

ASSESSMENT REPORT

S79C – Environmental Planning & Assessment Act 1979

SUMMARY

Application details

DA No:	DA/571/2014
Assessment Officer:	Denise Fernandez
Property:	158 - 164 Hawkesbury Road WESTMEAD and 2A Darcy Road WESTMEAD
Proposal:	Demolition of five buildings, tree removal, bulk earthworks, construction of roads and Torrens title subdivision of the site into 5 allotments. Approval is also sought for building envelopes on the site.
Date of receipt:	28 August 2014
Applicant:	JBA Urban Planning Consultants
Owner:	University of Western Sydney
Submissions received:	One
Property owned by a Council employee or Councillor:	No
Political donations/gifts disclosed	None disclosed on the application form
Issues:	Height and FSR – Clause 4.6 lodged for the variations.
Recommendation:	Deferred Commencement

Legislative requirements

Zoning:	SP2 Infrastructure PLEP2011 B4 Mixed Use PLEP2011
Permissible under:	Parramatta Local Environmental Plan 2011

Relevant legislation/policies: Parramatta Development Control Plan 2011, Section 94A Plan, Infrastructure SEPP, Sydney Harbour Catchment SREP, SEPP 55, SEPP 65, Urban Renewal SEPP,

Variations: FSR, height and special area controls (Westmead).

Integrated development: No

Crown development: Yes – the land at 158-164 Hawkesbury Road is owned by the University of Western Sydney.

The site

Site Area: The site area is 3.672 hectares.

Easements/rights of way: Yes

There is a 3 metre wide easement to drain water that is located adjacent to the southern boundary.

An easement for a transmission line is also located along the south-eastern corner of the site.

A 6 metre ROW is proposed on proposed Lot 4.

Heritage item: Yes – the site is listed as a heritage item in PLEP 2011 (Item 1628 - St Vincent's and Farmhouse building). Within the grounds of UWS, there is also a Victorian residence that is a heritage item (Item 1629). Both items are of local significance under Schedule 5 of PLEP 2011.

In the vicinity of a heritage item: Yes

Heritage conservation area: No

Relevant Background Yes

PL/19/2014 – Pre-lodgement meeting with Council Officers for the redevelopment of the UWS Westmead Campus including: 1. Demolition, 2. Earthworks and remediation, 3. Infrastructure including roads and intersections, services and

stormwater systems, 4. Landscaping, 5. Building envelopes, 6. Amalgamation, 7. Subdivision

DA/699/2014 is currently under assessment by Council. The application proposes the Torrens title subdivision of 2A Darcy Street into 2 allotments.

The site at 2A Darcy Road is owned by the Marist Brothers. Lot 2 of the proposed subdivision is to be acquired by UWS to enable the development proposed under DA/571/2014. A right of Way is proposed through UWS (Lot 7 DP 1077852) to provide access to 2A Darcy Road which is to be formalised in the event that the through site links (internal roads) proposed under DA/571/2014 are approved.

DA history

28 August 2014	DA/571/2014 was lodged with Council.
15 September 2014	Letter sent to applicant requesting the payment of outstanding Torrens title fees and the provision of a concept drainage plan.
10 September 2014 to 1 October 2014	21 day notification and advertising of the application.
22 September 2014	Concept drainage plan submitted and Torrens title subdivision fees paid (Receipt No. 4232820).
7 October 2014	14 day correspondence sent to applicant regarding RMS comments and the submission of additional information.
13 November 2014	JRPP briefing meeting for the proposed development.
18 November 2014	14 day correspondence sent to applicant regarding comments provided by JRPP which includes: <ul style="list-style-type: none">- A Streetscape Analysis- Shadow Diagrams- Landscape/Deep Soil Areas- Views analysis- 3D modelling- Overlay of height and FSR variations
4 December 2014	14 day correspondence sent to applicant regarding comments provided by Council's Urban Designers.

SECTION 79C EVALUATION

SITE & SURROUNDS

The site is an amalgamation of 2 sites comprising of UWS (156-168 Hawkesbury Road) and a north-south access corridor adjacent to the UWS site located at 2A Darcy Road (Parramatta Marist High School). The site is bounded by Darcy Road to the north, Hawkesbury Road to the east and a rail corridor to the south. The site has an overall area of approximately 3.672 hectares.

The UWS site comprises of several buildings and ancillary structures used currently as an educational establishment.

The site is:

- Located directly opposite of Westmead Hospital to the north of the site.
- Located adjacent to a railway corridor to the south with Westmead Station located approximately 150 metres south-east of the site.
- Adjacent to Parramatta Marist High school to the west.
- Approximately 400 metres north-west of Parramatta Park.
- Directly opposite (to the west) are a mix of land uses including retail, commercial and residential.

THE PROPOSAL

This proposal is for Stage 1 works comprising of:

- Demolition of Buildings K, L, M, N and P. See diagram below.

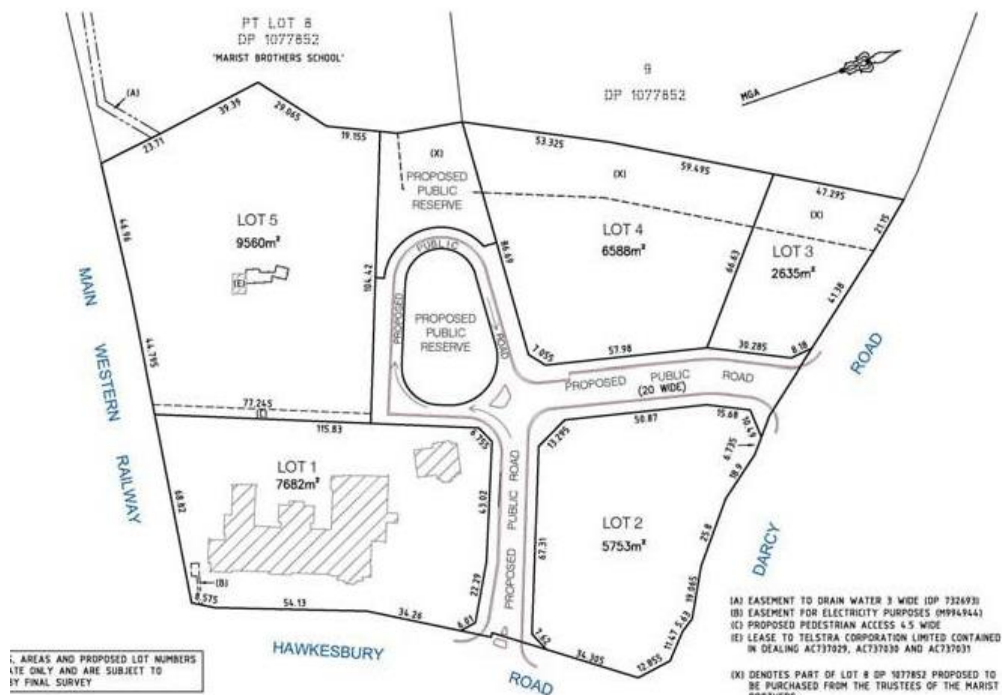


- Retention of Building J and O which are both heritage buildings listed under Schedule 5 of PLEP 2011.
- Remediation of the site.
- Earthworks to accommodate the internal road network. This includes 950m³ of excavated material.
- Construction of an internal road network to link Darcy Road to the north with Hawkesbury Road to the east. See diagram below.

