>However, the 2 levels of basement will require more than 3 metres of excavation. The report does not in this instance confirm that groundwater is present beyond 3 metres below NGL. Given this uncertainty, the application cannot be supported.</p>
2.4.3.1 Soil Management		
Are there adequate erosion control measures?	Yes	An erosion and sedimentation plan has been submitted with the application. Had the application been recommended for approval, conditions would have been imposed on the consent to ensure that the development will minimise sedimentation of waterways and not unduly contribute to wind blown soil loss.
2.4.3.2 Acid sulfate soils	Yes	Refer to LEP table above.
2.4.3.3 Salinity		
Moderate, high or known salinity potential?	Yes	The site is of low salinity potential and accordingly salinity is unlikely to impact on the development.

DEVELOPMENT CONTROL	COMPLY	DISCUSSION
2.4.4 Land Contamination	Yes	Refer to assessment under SEPP 55.
2.4.5 Air Quality Will demolition and construction contribute to increased air pollution?	Yes	Had the application been supported, standard conditions of consent would have been imposed.
2.4.6 Development on Sloping Land. Does the design of the development appropriately respond to the slope of the site?	NO	<p>The site has a gradual fall of approximately 1.55 metres from the south of the site to the north.</p> <p>The development in this instance does not respond to the slope of the site. The development is designed with a ground floor level below the street level which has significant implications on internal flooding, building access, presentation to the street and usability of the ground floor retail areas. Given this, the application cannot be supported.</p>
2.4.7 Biodiversity Is vegetation removal appropriate?	NO	As Council is not satisfied that the amended development is satisfactory on Urban Design grounds, the amended proposal with regards to landscaping were not reviewed by Council's Landscape Officer. Given this, it is considered that the proposal with respect to these matters is also unsatisfactory.
2.4.7.2 Does the land abutt the E2 Environmental Protection zone or W1 Natural Waterways zone	Yes	The site does not adjoin land zoned E2 or W1.
2.4.8 Public Domain Does the building address the public domain, provide appropriate passive surveillance opportunities, and have appropriate public domain enhancements?	NO	<p>The development has been designed with a ground floor that is below the street level. This has compromised the street address, the viability of the ground floor retail areas and the opportunity to provide passive surveillance of the public domain.</p> <p>It is noted that Council has not received a consistent alignment plan. As such, Council cannot ascertain the correct levels that would ensure appropriate access and treatment to and from the public domain.</p>

DEVELOPMENT CONTROL	COMPLY	DISCUSSION
3. Preliminary Building Envelope		
Frontage		
Minimum 18m if the development is more than 10 metres in height.	Yes	Bold Street – 47.28 metres Cowper Street – 47.55 metres
Height (refer also to LEP table)		
Does the proposal exceed the number of storeys outlined in the DCP height table?	NO	Refer to LEP table and Clause 4.6 assessment.
Street Setback		
0m + awning along Bold Street and the corner for the 4 storeys then an additional 3m	NO Non-compliance on Cowper Street	Bold Street Ground – Nil to 3m Levels 1 to 4 – Nil Levels 5 to 16 – 11.86m to 22.1m
3m setback along Cowper Street for the first 4 storeys then an additional 3m.		Cowper Street Ground – 2.995m Levels 1 to 4 – 1.1m to 2.8m Levels 5 to 16 – 5.28m to 5.9m The non-compliance with the street setback has contributed to a poor streetscape presentation and will not be supported on this basis.
Side Setback		
Nil up to 4 storeys (first 15 metres)	Yes	Ground Western Boundary – Nil
9m (habitable rooms) and 6.5m (non-habitable) for additional storeys above.		Levels 1 to 4 Western Boundary – Nil
		Levels 5 to 16 Western Boundary – 11.5m to 13m
Rear Setback		
12m for development above 25m.	Yes	Ground Southern Boundary – 6m
		Levels 1 to 4 Southern Boundary – Min. 9m to 12 m
		Levels 5 to 16 Southern Boundary – 8.8m to 12.6m

DEVELOPMENT CONTROL	COMPLY	DISCUSSION
Deep Soil and Landscaping		
Required to the rear setback if the site adjoins residential development or otherwise on merit.	NO	Refer to previous RFDC assessment.
3.2. Building Elements		
3.2.1 Building Form and Massing		
Height, scale and bulk consistent with existing or planned building patterns in the street?	NO	<p>The bulk of the building is inconsistent with the desired future character of this location.</p> <p>The height of the development does not respond to the size of the subject area (in accordance with Clause 4.3 - Height of PLEP). In addition, the development is poorly designed contributing to a built form that is inconsistent with the building patterns in the street.</p>
3.2.2 Building Façade and Articulation		
Does the building exceed the building envelope by more than: <ul style="list-style-type: none"> • 800mm for balconies and eaves: • 600mm for Juliet balconies and bay windows 	Yes	The balconies located on the upper levels do not exceed the building envelope.
Are the building facades modulated in plan and elevation to reduce building bulk?	NO	The development is designed with a podium and tower element. DEAP has stated that there is no articulation to either the podium or tower element which results in a poorly resolved design, in particular the tower element.
Are Multiple stair lift/cores provided to encourage multiple street entries?	Yes	Two residential entries and 2 lift cores are proposed. An entry is located on Cowper Street and Bold Street. Given the area of the site and the number of units, this is considered appropriate.
3.2.3 Roof Design		
Does that roof form minimise the bulk and scale of the building, and respond to the existing or planned form?	Yes	<p>The development incorporates a flat roof which is not uncommon with the modern design for similar forms of development.</p> <p>The flat roof is sympathetic to the mostly flat roof designs of neighbouring industrial buildings. The flat roof also accommodates the communal area which is considered to be appropriate for these forms of development.</p>