The internal road network also contains 2 raised crossings and a shared zoned.



- Landscaping and Public Domain works. This includes construction of footpaths (shared and pedestrian), street trees, provision of a landscaped open space (between Lots 4 and 5) and within a traffic circle.
- Retention of 8 trees, removal of 40 trees and tree replenishment. Retained trees include the Morton Bay Figs as well as some of the trees along the southern boundary. Removed trees include the avenue of Indian Coral trees located on the existing Hawkesbury Road entry.
- Subdivision of the site into 5 allotments with the following site areas (see diagram below):
 - Lot 1 = 7682m²
 - Lot 2 = 5753m²
 - Lot 3 = 2635m²
 - Lot 4 = 6588m²
 - Lot 5 = 9560m²



- Building Envelopes and Indicative Land Use. Overall, the total GFA on the site is 122,995m². The FSR details for each lot are as follows:
 - Lot 1 (education) = 5000m² (0.65:1)
 - Lot 2 (commercial, retail, health and serviced apartments) = 30,700m² (5.33:1)
 - Lot 3 (commercial) = 16,000m² (6.03:1)
 - Lot 4 (residential) = 28,825m² (4.37:1)
 - Lot 5 (residential) = 42,470m² (4.44:1)
- The floor space ratio of the building envelopes on Lots 2, 3, 4 and 5 will exceed the (varying) maximum FSR permissible by PLEP 2011.
- Proposed maximum height (in storeys) of development on each of the lots are as follows:
 - Lot 1 = As existing.
 - Lot 2 = Min 3 storeys and Max 9 metres
 - Lot 3 = 8 storeys
 - Lot 4 = Minimum 6 storeys and Max 12 storeys
 - Lot 5 = Minimum 6 storeys and Max 15 storeys

The height of the building envelopes on Lots 2 and 4 will exceed the (varying) maximum heights permissible by PLEP 2011.

A Clause 4.6 variation has been submitted to support the departures to the height and FSR.

ZONING AND PERMISSIBILITY:

The site is zoned B4 Mixed Use and SP2 Infrastructure. It is noted that only 2A Darcy Road straddles 2 zones. The UWS site is zoned B4 Mixed use.

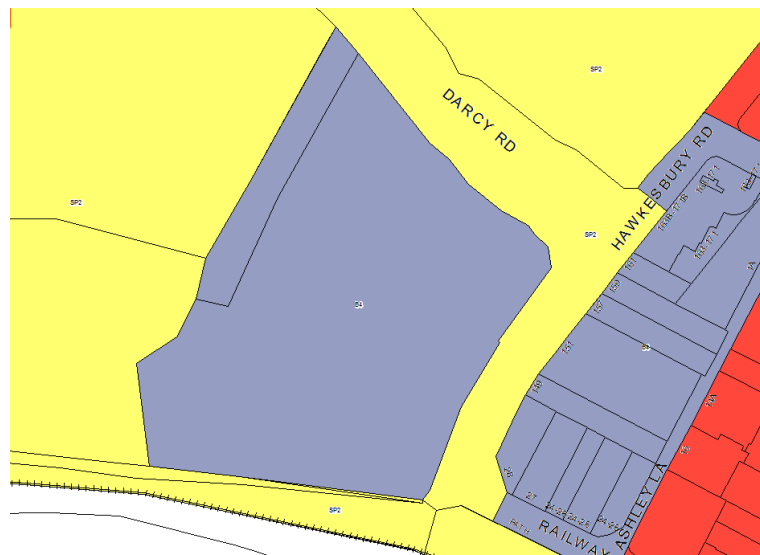
The works are located within the areas of the site zoned B4 Mixed Use. As such, the proposed demolition, subdivision, remediation, landscaping, earthworks, internal roads and infrastructure and building envelopes are permissible with consent.

It is noted that the site and the works proposed under the subject application only extend to the area of 2A Darcy Road that is zoned B4 Mixed Use (the access handle to Darcy Street).

The indicative land uses for each lot are:

- Lot 1 - education
- Lot 2 - commercial, retail, health and serviced apartments
- Lot 3 - commercial
- Lot 4 - residential
- Lot 5 - residential

Accordingly, the above indicative land uses on each lot in this regard are permissible with consent in the B4 Mixed Use Zone under the provisions of PLEP 2011.



REFERRALS

Heritage Adviser

The development application was reviewed by Council's Heritage Adviser as the site contains two heritage listed items. Upon review of the proposal, Council's Heritage Adviser provided the following advice.

Should the Panel be of mind to approve the current proposal, it should be subject to the following key points:

- *The recommendations of the non-Indigenous archaeological report, including seeking permits for disturbance of grounds;*

- *Consultation with contemporary communities potentially interested in the future of the site, particularly including Aboriginal stakeholders, and subject to the results of that consultation process;*
- *Due diligence process as per the NSW OEH guidelines, and the results of that process;*
- *Protection of two heritage listed buildings during construction and excavation works;*
- *Preparation of an Archival Photographic Recording of the building L prior to its demolition. It is recommended that this report be prepared by a professional photographer.*

Planning Comment

The above comments from Council's Heritage Adviser are noted.

The applicant has provided a copy of the Section 140 Excavation permit to Council in relation to the earthworks proposed under the subject application. This is as per the recommendation of the Non-Indigenous Archaeological Report. The Section 140 Excavation Permit will be incorporated in the consent for the application.

As part of Council's notification process, the Gandangara and Deerubbin Local Aboriginal Land Council were notified of the application, as well as the Darug Tribal Corporation, the Metropolitan Local Aboriginal Land Council and the heritage Committee. To date, Council has not received any submissions from these Councils or committee.

To ensure that the recommendations of the Non-Indigenous Archaeological Report are satisfied, the report recommendations will be incorporated in the consent.

Point 5 will be imposed via conditions of consent. Council's Heritage Adviser states that this should be undertaken as PDCA 2011 has identified Building L as being part of a building zone subject to heritage assessment. Accordingly, archival recording of Building L is to be undertaken prior to its demolition.

Council's Heritage Adviser supports the demolition of the proposed buildings on the sites as these structures do not have any heritage value. Additionally, these buildings have no heritage interest.

Council's Heritage Adviser was requested to provide comment on the provision of a queuing lane adjacent to Lot 1 on Hawkesbury Road. The provisions of the queuing lane will necessitate a minor boundary adjustment impacting mostly on the corner splay. As such, Council's Heritage Adviser stated that the queuing lane is unlikely to impact on the heritage items on lot 1 as the adjustment is minor and does not impact on the functions of the heritage items. Additionally, the minor adjustment to the corner splay will not adversely impact on the FSR for the site, the heritage values of the heritage items or the landscaping and curtilage of the heritage items. As such, Council's Heritage Adviser raised no objections to the provision of the queuing lane adjacent to Lot 1.

Urban Design

The proposal was reviewed by Council's Urban Designer with respect to the alignment plan, public domain works and the proposed building envelopes.

Upon submission of additional information, Council's Urban Designer provided the following comments.

General comment

Height and FSR

- *The Urban Design Unit are supportive of the proposed non-compliances of Height and FSR across the site. Most non-compliances are a result of a suboptimal concept plan being the primary tool to inform the LEP controls for the site specific DCP.*
- *The proposed Concept Plan is a result of design development and rationalisation of the DCP and results in most instances results with an improved built form outcome.*
- *It is acknowledged that the proposed GFA complies with the permissible maximum site-wide GFA.*
- *It should be noted that the Concept Plan used for the FSR and Heights overlay (email dated 1st December, 2014) is not consistent with the Concept Plan included in the Master Plan and Landscape Reports. Lots 1 and 5 are the main developable lots affected by the changes to the Concept Plan resulting in the following changes:*
 - *Lot 1 - reconfigured town square with odd-shaped building envelopes*
 - *Lot 5 – Large building envelopes with decreased inter-building separation.*

Recommended conditions of consent

- *A detailed public domain plan to be approved by Council's Urban Design team prior to the issue of construction certificate. The public domain plan must address:*
 - *The inclusion of levels, lighting and signage poles, street trees and pits, paving, furniture, raised crossings and other as detailed in the PCC Public Domain Guidelines;*
 - *Previous Urban Design advice that Magnolia grandiflora 'Little Gem' is not supported as a street tree due to its small, compact habit which provides inadequate shade. Street trees must be large with spreading canopy. (Large = 16-20m high / Canopy = 16m spread).*
 - *Previous Urban Design comments that street trees must be included along Road 2 frontage, at minimum 12m spacing (incorporated within parking bays where necessary).*

Subdivision Plan

- *Council are supportive of the proposed Right of Access (6m) provided within Lot 4.*
- *The location of Easement (B) – Pedestrian Accessway (4.5m) wide is not consistent with the Illustrative Concept Plan and Landscape Plan. The subdivision plan locates this easement within Lot 1, however the Concept Plan shows the Pedestrian Accessway along the eastern boundary of Lot 5.*
- *The Urban Design Unit recommends that the location shown in the Concept Plan (within Lot 5) is more appropriate than the location shown in the subdivision plan (Lot 1)*
- *This amendment could be made post approval as a condition of consent.*

Private Domain Guidelines

General Comments

- *All references contained within the Guidelines to Landscaped Area and Deep Soil Zone should be removed from the Private Domain Guidelines.*
- *All Stage 2 DA's will be assessed against the provisions of the Westmead Site Specific DCP prepared by Parramatta City Council. These controls state:*
 - *Landscaped Areas shall constitute a minimum of 40% (including deep soil) of the site area.*
 - *Deep soil landscaping shall constitute a minimum of 30% of the site area.*
 - *Any non-compliances regarding Landscaped Area and Deep Soil are to be assessed at Stage 2 DA stage.*

Detailed Comments

- *See attached markup prepared by Public Domain*

Planning Comment

The above comments from Council's Urban Designer are noted.

The applicant has provided clarification and provided amended plans demonstrating a consistent concept plan. These plans will be included in the consent.

A condition will be recommended for inclusion in the consent with regards to submission of a detailed public domain plan in accordance with the above comments from Council's Urban Designer.

With regards to the easement and the discrepancy in its location, this was discussed with the applicant. The applicant states that it would be preferable to provide the easement on Lot 1 (the site to be retained by UWS) to ensure that the pedestrian access is provided and that UWS remains custodians of this pedestrian access. To ensure that all plans are consistent, a condition will be imposed on the consent

requiring that all plans are to be amended locating Easement B on Lot 1 as per the approved subdivision plan.

Further, a condition will be recommended for inclusion in the consent requiring the submission of an amended subdivision plan relocating the pedestrian easement within Lot 5 as per the concept plan.

An amended private domain guideline plan is to be submitted to Council prior to works commencing removing all references to landscaped areas and deep soil zones as these issues will be assessed upon receipt of future applications for the individual lots.

Contamination

The application was reviewed by Council's Health Officer with regards to the potential contamination of the site. The site assessment activities had identified the site as containing historically imported fill material which contains reworked silty clay, gravelly sand and fragments of asbestos containing materials.

Upon review of the proposal, the Site Audit Assessment and Remedial Action Plan, Council's Health Officer raised no objections to the proposed remediation works subject to conditions of consent.

It is noted that the Site Audit report and the RAP will be incorporated in the consent to ensure compliance with the overall findings of the report.

Traffic Engineer and Traffic Committee

The application was reviewed by Council's Traffic Engineer as the application proposes internal roads and traffic measures.

With regards to the queuing lane, Council's Traffic Engineers provided the following comments:

The proposal introduces a new road that intersects with Hawkesbury Road. This is known as Road 1. Pedestrians will cross Road 1 at Hawkesbury Road to travel to Westmead Hospital. It is noted that in the peak period most pedestrians that use this footpath are students at local schools and are unlikely to cross Road 1 in the future due to shorter routes being available through the development site.

However, there is likely to be an increase in local employees walking between the station and the hospital. There is also uncertainty regarding whether a pedestrian bridge will be provided over Darcy Road. Accordingly, it is possible that there would be a substantial number of pedestrians crossing Road 1 at Hawkesbury Road in future.

Under these circumstances Council would like to install a pedestrian crossing on Road 1 at Hawkesbury Road. However, this may result in vehicles stopping in the through travel lanes in Hawkesbury Road. This may result in

an increase in “rear-end” and “lane-change” type accidents. It may also disrupt traffic flow.

Accordingly, it is recommended that a road widening be provided for a short left turn lane so that Council can construct the lane in future, if required, without having to acquire the land. The lane would be 20m long by 3m wide.

A condition will be imposed on the consent to accommodate the queuing lane as per the above recommendation from Council's Traffic Engineer.

Upon review of the proposal and the Traffic Report submitted with the application, Council's Traffic Engineers raised no objections to the proposal subject to conditions of consent.

The proposal was also reviewed by Council's Traffic Committee due to the provision of pedestrian crossings and traffic measures. At its meeting on 27 November 2014, the Committee resolved:

“That the two pedestrian crossings (including 1 raised crossing) and other traffic facilities for the UWS Westmead subdivision, as shown in the civil design plans... be approved”.

Landscape

The application was reviewed by Council's Landscape Officer with respect to the proposed landscape works and tree removal. The application proposes the retention of 8 trees, the removal of 40 trees and tree replenishment.

Upon review of the proposal as well as the submitted Arborist report, Council's Landscape Officer raised no objections to the proposal subject to conditions of consent.

Open Space

The application proposes two areas on the subdivision plan as ‘public reserve’. Council's Open Space and Natural Area Planner was verbally consulted with regards to the proposal. Council's Open Space and Natural Area Planner advised that as there were no Council assets adjoining the proposed ‘public reserves’ there is no incentive for Council to acquire these lots upon subdivision to be Council assets.

Accordingly, the following conditions will be imposed on the consent.

“Plans submitted with the subdivision certificate must indicate that the northern lot identified on the approved plans as ‘proposed public reserve’ forms part of Lot 4 and the southern lot identified on the approved plans as ‘proposed public reserve’ forms part of Lot 5.