DEVELOPMENT CONTROL	COMPLY	DISCUSSION
3.2.5 Streetscape		
Does the development respond to the existing or planned character of the street?	NO	Whilst the proposed shop top housing is a permitted land use on the site, the design of the development does not promote design excellence. As such, it is not considered to be a development that responds to the existing nor the planned character of the street.
Are garages and parking structures dominant?	Yes	Two basement levels are provided with retail parking provided at grade but located along the western boundary. This is obscured from Cowper Street by the substation.
Are pedestrian or vehicular laneways activated?	N/A	The site does not adjoin a vehicular or pedestrian laneway.
Are the mail boxes visually integrated within the built form and conveniently accessed?	NO	The location of mailboxes is not ascertained on the submitted plans.
Does the development provide for active non-residential uses with at grade pedestrian access?	NO	The development provides ground floor retail tenancies with pedestrian access from the street. However, the retail spaces on the ground floor are located below street level which compromises access to these areas and therefore its viability.
Minimal solid walls used on the ground floor shop front.	Yes	The shopfront of the ground floor uses minimal solid elements.
3.2.6 Fences		
Front fence a maximum height of 1.2metres?	N/A	No front fences are proposed.
3.3 Environmental Amenity		
3.3.1 Landscaping		
Natural features retained and incorporated?	NO	See Referral section for further comment.
Minimum soil depth of 1m provided above basement?	NO	See RFDC assessment.
3.3.2 Private Open Space		
Minimum of 10m² private open space with minimum dimensions of 2.5m per unit?	Yes	See RFDC assessment.

DEVELOPMENT CONTROL		COMPLY	DISCUSSION
3.3.2 Common Open Space		Yes	See RFDC assessment.
Swimming Pool proposed?		N/A	A swimming pool is not proposed.
3.3.3 Visual Privacy			
Do balconies face the street or another element of the public domain such as a park?		Yes	It is considered that the extent of overlooking into windows and private open space of the nearest residential properties to the north-west (ie, the shop top housing development on 69-71 Cowper Street) will be limited given the 40 metre building separation between the 2 sites.
Is a minimum building separation of 12m provided between habitable rooms/ balconies?		NO	However, the development does not provide any building separation in the event that the adjoining site at 84 Cowper Street is redeveloped for residential use which is permissible under the current zoning of the site. As the proposal has not demonstrated that it has taken into consideration any potential impacts on the future redevelopment of the adjacent site at 84 Cowper Street, it cannot be supported.
3.3.4 Acoustic Amenity			
Does the dwelling adjoin a noise-generating land use?		NO	The site adjoins a rail corridor to the south. See ISEPP assessment for further discussion.
3.3.5 Solar Access (refer also to RFDC section)			
Will adjoining properties receive a minimum of 3 hours sunlight to habitable rooms and 50% of their private open space areas between 9am and 3pm on 21 June?		Yes	The nearest residential property is located 40 metres to the north-west of the site. In this regard, the proposal would not result in any impacts to its solar access. The sites within closer proximity to the site are industrial or retail in nature. See Solar Access assessment under RFDC for further discussion for internal solar access. Notwithstanding, the development does not provide any building separation with regards to the adjacent site at 84 Cowper Street. Whilst it does not require building setbacks to its current use as a warehouse, in the event that 84 Cowper Street were to be redeveloped with a residential component (permissible on the

DEVELOPMENT CONTROL	COMPLY	DISCUSSION
		site), the proposal by not providing boundary setbacks, has not demonstrated that it has given any consideration to potential impacts on future redevelopment of 84 Cowper Street. Given this, the proposal cannot be supported.
Cross Ventilation Minimum floor to ceiling height ground (3.3 metres) and upper levels (2.7m)	Yes	Ground Floor – 4 metres Upper Floors – 2.7 metres
Are 80% of dwellings naturally cross ventilated?	Yes	See RFDC assessment.
Are single aspect apartments limited in depth to 8m from a window?		
Does the building have a maximum depth of 18m?		
3.3.6 Water Sensitive Urban Design On-site detention system appropriately designed?	Yes	See Referrals section for further discussion.
3.3.7 Waste Management		
Is the waste management plan satisfactory?	NO	The Waste Management Plan was reviewed by Council's Waste Officer. Upon review, the WMP was considered to be unsatisfactory. In this regard, the proposal is unacceptable and this will form part of the reason for refusal.
3.4 Social Amenity		
3.4.1 Public Art – is an Arts Plan provided? (CIV of more than \$5,000,000.00, and located in CBD/town centre).	Yes	An arts plan was submitted with the application and reviewed accordingly. Upon review of the application and the arts plan, Council's Arts Plan Officer raised no objections. Notwithstanding, the application is to be refused on grounds that it lacks design excellence.
3.4.2 Access for People with disabilities. Does the development contain adequate access for people with a disability?	NO	Access from both levels of basement to the upper levels is via a lift. It is noted that the plans do not nominate adaptable units. However, 10 disabled car

DEVELOPMENT CONTROL	COMPLY	DISCUSSION
		spaces are provided within Basement Level 1. Council's Urban Designer upon review of the alignment plan raised concerns with regards to the proposed levels. This concern is exacerbated as there are inconsistencies between the architectural plans and alignment plan. As satisfactory levels cannot be ascertained, the development is unsatisfactory with regards to this requirement and will form part of the reason for refusal.
3.4.4 Safety and Security Has the development been designed in accordance with crime prevention principles?	NO	Whilst the upper level balconies will provide some natural surveillance from within the units to the front setback and public domain, the opportunity for additional surveillance from the ground floor retail premises are limited due to these tenancies being poorly designed and located below street level.
3.4.5 Housing Diversity and Choice Is the unit mix in accordance with the following: 3 bedroom 10% - 20% 2 bedroom 60% - 75% 1 bedroom 10% - 20% Adaptable dwelling provision Less than 10 units = 1 10-20 units = 2 More than 20 units = 10%	Yes	Provided - <ul style="list-style-type: none">○ 3 x studio units (3%)○ 23 x 1 bedroom units (25%)○ 63 x 2 bedroom units (64%)○ 7 x 3 bedroom units (7%)○ 1 x 4 bedroom unit (1%) The departure is considered to be acceptable as the proposed unit mix allows for a range of units to suit diverse living circumstances. Minimum number of adaptable units = 9.7 (or 10 units). It is noted that the plans do not nominate adaptable units. However, 10 disabled car spaces are provided within Basement Level 1. If the application was to be supported, the required 10 units would need to be nominated on the plans, complying with the relevant Australian Standards.
3.5 Heritage and Archaeology	Yes	The site does not contain a heritage item. The site is not within a heritage conservation area.

DEVELOPMENT CONTROL	COMPLY	DISCUSSION
		<p>The site is not within proximity to heritage listed items.</p> <p>Excavation is proposed. However, the site is not identified as being within an Archaeological Landscape Management Unit.</p>
<p>3.6.2 Sustainable Transport Is a publicly accessible car share parking space required and provided, with evidence of an offer to car share providers?</p>	NO	<p>The development contains more than 50 dwellings. The site is also within proximity to a regularly serviced bus stop. As such, car share spaces are required.</p> <p>The plans do not indicate any car share spaces. In this regard, the proposal is not supported.</p>
<p>3.6 Parking Provision</p>		
<p>Travel Plan A travel plan is required for proposals with a gross floor area of 5000m² and within 800 metres of a railway station.</p>	NO	<p>A Travel Plan was not submitted. As such, the proposal is not supported.</p>
<p>Parking If the site is not within 400m walking distance of a railway station or a transitway bus stop with a service frequency of 10minutes or less between 7am and 9am weekdays is parking provided within a basement at the following minimum rate:</p> <p>1 space for 1 and 2 bedroom 1.25 space for 3 bedroom 2 spaces for 4 bedroom</p> <p>0.25 visitor spaces per dwelling</p> <p><u>Granville Town Centre</u> <u>Parking Provisions</u></p> <p>Business/Retail – 1 space per 60m² of GFA</p> <p>1 loading bay per 400m²</p>	Yes	<p>Required:</p> <p>99.75 (100) residential 24.25 (25) visitors 5.3 (6) retail 1 loading bay</p> <p>Provided:</p> <p>100 residential 26 visitors 8 retail Loading area provided on the ground floor.</p>