Advisory Note: Plans submitted with future applications for these lots must indicate that these areas are used for private recreation opportunities”

Civil Asset (Alignment Only) and Civil Design

The proposal was reviewed by Council's Civil Assets and Civil Design with respect to the proposed internal public roads and public drainage infrastructure.

As a result of the review, no objections were raised by Council's Civil Asset or Civil Design subject to conditions of consent.

Land Use

The application was referred to Council's Land Use Planner. Upon review of the application, no objections were raised by Council's Land Use Planner subject to conditions of consent.

Waste

The application was referred to Council's Waste Officer. Upon review of the application, no objections were raised Council's Waste Officer subject to conditions of consent.

Development Engineer

The application was referred to Council's Development Engineer. Upon review of the application, no objections were raised by Council's Development Engineer subject to conditions of consent.

RMS

The application was referred to RMS as the subject site is adjacent to arterial roads.

Upon review of the proposal and additional information, RMS raised no objections to the proposal subject to conditions of consent.

Railcorp

The application was referred to Railcorp as the subject site is adjacent to a rail corridor.

Upon review of the proposal, both RMS and Railcorp raised no objections to the proposal subject to conditions of consent.

PUBLIC CONSULTATION

In accordance with Council's Notification DCP, owners and occupiers of surrounding properties, members of Council's Heritage Committee and the Gandangara and Darug Aboriginal Communities were given notice of the application for a 21 day period between 10 September 2014 and 1 October 2014.

In response to the notification period, one submission was received. The submission was received from the following address:

- 22 Broxbourne Street, Westmead.

The issues raised within the submission are addressed below.

Increased traffic on Hawkesbury Road post construction upon retail and commercial occupation.

A Traffic Report was submitted with the application stating that upon development of all proposed lots, that there would be up to 650 additional vehicle trips in the AM peak hours (weekday) and up to 1000 additional vehicle trips in the PM peak hours (weekday). This report and its conclusion were reviewed by Council's Traffic Engineer and RMS whom raised no objections with regards to the capacity of the surrounding road networks to accommodate the increase in vehicle movement as a result of the development.

It is noted that the subject site is zoned for mixed use development. Given the zoning of the site and the density controls imposed on the site under PLEP 2011 and PDCP 2011, the traffic generated by the proposal was envisaged by the relevant planning controls.

Further, a Traffic Report will be required upon submission of any development proposed on the individual lots to ascertain in detail traffic volumes specifically for the proposed development. This information will be subject to further assessment.

Increased noise impacts on residences due to additional vehicular traffic.

As previously stated, due to the land use and density envisaged by the planning controls for the site, traffic volumes reflective of this form of development were expected. Similarly, any additional acoustic impacts as a result of the increased vehicle movements on nearby residential premises were considered to be reasonable particularly given the sites proximity to noise generating land uses such as Hawkesbury Road and the rail corridor.

It is noted that upon submission of future development applications for the individual lots, an acoustic report will be required with the application to ascertain in detail acoustic impacts on the development on adjoining sensitive land use receivers.

Impacts of construction traffic on the wider locality.

A condition will be recommended for inclusion in the consent requiring the submission of a Construction Traffic Management Plan to Council detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control to ensure that general traffic within the wider locality is not unreasonably disrupted during the approved works. The application was also reviewed by Council's Traffic Engineer and the Roads and Maritime Services whom raised no concerns with regards to the adverse impacts of construction traffic on the wider locality.

Objection is raised with regards to the conflict between pedestrian and vehicle traffic and that this would increase traffic congestion at major intersections.

The applicant has stated that as there is to be no direct access off Hawkesbury Road into proposed Lot 1. Vehicle access is to be via the internal road and that there is sufficient length to enable up to 5 vehicles to queue on the internal road to access the entry to Lot 1. In addition, Council will require the applicant to provide a queuing lane along Hawkesbury Road (in front of Lot 1) to accommodate future pedestrian crossing measures. This ensures that there is limited conflict between pedestrians and vehicle traffic at the Hawkesbury Road intersection.

A pedestrian traffic survey was also conducted by the applicant which indicated the following:

The surveys indicated that the majority of pedestrians walking along the western side of Hawkesbury Road in the AM peak hour were school children walking towards Parramatta Marist High. A high number of these school children were observed to cut across the existing at-grade car park within the UWS Westmead site as a means of reducing the total distance travelled. Only a relatively small number of pedestrian were observed to continue north-east along Hawkesbury Road towards the Westmead Hospital Campus.

Following the development of the UWS Westmead site, a high quality pedestrian environment will be provided which will include two new zebra crossings. The most direct and efficient route for these children will be to travel directly through the UWS site to connect with Darcy Road, rather than cross the vehicular site access point. This is illustrated in Figure 3, and demonstrates that there will be a significant reduction (287 pedestrians) crossing the UWS driveway entry in the AM peak hour following the development of the site.

This information was reviewed by Council's Urban Designer, Traffic Engineer and RMS. Council's specialists and RMS did not raise any concerns with regards to pedestrian and vehicular traffic.

Amended Plans

No

ENVIRONMENTAL PLANNING INSTRUMENTS

STATE ENVIRONMENTAL PLANNING POLICY 55 – REMEDIATION OF LAND

The provisions of SEPP No. 55 have been considered in the assessment of the development application. A site assessment activity was undertaken which identified that the site contained historically imported fill material which contains reworked silty clay, gravelly sand and fragments of asbestos containing materials.

Accordingly, the applicant has submitted a Site Audit Assessment to assess the possibility of contamination on the site. As a result of the findings of the assessment, a Remedial Action Plan was prepared in accordance with Clause 7 of the SEPP to ensure that the site is made suitable for residential use as indicated by the proposal and envisaged by Council's planning controls.

The proposal, the Site Audit Assessment and Remedial Action Plan were reviewed by Council's Health Officer. Upon review of the proposal and the related information, Council's Health Officer raised no objections with regards to the conclusions of the assessment or the Remedial Action Plan subject to conditions of consent.

It is noted that the Site Audit Assessment and Remedial Action Plan will be incorporated in the consent.

Given the above, it is considered that the requirements of clause 7 of SEPP 55 have been satisfied and that the site following remediation will be suitable for its use for educational, commercial and residential purposes.

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

The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.

The Sydney Harbour Catchment Planning Principles must be considered and where possible achieved in the carrying out of development within the catchment. The key relevant principles include:

- protect and improve hydrological, ecological and geomorphologic processes;
- consider cumulative impacts of development within the catchment;
- improve water quality of urban runoff and reduce quantity and frequency of urban run-off; and
- protect and rehabilitate riparian corridors and remnant vegetation.

The site is within the Sydney Harbour Catchment and eventually drains into the Harbour.

It is noted that 2A Darcy Road is adjacent to a waterway. However, the portion of 2A Darcy Road that is part of the subject is the north-south access handle of the site adjacent to the UWS site which is more than 100 metres from the waterway. Under DA/699/2014, this portion of 2A Darcy Street will be amalgamated with UWS and will not be subject to this provision.