DEVELOPMENT CONTROL	COMPLY	DISCUSSION
Is 1 bicycle parking space provider per 2 units?	No, but acceptable	Required = 48.5 (49) bicycle spaces Provided = 40 bicycle spaces Notwithstanding its non-compliance, the 40 bicycle spaces provided on site is considered to be ample. In this regard, the application is acceptable.
3.6.3 Accessibility and Connectivity Is a 3m wide pedestrian through link required and provided?	N/A	The site is not considered to be of a size that would require a pedestrian through site link.
3.7.2 Site consolidation and isolation	Yes	The proposal does not result in the isolation of any adjoining properties.
4. Special Precincts <u>Connections and Laneways</u>		
Provision of connections and laneways as per Figure 4.1.6.2.	N/A	The site is not identified as requiring a connection or laneway as per Figure 4.1.6.2.
<u>Setbacks</u>		
Setback for the first 4 storeys as per Figure 4.1.6.2. ie – <ul style="list-style-type: none"> - Cowper Street = Nil to 3 metres - Bold Street = Nil setback + awning. Additional 3 metre upper level setback applies to any portion of development above 4 storeys.	Yes	Bold Street Ground – Nil to 3m Levels 1 to 4 – Nil Levels 5 to 16 – 11.86m to 22.1m Cowper Street Ground – 2.995m Levels 1 to 4 – 1.1m to 2.8m Levels 5 to 16 – 5.28m to 5.9m
Rear Setback – 9 metres (first 25 metres) and 12 metres (over 25 metres)	NO	Ground Southern Boundary – 6m Levels 1 to 4 Southern Boundary – Min. 9m to 12 m Levels 5 to 16 Southern Boundary – 8.8m to 12.6m
Side Setbacks – Nil up to 4 storeys then 9 metres for the remaining storeys.	Yes	Ground Western Boundary – Nil Levels 1 to 4 Western Boundary – Nil Levels 5 to 16 Western Boundary – 11.5m to 13m

DEVELOPMENT CONTROL	COMPLY	DISCUSSION
<u>Site Frontage</u>		
For development sites with an area between 2100m2 and 3200m2 = 45 metres.	Yes	Bold Street – 47.28 metres Cowper Street – 47.55 metres
<u>Land Amalgamation</u>		
Lineal street frontage and to encourage east-west built form.	NO	The development is designed with a north-south orientation which results in more than 30% of the units not receiving 3 hours of solar access.
<u>Landscaping and Deep Soil</u>		
Deep Soil – 30% of the site Landscaping – 40% of the site	NO	Refer to RFDC assessment.
<u>Development Between Parramatta Road and Railway line</u>	NO	In this regard: <ul style="list-style-type: none"> - The ground floor retail tenancies is located below street level and has the effect of reducing casual surveillance. - The development has been designed as one building with a podium and tower element. This is despite previous DEAP had advice (that due to the larger floor plate proposed), that the development should be expressed as separate buildings. - The maximum dimension of a building facade is more than 40 metres which results in a form of development that is too bulky for the streetscape. - The non-residential component of the development does not exceed 480m2.

REFERRALS

External referrals

Roads and Maritime Services (RMS)

Due to its proximity to Parramatta Road and that the number of units proposed is considered to be a traffic generating development under Schedule 3 of the Infrastructure SEPP, the proposal was referred to the Roads and Maritime Services (RMS). Upon review of the proposal, RMS raised no objections to the proposal.

Railcorp

As Council is not satisfied that the amended development achieves design excellence, the amended proposal was not referred to Railcorp for review. Given this, it is considered that the proposal with respect to these matters is also unsatisfactory.

Internal referrals

Traffic/Arts Plan/Open Space/Health – Acoustic

No objections were raised by the following internal Council sections –Traffic section, Arts Plan, Open Space and Acoustic Officer.

Development Engineer/Landscape Officer/Waste Officer

As Council is not satisfied with the amended architectural plans as it does not achieve design excellence, the modified plans were not reviewed by Council's Engineer, Landscape Officer and Waste Officer.

It is noted that Council is concerned that as the development is poorly designed, that it would result in unreasonable internal flooding due to the sunken design of the ground floor in comparison to street level. The proposal also does not provide satisfactory deep soil and landscaped areas.

Council regards the proposal to be unsatisfactory with respect to these matters.

Urban Design, Civil Assets and Alignment

In addition to the amended plans being reviewed by DEAP, the proposal was also reviewed by Council's Urban Designers with respect to urban design and the public domain.

Council's Urban Designers have provided multiple comments over the development application process. It would only be reasonable to provide their comments in its entirety to ensure a comprehensive understanding of the urban design issues which remains relevant to the amended plans and which DEAP also supports. These comments are contained in Appendix 1 attached to this report.

PUBLIC CONSULTATION

In accordance with Council's notification procedures that are contained in Appendix 5 of DCP 2011 owners and occupiers of surrounding properties were given notice of the application for a 21 day period between 13 August 2014 and 3 September 2014. In response 3 submissions were received.

The issues raised in the submissions are as follows.