The distance between the subject site and the riparian corridor is quite substantial. As such, the proposed works are unlikely to impact on water quality and urban run-off, thus protecting riparian corridors as well as the hydrological and ecological processes. Accordingly, the development is consistent with the controls contained with the deemed SEPP.

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 subject to clause 45 of the SEPP as the development proposes works within the vicinity of electricity infrastructure. However, the application was not

referred to the energy provider. Notwithstanding, the following condition is to be imposed on the consent to ensure that the works do not impact on electricity services.

Should any proposed work be undertaken where it is likely to disturb or impact upon a utility installation (e.g. power pole, telecommunications infrastructure, etc) written confirmation from the affected utility provider that they have agreed to the proposed works shall be obtained prior to works commencing. The arrangements and costs associated with any adjustment to a utility installation shall be borne in full by the applicant/developer.

Reason: *To ensure no unauthorised work to public utility installations and to minimise costs to Council.*

The application is subject to clause 101 of the SEPP as the site has frontage to a classified road. As such, the following is provided in response to the provisions under Clause 101(2).

- (2). (a) Vehicle access to the proposed lots is to be via an internal road.
- (b) The safety, efficiency, and ongoing operation of the classified roads will not be adversely impacted by the proposed works. The design and vehicular access to the proposed lots were reviewed by Council's Traffic Engineer and RMS and upon review raised no objections subject to conditions of consent.

Conditions will be recommended for inclusion in the consent regarding dust control measures to minimise dust nuisance on the classified road.

A Traffic Report was submitted with the application. This report was assessed by Council's Traffic Engineer and RMS and upon review raised no objections with regards to the nature, volume or frequency of vehicles using the classified road to gain access to the land.

- (c) The works proposed under the subject application comprise demolition, remediation, infrastructure works and building envelopes. As such, these are not works considered to be sensitive to traffic noise or vehicle emissions. However, upon lodgment for development on the individual lots, further assessment against this clause of the SEPP will be undertaken.

The application is not subject to clause 102 of the SEPP as the development the subject of the current application does not involve building works that would be sensitive to road noise or vibration.

STATE ENVIRONMENTAL PLANNING POLICY 65 Design Quality of Residential Flat Development 2002

Whilst the subject application does not propose any building works, the proposed building envelopes seek approval for residential development up to 15 storeys (on lot 5). As there are no building works proposed, the following assessment against the

principles of SEPP 65 are preliminary commentary and only based on the concept plans and Statement of Environmental Effects submitted with the application.

Further assessment of each development on the individual lots is to be undertaken under a separate application.

It is noted that the proposal was not reviewed by Council's Design Excellence Advisory Panel as no building works is proposed and therefore design excellence is not necessary at this stage. Individual developments proposed under a separate application will require review by DEAP upon lodgement with Council.

Context

Generally, the building envelopes are considered to respond and contribute to its context, especially having regard to the desired future qualities of the area. Whilst the proposed building envelopes seek departures to the maximum FSR and height for the site, these departures are considered to be acceptable due to the scale of the site and its proximity to public transport.

Scale

Whilst there is a departure to the height and FSR of the proposed building envelopes, this does not result in adverse impacts to building bulk or scale. The scale of the site, its proximity to public transport nodes and that it is bounded by Hawkesbury Road and Darcy Road ensures that the departures to the FSR and height controls are suitably located where adverse amenity impacts are unlikely. However, a separate application for development on the individual lots will be assessed further to ascertain in detail any impacts from the proposed scale of the particular development.

Built form

The building envelopes and concept plan has generally demonstrated that adequate building setbacks is achieved. In addition, Council's Urban Designer supports the proposed building envelopes and the potential built form. As such, any future applications for development on the individual lots should achieve appropriate portions, alignments and incorporate building elements.

Density

Despite variations to the FSR and height for the site, the proposed building envelopes result in a density appropriate for the site and its context. The proposed density is considered to respond to the availability of infrastructure, public transport, community facilities and environmental quality.

Resource, energy and water efficiency

A Basix Certificate is to be submitted with any future application for development with a residential component.

Landscape

A landscape plan was submitted with the proposal. The landscaping options are considered to be adequate. However, a separate application for development on the individual lots is to be accompanied with a landscape plan which details landscaping for that particular development which will be reviewed and assessed further by Council's Landscape Officer.

Amenity

The departures to the FSR and height are considered to be acceptable to ensure that appropriate amenity is afforded to any development on the individual lots. The Statement of Environmental Effects states that proposed building envelopes can accommodate:

- floor to floor heights of 3.3 metres on the ground floor and 3 metres on the upper floors.
- Building depths of 18 metres
- At least 60% of units to have appropriate cross ventilation
- 70% of the units will receive a minimum of 3 hours of solar access during the winter solstice
- Building separation of up to 24 metres.

As there are no building works proposed under the subject application, the above compliances are to be assessed under a separate application for development on the individual lots.

Safety and security

No building works are proposed. Any issues with safety and security of a development proposed on the individual lots will be assessed under a separate application

Social dimensions

This principle essentially relates to design responding to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities and optimising the provision of housing to suit the social mix and provide for the desired future community. It is considered that the proposed building envelopes and associated works allow for the provision of additional housing choice within the area that is in close proximity to public transport and potential employment opportunities.

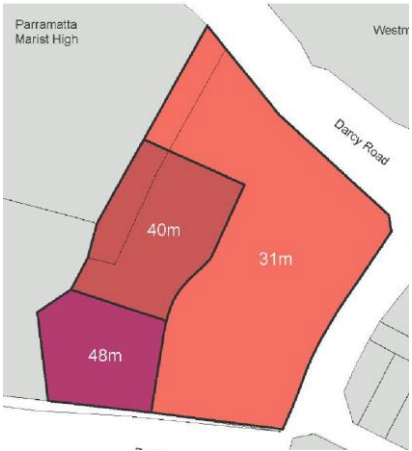
Aesthetics

The aesthetics of the development for the individual lots will be assessed as part of a separate application. However, due to the variations to the FSR and height controls of PLEP 2011, the composition of future buildings, textures, materials and colours should be accommodated adequately.

PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2011

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

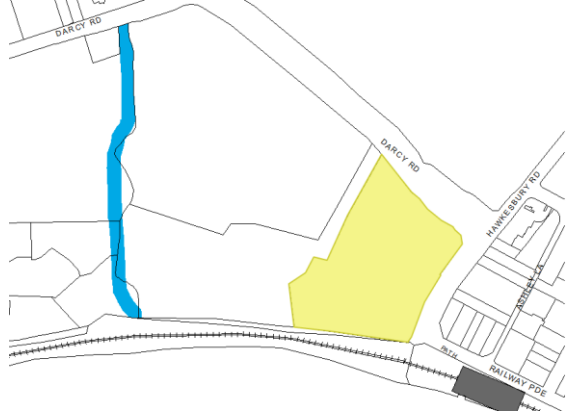
COMPLIANCE TABLE		
Development standard	Discussion	Compliance
Land Use Table – B4 Mixed Use and SP2 Infrastructure.	<p>Indicative land uses include:</p> <ul style="list-style-type: none"> ○ Lot 1 - education ○ Lot 2 - commercial, retail, health and serviced apartments ○ Lot 3 - commercial ○ Lot 4 - residential ○ Lot 5 - residential <p>It is noted that only 2A Darcy Road straddles 2 zones. These zones being B4 Mixed Use and SP2 Infrastructure.</p> <p>However, the site and the works proposed under the subject application only extend to the area of 2A Darcy Road that is zoned B4 Mixed Use (an adjacent north-south access corridor).</p> <p>A separate application is currently being assessed by Council (DA/699/2014) which subdivides 2A Darcy Road in to 2 lots – Parramatta Marist High and the remaining north-south corridor area lot comprising of the area zoned B4 Mixed Use. This lot is to be acquired by UWS to facilitate the development proposed under the subject application.</p> <p>As such, the current application is subject to a Deferred Commencement provision until the subdivision under DA/699/2014 is approved and registered.</p>	Yes

<p>4.3 Height of Buildings</p> <p>It is noted that the proposed subdivision alignment straddles several height controls being 31m, 40 metres and 48 metres.</p> <p>As such, the maximum height controls for the site is as follows:</p>  <p>Therefore the proposed subdivided lots are subject to the following maximum height.</p> <p>Lot 1 – Max 31 m Lot 2 – Max 31m Lot 3 – Max 31m Lot 4 – 31m & 40m Lot 5 – 31m, 40m 48m</p>	<p>The proposed maximum height for each lot is as follows.</p> <ul style="list-style-type: none"> ○ Lot 1 = As existing. ○ Lot 2 = Max 9 storeys (Approx. Max 32.8 metres). ○ Lot 3 = Max 8 storeys (Approx. Max height 29.2 metres) ○ Lot 4 = Max 12 storeys (Approx max height 38.4 metres). It is noted that parts of the 12 storey building envelope encroaches on the 31m max height limit. ○ Lot 5 = Max 15 storeys (Approx max height 48 metres) <p>The SEE also states that due to plant areas (to be located on the roof), that the development on Lots 2 and 5 will exceed the height limit of PLEP 2011. As such, a Clause 4.6 variation statement has been submitted.</p> <p>Details of the variations are discussed later in this report.</p> <p>Note: Approximate height of building calculated as follows (as per Figure 4.3.4.1.7A of PDCP 2011):</p> <p>Residential – 3.2m floor to floor height Commercial – 3.6m floor to floor height Ground Floor – 4m floor to floor height.</p>	<p>Yes No</p> <p>No No</p> <p>Yes</p> <p>A Clause 4.6 departure has been submitted and is discussed later in this report.</p>
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<p>4.4 Floor Space Ratio</p> <p>Lot 1 – 1.5:1 & 3.0:1 Lot 2 – 3:1 Lot 3 – 3.5:1 Lot 4 – 3.5:1 & 4:1 Lot 5 – 1.5:1 & 4:1</p>	<ul style="list-style-type: none"> ○ Lot 1 (education) = 5000m2 (0.65:1) ○ Lot 2 (commercial, retail, health and serviced apartments) = 30,700m2 (5.33:1) ○ Lot 3 (commercial) = 16,000m2 (6.03:1) ○ Lot 4 (residential) = 28,825m2 (4.37:1) ○ Lot 5 (residential) = 42,470m2 (4.44:1) <p>Details of the variations are discussed later in this report.</p> <p>A Clause 4.6 Variation Statement has been submitted and is assessed further later in this report.</p>	<p>Yes</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>Clause 4.6 submitted</p>
<p>4.6 Exceptions to development standards.</p>	<p>The application seeks approval to vary Clause 4.3 – Height and Clause 4.4 – Floor Space Ratio.</p> <p>Refer to discussion below.</p>	<p>Yes</p>
<p>5.1 and 5.1A Development on land intended to be acquired for public purposes</p> <p>Is any portion of the land identified for acquisition for local road widening on the Land Reservation Acquisition Map?</p>	<p>The site is not identified on this map.</p>	<p>N/A</p>
<p>5.3 Development near zone boundaries</p>	<p>2A Darcy Road straddles 2 zones being B4 Mixed Use zone and SP2 Infrastructure. However, the subject site and the proposed works (inclusive of the building envelopes) is to be undertaken in the areas zoned B4 Mixed Use zone.</p>	<p>Yes</p>

<p>5.6 Architectural roof features</p> <p>Does an architectural roof feature result in a building exceeding the maximum building height for the site outlined in clause 4.3?</p>	<p>No buildings are proposed under the subject application.</p> <p>Any architectural roof features will be subject to further assessment upon future development on the individual lots.</p>	N/A
<p>5.7 Development below mean high water mark.</p> <p>Is any portion of the development proposed to be carried out below the mean high water mark?</p>	<p>The proposal is not for the development of land that is covered by tidal waters.</p>	N/A
<p>5.9 Preservation of trees.</p>	<p>See previous discussion on tree removal in the referral section of this report.</p>	Yes
<p>5.10 Heritage Conservation</p> <p>Does the site contain or is it near a heritage item?</p>	<p>The UWS site has a heritage listed item as well as a Victorian residence located within the site. These items are of local significance. These items will be retained.</p> <p>As the application proposes bulk earthworks, construction of internal roads and remediation, the applicant has obtained a Section 140 Excavation Permit from the Office of Environment and Heritage for European heritage.</p> <p>See "Referrals Section" for comments from Council's Heritage Adviser whom raised no objections to the proposal.</p>	Yes

<p>5.10.8 Aboriginal Places of Heritage significance</p> <p>What is the identified Aboriginal significance of the site?</p>	<p>The site is identified as being of Low to Medium significance by Council's Aboriginal Heritage Sensitivity Database.</p> <p>Council's Heritage Adviser reviewed the proposal and raised no objections to the application.</p> <p>As previously stated, Council also notified the Gandangara and Deerubbin Local Aboriginal Land Council of the application. The Darug Tribal Corporation, the Metropolitan Local Aboriginal Land Council and the heritage Committee were also notified of the proposal on 5 September 2014 (insert date letters was sent). Council did not received any submissions in response.</p>	<p>Yes</p>
<p>6.1 Acid sulfate soils</p> <p>What class of Acid Sulfate Soil does the Acid Sulfates soil Map indicate the site contains?</p>	<p>The site is identified as containing class 5 Acid Sulfate Soil.</p> <p>However, the development does not propose any works within 500 metres of an adjacent Class 1, 2, 3 or 4 land that is below 5 metres AHD and by which the watertable is likely to be lowered below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land. As such, an Acid Sulfate Soils Management plan is not required to be prepared.</p>	<p>Yes</p>
<p>6.2 Earthworks</p> <p>Are the earthworks associated with the development appropriate?</p>	<p>Council's Development Engineer has reviewed the application and considers that the proposed earthworks are satisfactory.</p>	<p>Yes</p>
<p>6.3 Flood planning</p> <p>Is the site floodprone?</p>	<p>The site is not identified by council as being floodprone.</p>	<p>N/A</p>

<p>6.4 Biodiversity protection</p> <p>Is the site identified as containing biodiversity on the 'Natural Resources – Biodiversity Map'?</p>	<p>The site is not identified on this map.</p>	<p>N/A</p>
<p>6.5 Water protection</p> <p>Is the site identified as being riparian land on the 'Riparian Land and Waterways Map'?</p>	<p>The site is identified on this map.</p>  <p>However, only 2A Darcy Road is subject to this provision. And the only portion of 2A Darcy Road that is part of the subject is the north-south access handle of the site. Under DA/699/2014, this portion of 2A Darcy Street will be amalgamated with UWS and will not be subject to this provision.</p> <p>The distance between the subject site and the riparian corridor is quite substantial. As such, the proposed works is unlikely to impact on water quality of the receiving water, impact on the natural flow regime, flow paths of the waterway, stability of the bed, shore and banks or capacity and quality of the groundwater systems. Accordingly, Council is satisfied that the proposed works will be managed to avoid adverse environmental impacts.</p>	<p>Yes</p>
<p>6.6 Development on landslide risk land</p> <p>Is the site identified as being landslide risk land on the 'Landslide Risk Map'?</p>	<p>The site is not identified on this map.</p>	<p>N/A</p>

6.7 Affected by a Foreshore Building Line	See discussion under deemed SEPP (Sydney Harbour Catchment) and PLEP Clause 6.5 – Water Protection.	Yes
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4.6 Exceptions to development standards within LEP 2011

1. The objectives of this clause are as follows:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
2. Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
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.
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 request has adequately addressed the matters required to be demonstrated by 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, and
 - (b) the concurrence of the Director-General has been obtained.

A request for an exception under clause 4.6 was lodged with the application as the proposed development exceeds the maximum Height and FSR for the site permitted by Clauses 4.3 and 4.4 of PLEP 2011.

The Height and FSR variation sought under the subject application is as follows:

Height

	Maximum Height	Proposed Height	Variation
Lot 1	31 metres	As existing. (2 storey and < than 10m)	None
Lot 2	31 metres	Max 9 storeys (Approx. Max 32.8 metres).	1.8 metres (5.8%)
Lot 3	31 metres	Max 8 storeys (Approx. Max height 29.2 metres)	None
Lot 4	31 metres and 40 metres	<p>Max 12 storeys (Approx max height 38.4 metres).</p> <p>It is noted that parts of the 12 storey building envelope encroaches on an area with a 31m max height limit.</p>	7.4 metres (23.8% on the area with a 31m height limit)
Lot 5	31 metres, 40 metres and 48 metres	<p>Max 15 storeys (Approx max height 48 metres).</p> <p>The SoEE states that plant equipment located on the roof will likely exceed the maximum height limit. This will be assessed under a separate application for development on Lot 5.</p> <p>It is also noted that despite the 3 height controls on Lot 5, the 15 storey development is located wholly within the portion of the site that allows a maximum 15</p>	None

		storey development.	
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FSR

	Proposed Site Area	Max FSR	Proposed Floor Area	Variation
Lot 1	7682m ²	1.5:1 (11,523m ²)	0.65:1 (5000m ²)	None
Lot 2	5753m ²	3.1:1 (17,834.3m ²)	5.33:1 (30,700m ²)	72.1% (12,866m ²)
Lot 3	2635m ²	3.5:1 (8,168.5m ²)	6.03:1 (16,000m ²)	95.8% (7,831.5m ²)
Lot 4	6588m ²	3.5:1 (23,058m ²) & 4.1:1 (27,010.8m ²)	4.37:1 (28,825m ²)	25% (5767.2m ²) 6.7% (1814.2m ²)
Lot 5	9560m ²	1.5:1 (14,340m ²) & 4.1:1 (39,196m ²)	4.44:1 (42,470m ²)	196.1% (28,130m ²) 8.3% (3,274m ²)

NB: The significant FSR departure arise due to:

- Inclusion of roads reducing the lot area
- The proposed lots do not reflect the concept plan in PDCP 2011 as this concept plan was considered by Council's Urban Designer as poorly conceived and not well resolved.

However, the building envelopes maintain compliance with the overall site FSR of 3:1.

The applicant has provided the following justification for the non-compliance with the development standards:

Height

5.1.1 Height of Buildings

Clause 4.3 Height of buildings specifies that,

'The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.'

The permissible maximum height varies across the site from 31m (U1) to 40m (W) to 48m (X) as shown in **Figure 11** below.



Figure 11 – HOB LEP Map
Source: PLEP

The proposed development does not comply with the standard in that the proposed 12 storey north-south building envelope within Lot 4 extends into the

31m height zone. In addition, it is proposed that plant areas be allowed to project above the maximum permissible height, and that minor incursions into the height plane be permitted within Lots 2 – 5. The variations are shown in **Figure 12** below.



Figure 12 – HOB Variation
Source: Cox Richardson

Height of Buildings

Table 7 below demonstrates that the proposed variation to the height control will still result in a development that achieves the objectives of the PLEP development standard.

Table 7 – HOB Assessment Against Relevant LEP Objectives

Objective	Proposal
(a) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan	Height of buildings across the site varies in consideration of northern aspect, solar access, steepness of the internal road network, and proximity to heritage items, and provides a desired transition of heights while balancing physical constraints with SEPP 65 objectives and requirements. Importantly, none of the buildings exceed the maximum height permissible on the site of 48m.
(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development	It is noted that the site is surrounded on the north, east and south by major road and rail corridors. To the west of the site are the Marist Brothers playing fields. Given the surrounding development, the proposal will have minimal impact on views and solar access to existing developments. Building setbacks are proposed to Lots 3 and 4 in consideration of the privacy needs of Marist Brothers, and there is suitable separation between new development and the heritage buildings of Lot 1.
(c) to require the height of future buildings to have regard to heritage sites and their settings	There is suitable separation between new development and the heritage buildings of Lot 1, and buildings to the east of Lot 5 have heights lower than that permissible to improve the relationship with these buildings.
d) to ensure the preservation of historic views,	The preservation of historic views will not be impacted by the proposed exceedence of the height controls, given the Master Plan is generally consistent with the Illustrative Concept Plan as shown in the Special Precincts DCP, which already considered view impacts.
(e) to reinforce and respect the existing character and scale of low density residential areas	It is noted that the closest low density residential area is some distance to the south of the site across the rail corridor. Accordingly, the proposed development will have no impact on the character of this area.

Height of Buildings

Exceeding the maximum permissible height control within the PLEP achieves an improved built form outcome including improved building separation, smaller floor plates (with potentially more elegant future built form) and greater amenity. It is noted that the height of buildings has also been considered in terms of maximising northern aspect and optimising solar access, and that the highest building envelopes are located to the south of the lots.

In the case of Lots 3 and 4 the exceedence is particularly important given the constraints of the steeply sloping road on which they are located.

While exceedences occur in some areas, in others, buildings will have heights lower than that permissible, such as the building envelope to the east of Lot 5, where the relationship with the retained heritage buildings can be improved, and in other lots where solar access to apartments can be increased. It is also noted that none of the building envelopes exceed the maximum height permissible on the site of 48m.

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 of PLEP 2011 is a development standard.