Issue	Comment
Bulk and Scale	Council considers the proposed development to be a bulk and scale that is inconsistent with the desired character for the area. The poor urban design of the proposal also exacerbates its bulky appearance.
Poor amenity for adjoining properties	The objector's property is not within close proximity of the proposal that would otherwise unreasonably result in adverse amenity impacts had the application been recommended for approval.
Profit driven	Monetary incentives and profit are not matters of consideration under Section 79C of the EP&A Act.
Increased traffic in the area	A Traffic Report prepared by a qualified Engineer was submitted with the application. This report was reviewed by Council's Traffic Engineer and upon review Council's Traffic Engineer did not raise any concerns with regards to the increase in traffic in the area as a result of the development. The amended proposal was also reviewed by RMS whom did not raise any objections to the development based on traffic grounds.
Excessive height	The merits of the departure to the maximum height of the development is assessed as unreasonable and discussed elsewhere in this report.
Increased noise from development	The proposed density of the development is envisaged by the planning controls for this location. It is also noted that the site is within proximity to a rail corridor and Parramatta Road which generates rail and traffic noise. Given this, it is unlikely that the development, had it been approved, will increase residential acoustics beyond the current conditions.

AMENDED PLANS SUBMITTED

YES

Whilst multiple amended plans were submitted for Council's consideration, the amended plans were not advertised as these plans were not considered acceptable to Council given the outstanding urban design issues.

POLICIES

PUBLIC DOMAIN GUIDELINES

The Parramatta Public Domain Guidelines were adopted in August 2014. The objectives for the Parramatta Public Domain Guidelines are to define design principles and provide a standard palette of materials and elements to:

- Establish a clear and consistent public domain image for Parramatta

- Provide clarity in design requirements and construction standards for the public domain
- Facilitate asset management, maintenance and repairs by reducing the number of different elements and requirements
- Uphold required technical, engineering and environmental standards
- Provide equitable access
- Improve the sustainability of Parramatta
- Reinforce the streetscape hierarchy
- Promote pedestrian priority
- Build upon existing public domain treatments and experience.

The Guidelines require the submission of an Alignment Plan at the development stage and the submission of a Public Domain Plan prior to works.

An Alignment Plan was submitted for Council's consideration. This plan was reviewed by Council's Urban Designer and Civil Assets section. Upon review, it was noted that the plans submitted are unsatisfactory. The alignment plans and the sections are inconsistent and require further design resolution. Accordingly, this will form part of the reason for refusal.

PARRAMATTA s94A DEVELOPMENT CONTRIBUTIONS PLAN 2008

Whilst the development exceeds \$200,000, the application is recommended for refusal and as such, Section 94A development contributions are not required to be paid. It is noted that the Detailed Cost Estimate provided a development cost of **\$24,429,972**.

ENVIRONMENTAL PLANNING & ASSESSMENT REGULATION 2000

Had the application been recommended for approval, the applicable Regulation considerations including demolition, fire safety, fire upgrades, compliance with the Building Code of Australia, compliance with the Home Building Act, PCA appointment, notice of commencement of works, sign on work sites, critical stage inspections and records of inspection would have been addressed by appropriate consent conditions.

SUMMARY & CONCLUSION

The likely impacts of the proposed development have been addressed within this report.

The potential constraints of the site have been assessed and it is considered that the site is *unsuitable* for the proposed development.

Three submissions were received in response to the notification of the application. The issues raised within this submission have been discussed within this report.

The proposed development is contrary to the public interest.

Refusal

After consideration of the development against Section 79C of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, the proposal *is*

not suitable for the site and *is not* in the public interest. Therefore, it is recommended that the application be *refused*.

RECOMMENDATION A – APPROVAL SUBJECT TO CONDITIONS

Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979

REFUSAL

That the Sydney West Joint Regional Planning Panel refuse DA/490/2014 for the following reasons:

1. The proposal fails to satisfy the design principles of SEPP 65. In particular the principles of context, built form and scale, sustainability, landscape, amenity, safety and security, aesthetics. The Design Excellence Advisory Panel does not consider the development to be satisfactory.
2. The development fails to comply with the design controls pursuant to the Residential Flat Design Code as it does not provide appropriate building separation, deep soil, daylight access and natural ventilation.
3. The development exceeds the maximum height control of 39m allowed by PLEP 2011. The applicant has provided a Clause 4.6 variation which is considered to be unacceptable and unsupportable as the development does not achieve design excellence.
4. The application has not satisfactorily demonstrated that the development has taken into consideration the requirements for developments adjacent to rail corridors pursuant to Clause 85 and 86 of the Infrastructure SEPP.
5. Railcorp has not issued its concurrence pursuant to Clause 85 and 86 of the Infrastructure SEPP.
6. The design of the development has not taken into consideration appropriate and reasonable noise attenuation measures as required by Clause 87 of the Infrastructure SEPP.
7. The application has failed to submit an amended BASIX Certificate pursuant to the BASIX SEPP.
8. The application does not satisfy the requirements of Clause 6.2 – Earthworks of Parramatta LEP 2011 as a satisfactory development has not been submitted and therefore any proposed earthworks cannot be assessed as being satisfactory.
9. The development does not satisfy controls within PDCP 2011 relating to development on sloping land, protection of groundwater, biodiversity, public domain, height, street setback, deep soil and landscaping, building form and mass, building separation, building façade and articulation, streetscape, acoustic amenity, waste management, access for people with disabilities, safety and security, sustainable transport, parking provision and special precincts.

10. The development has not been designed in accordance with the Public Domain Policy and does not provide a clear resolution between the development site and the public domain.
11. As the development fails to comply with SEPP 65, RFDC, Clause 4.3 – Height, Clause 6.2 – Earthworks of PLEP 2011, the development fails to achieve the objectives of the B4 Mixed Use Zone. In particular it does not contribute to an active, vibrant and sustainable neighbourhood.
12. The application has failed to submit a satisfactory Waste Management Plan and alignment plan pursuant to Council's requirements and as such, a comprehensive assessment of the proposal cannot be undertaken.
13. The development has failed to demonstrate through satisfactory design that it will not result in unreasonable amenity impacts on the adjacent site at 84 Cowper Street in the event that this site is redeveloped with a residential component.
14. The development is not in the public interest.

Report prepared by

Denise Fernandez
Senior Development Assessment Officer

“Appendix 1” to Section 79C Assessment Report - DA/490/2014

URBAN DESIGN & PUBLIC DOMAIN COMMENTS

Date	Issue	Comment
20 August 2014	Height/Yield	<ul style="list-style-type: none"> The proposal complies with the maximum permissible FSR and height for the site as recommended in the PL advice. This has generated a less bulky form and a more slender tower than before.
	CPTED – Legibility, activity and safety on the ground floor	<ul style="list-style-type: none"> The ground floor has been substantially redesigned to define a legible edge when viewed from the public domain. It reinforces the corner and provides improved casual surveillance and activity at the street frontage. The communal space to the rear must be gated/ accessible only to residents to separate public and private domains. An improved separation between vehicular and pedestrian spaces has been incorporated. The retail space has been reconfigured consistent with recommendations at PL stage. The current retail spaces directly open onto Cowper Street and Bolt Street providing improved casual surveillance. The primary communal open space has been located on the rooftop as recommended at PL stage – we concur with Troy Holbrooks comments re rooftop landscape (dated 14/8/2014). The communal area at grade to the rear has some instances of undercover planting which do not thrive. It is recommended these are replaced with alternate landscape elements and the landscape plan is changed to reflect this. The amount of casual surveillance on this area is limited and measures should be taken to activate this area and improve casual surveillance. This area also must also have increased levels of lighting at night taking care to shield the lighting sources from residents above.
	Street wall and presentation / Building Type	<ul style="list-style-type: none"> The proposed development is essentially a tower and podium form. It establishes a 4 storey street wall to the west which creates an appropriate scale for the context and can be continued by similar development down Cowper Street. The tower proposes a setback to Bold Street as well as the western boundary of 13m. This centred arrangement while compliant with the DCP controls does not engage with Bold St as in the earlier iteration. We defer to the DEAP on the massing and form of the proposed tower. It appears the floor plate of the tower has been reduced to 900sqm as recommended in our PL advice. This creates a tower with slender proportions as recommended.
	Amenity and SEPP 65	<p>Minimum bedroom room widths in podium appear to be less than 3m wide at several instances. This is sub- optimal and Council's UD team have a preference for bedrooms with a minimum finished dimension of 3m. We defer to the DEAP on this aspect.</p> <ul style="list-style-type: none"> Living room widths are as low as 2950mm in some instances. This is inappropriate and will not be supported from an urban design perspective. It arises from trying to accommodate too many units in the podium fronting Cowper Street. It is recommended that units along the northern frontage of the podium are reconfigured to provide better living room widths. It is recommended min 4m wide living spaces are provided. We request the DEAP to provide some direction on this aspect. Units 11, 12 and 13 (as well as other units located in the same location within the podium) have less than optimal planning. Not only are they south facing and looking onto a railway line, they have poor planning that result in indirect light access and ventilation. These apartments and those in this location within the podium must be reconfigured to provide better resident amenity.

2 April 2015	General	<p>Upon review of the scheme it appears significant design development, especially for the podium, is still required by the applicant to ensure outstanding architectural issues are addressed and that a cohesive public domain interface with the street edges is achieved.</p> <p>Some key aspects of the site are:</p> <ul style="list-style-type: none"> • The site is in a very visible corner of Bold Street and Cowper Street close to the Bold Street road bridge; • There is a substantial cross fall along the site falling from the railway corridor down to Cowper Street; • Previous Urban Design advice identifies the importance of a ground floor design that reinforces the street corner, and has edges which provide casual surveillance and activity at the street frontage.
	Ground Floor and Public Domain Interface	<p>The proposal locates the finished floor levels (FFL) of the building ground floor below natural ground along the eastern and northern frontages of Retail 2. Significant issues result from this design, namely:</p> <ul style="list-style-type: none"> • The development will be taking considerable water onto the property from Railcorp land adjoining eastern boundary, which will result in flooding and drainage issues; • There will be no potential to locate building entries along the eastern and northern frontages of Retail 2 due to aforementioned drainage issues; • At the corner of Cowper and Bold Streets, a sunken ground floor will restrict casual surveillance of the street by reducing sightlines and will impeded the ability of Retail 2 to capture passing pedestrian traffic; and <p>In order to address these issues, Urban Design (in consultation with Civil Engineers) recommends that the building be redesigned according to the following principles:</p> <ul style="list-style-type: none"> • On ground floor, the FFL of Retail 2 (or north-eastern portion thereof) be lifted to correspond with footpath level at corner of Cowper and Bold Streets (allowing for 1% cross fall towards kerb); • Any stairs used to rationalise level changes between building and street must be located inside the building; • Universal access must be provided along building line with use of ramping rather than stairs; • Where the building overhangs public or semi-public space, the first floor level must allow for minimum clearance of 3300mm on the street as per DCP; • The internal layout of the ground floor must be further designed to resolve uses, location of entries, and level changes of FFLs in response to the sloping terrain; • Locate a retaining wall along the Railcorp boundary, or else remake Railcorp driveway to direct water flows towards kerb.
	Alignments & Public Domain Plan	<p>In the first instance, the Applicant should address the issues with architectural levels to achieve an improved interface between building and public domain. Once this has been addressed, the Alignments Plans (SK01-SK08) must be resubmitted with inclusion of the following:</p> <ul style="list-style-type: none"> • Extent of works includes all public footpaths up to and including the kerb and gutter. Amend footpath control line on drawing #SK01 (B) to show this; • Kerb ramp to be remade to 1500mm wide as per DS4. Spot levels at kerb ramp landing and face of kerb must be shown; • Amend footpath paving to correspond with DS40 (banded paving now superseded); • Show location, type and arrangement of tactile indicators; • There are inconsistencies between drawings #1003 (Ground Floor Plan) and #DA-L101 (Landscape Plan) in terms of garden beds within forecourt and along eastern boundary. Please ensure both plans are up-to-date and

		<p>correspond with each other and SK01; and</p> <ul style="list-style-type: none"> Show top-of-wall and bottom-of-wall levels at all garden beds and planter boxes.
	Built form	<p>The poor interface between building and street at the ground level, at a prominent corner, results in negative impact on precinct legibility and urban design quality and needs to be improved;</p> <ul style="list-style-type: none"> The corner retail tenancy (or future tenancies within the same space) should be addressing the corner and opening on to the street / colonnade where possible to reinforce an active frontage; Adjustments carried out to floor to ceiling heights in order to resolve the public domain interface may lead to an increase in overall heights. Minor variations to podium height (and overall building height) could be considered subject to review of an amended scheme by DEAP; Bedroom windows opening on to the atrium void is less than optimal as a primary means of solar access and ventilation to these rooms. Also, for privacy reasons there should be a minimum 12m separation between the apartments on either side of the atrium; The resolution of the tower and podium junction at the southern side appears precarious in terms of overhang and structure. This overhang of the tower proposed also detracts from the ability of open air corridors or common spaces on levels below to function successfully as places with adequate solar access.
	Internal design and amenity	<ul style="list-style-type: none"> Habitable rooms with a sole window opening on to the common circulation corridors are not likely to receive any access to sunlight (e.g. see level two plan). The resolution of these issues requires further design development. We recommend minimum dimensions of 3m clear be used for bedrooms; The living areas of single bedroom units appear narrow and out of proportion to bedroom size. We recommend the width of these types of units are increased to create a more optimal living space; Some of the studies and media rooms are large enough to be used as de facto bedrooms without windows (e.g. Unit 002). As per DEAP advice It is suggested that these be rearranged to be in the form of alcoves from living/dining rooms in the instances they occur. We do not recommend any spaces that are easily convertible to habitable rooms without a window be acceptable within the scheme; We raise concern that BCA requirements for adequate amounts of light and ventilation will not be met in many instances by this scheme as noted above. All such instances need to be rectified to minimise the amount and extent of s96 changes in the future. RFDC compliance of the overall scheme is queried and should be updated. Minimum requirements and rules of thumbs should not be varied. We defer to your detailed assessment of an updated scheme and recommend the amended proposal be referred to the DEAP; Pursuant to DEAP comments that <i>“on levels 2 and 3, the north facing units with their southern walls facing the open lobby, could have high level opening windows, mainly for ventilation on their south walls”</i>; we advise that it is not considered adequate natural lighting will be achieved to these associated rooms due to orientation and overhang above. The scheme needs to address these issue in conjunction with issues raised above under built form.
	Drawing Consistency	<p>Section B-B does not appear to be complete in its drawing. Other discrepancies are also apparent between plans. Documentation is required to be consistent under an amended scheme moving forward.</p>
10 June 2015	Public Domain	<p>In principle the levels on the ground floor are much improved, offering universal access and a stronger relationship between building and street. Urban Design supports the direction that the design is moving in, and requests that the</p>

		<p>following issues are further addressed during design development:</p> <ul style="list-style-type: none"> ▪ Good shelter should be provided to pedestrians at the north-east corner. Please provide sections through here (and along the eastern edge) showing the full height of podium and any overhangs/awnings, FFLs of building, building entry, footpath and kerb. ▪ On the eastern frontage where outdoor dining is shown on the concept sketches; the area between building line and kerb line should be designed as integrated whole, with continuous surface treatment (both levels and paving) to allow for future use by corner tenancy. ▪ We require more detail on the drainage along the eastern frontage. Please include this information within the sections through this frontage; at least one should show the south-east corner (taking in meeting/function space, railcorp land, public footpath and roadway). ▪ Council's preferred resolution of the level change between forecourt and adjoining footpath is ramping (located within the forecourt area). ▪ Please show line and height of any awnings or building overhangs on future alignments plans, site plans and public domain plans.
	Built Form	<p>We believe shelter / cover should be reinforced in front of the corner tenancy entry closer to or at awning level.</p> <ul style="list-style-type: none"> • The top of podium common and private open spaces appear to have become more usable and the concepts are generally supported. • Further details are needed of changes to the tower and of the new podium corner concept which suggests a display of monumentality to the street corner and provision of a juncture between the Eastern and Northern street facades. Further comment on the overall expression of the building is reserved until a broader set of plans are available and it is advised the DEAP are kept on board and any formally amended DA scheme returned to the panel for review as noted in their last advice.
1 September 2015	Generally	<p>Cross sections (SK02-08) indicate an improved resolution of levels and interface between building and street. In particular, the clear height under building awning has much improved since the previous submission. Alignments Plan (SK01) has not been fully updated to reflect this design development and should be resubmitted, consistent with cross sections and elevations. In particular, areas of inconsistency include stairs on northern property line, stairs/ramps/walls at courtyard entry (aligned with building facade), cross falls in courtyard, height of planters/stair on eastern property boundary (see dwg #3001) and location and height of awning line.</p> <ul style="list-style-type: none"> • The extent of works is unclear. Alignments Plan (SK01) indicates that works will stop at property line, however cross sections indicate further work is proposed on both public and Railcorp land. Please clearly indicate extent of site works on the Alignments Plan (SK01) and ensure consistency across all documents.
	Public Domain	<p>Along the eastern property boundary (and external to site), treatment of Railcorp land with paving provides a much improved interface between the building and Bold Street. However, as this land is used by Railcorp for heavy vehicle access and the paving treatment indicates pedestrian priority, safety must be thoughtfully managed. The following modifications are recommended to improve safety and legibility of this area:</p> <ul style="list-style-type: none"> • Removal of stairs on the eastern property boundary and replacement with retaining wall and landscaping. This will also improve drainage through the site. Stairs may remain north of the column near chainage 40.00. Please note that height of walls/planters must be provided on Alignments Plan (SK01), and be consistent with Section A-A (dwg #3001). • Change in paving for vehicular crossing through both Railcorp and public land, and tactile ground surface indicators (TGSIs) on edge of crossing, to

		<p>DS40.</p> <ul style="list-style-type: none"> • Vehicular crossing to be constructed to DS9. ▪ Further design resolution is required for levels at the north-east corner entry. It is noted that the Alignments Plan (SK01) and cross section CH 50.00 are inconsistent. Please update documents for consistency and observe the following principles when resolving levels here: • Preferred solution is continuous ground surface (no stairs or grade greater than 2.5%) from kerb to building interior. • Where this is not achievable, sudden level changes should be resolved within building interior, and should preference ramping over stairs to facilitate DDA access. • Please ensure that minimum cross fall of 1% is observed (e.g. CH70.00) • As previously advised, shelter/cover should be reinforced at the corner tenancy. Currently the awning is located on level 4 and appears to be a permeable trellis which will not provide sufficient coverage for pedestrians at ground floor. Please provide a solid awning, closer to street level. ▪ At the Cowper St courtyard, the proposed layout and levels are unclear in Alignments Plan (SK01) and are inconsistent with cross sections (SK02-SK08). Further layout and levels resolution is required here. Please observe the following design principles when resolving: • Courtyard to have DDA compliant access. • Preferred solution is continuous ground surface (no stairs or grades greater than 2.5%) from kerb to courtyard interior. Where this is not achievable, sudden level changes should occur at the courtyard entrance (aligned with building facade). • Please ensure minimum 1% grade for drainage is observed through all open areas (even those under awning line). ▪ Cross falls on vehicular crossing to be adjusted for compliance with DS10. Tactile ground surface indicators must be provided at this location to DS40. ▪ The paving layout and material as proposed is superseded. The paving material to be granite and asphalt, arrangement to be advised by Council. Street paving to continue into any setback areas adjacent to public domain. ▪ The kerb ramp is too deep. Please adjust so that shortest edge of ramp is 1200mm.
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