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

The purpose of Clause 4.3 of PLEP 2011 is to ensure that the bulk and scale of the development is suitable in regards to the area of the site and the type of development proposed. Clause 4.3 specifically states the maximum Height permitted for development on the subject site and ultimately ensures that the development is of an appropriate bulk and scale.

3. Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EPA Act?

Compliance with the development standard would be inconsistent with PLEP 2011 which aims to provide planning controls that will encourage a sustainable development, being development which satisfies the principles of ecological (environmental, economic and social) sustainability.

Enforcing compliance with the development standard will restrict potential development that would otherwise be appropriate on the site. The site is capable of being developed without unduly impacting on adjoining properties which has been demonstrated through the building envelopes. The proposed works maintain general compliance with the majority of controls within Parramatta Development Control Plan 2011.

The non-compliance is considered to be acceptable representing a variation ranging from 5.8% to 23.8%. The plans show that the variation in the height does not in this case unreasonably hinder compliance with solar access, views to and from the site and bulk and scale requirements of the Parramatta Development Control Plan 2011 for residential, commercial and retails developments. The proposed building envelopes also allow for the retention of the significant heritage items on the site with an appropriate curtilage provided.

The proposed development responds to the site despite the non-compliance and does so without compromising relationships with adjoining developments such as Parramatta Marist High. Strict compliance with the development standards would render the application inconsistent with the objectives specified in section 5 (a) (i) and (ii) of the EPA Act as the site will

remain under-developed and would not promote the economic and social welfare of the community.

The objection to the development standard will ensure that the site is able to be appropriately developed and result in better management of the site, social enhancement for the community whilst supporting a growing and diverse population.

4. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

It is considered that it would be unreasonable to impose the maximum height given that the proposed development generally complies with the development requirements pertaining to residential, commercial and retail development. It does so without adversely affecting adjoining properties in regards to solar access, acoustic impact and privacy whilst maintaining consistency with the development objectives of the zone.

Further, a departure from the standard in this case is considered to be acceptable for the following reasons:

- The large site has the ability to accommodate for the proposed heights.
- Any perception of a bulky development from existing nearby residential premises is alleviated due to the scale of the site and that any future development is buffered by the rail corridor and arterial roads.
- The departure would allow development to accommodate a growing and diverse population whilst providing commercial and retail development that supports the wider community.
- The departure to the height does not reduce the heritage value or curtilage of the remaining items located on the site. The heritage items and surrounding landscaping will be located on Lot 1 and will be retained as per existing. Council's Heritage Adviser has reviewed the proposal and does not raise any objections with regards to the proposal and its impacts on the heritage items.
- The proposed building envelopes and the encroachment in height do not unreasonably impact on solar access, views and amenity of future users of the site.
- The additional height for future development on the site does not unreasonably impact on traffic and pedestrian movement in and around the site.
- Council's Urban Designer supports the building envelopes proposed and stated that it is "...an improved built form outcome" and that the non-compliance with the height is a "...result of suboptimal concept plan".
- The proposed heights are suitably located within proximity to public transport nodes whilst locating sympathetic and modest building envelopes opposite heritage items.

- The departure to the standard does not hinder the development from achieving the objectives of the B4 Mixed Use zone as it provides a variety of development ranging from residential, retail and commercial.
- Any future application for the individual lots will be subject to a separate development application and further assessed for compliance with the built form controls contained in PDCP 2011.

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.

Given that the proposed building envelopes responds well to the site and does so without compromising relationships with adjoining developments, do not unduly compromise other relevant controls, and that the proposed development encourages economic and sustainable development whilst improving and protecting the heritage values of the heritage items on the site, the Clause 4.6 exception to the development standard to Clause 4.3 – Height of PLEP 2011 is considered to be well founded.

Floor Space Ratio

5.1.2 Floor Space Ratio

Clause 4.4 Floor space ratio specifies that,

'The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.'

The permissible FSR varies across the site from 1.5:1 to 3:1 to 3.5:1 to 4:1 as shown in **Figure 13** below.

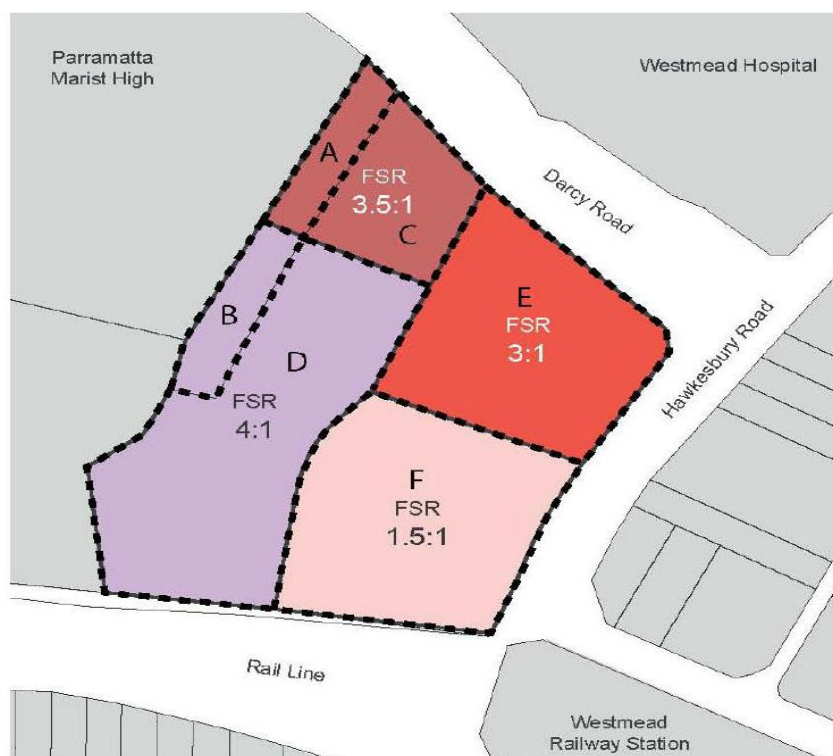


Figure 13 – FSR LEP Map
Source: PLEP

The FSR for each individual development lot is significantly higher than the PLEP controls (as shown in **Table 2**). However, the lot boundaries do not correspond to the FSR boundaries. Instead, when the proposed GFA is allocated within the FSR boundaries the proposal generally complies with the standard. Notwithstanding, there is some variation and this is shown in **Table 6** below. It is also noted that the areas of the parcels identified in the FSR LEP Map have been calculated by overlaying the map on the Cox Richardson Master Plan. Accordingly, the areas are not based on any technical survey information, and it is therefore considered that the resulting FSRs are approximate only.

Table 6 – FSR Variation

Parcel	Area (m ²)	Proposed GFA (m ²)	Compliance
A + C	5,935	24,520	LEP FSR 3.5:1 4.1:1 proposed Over (0.6:1) – non-compliant
B + D	14,396	57,280	LEP FSR 4:1 4:1 proposed Equal – complies
E	9,677	31,270	LEP FSR 3:1 3.2:1 proposed Just over (0.2:1) – non-compliant
F	10,405	8,600	LEP FSR 1.5:1

Parcel	Area (m ²)	Proposed GFA (m ²)	Compliance
			0.83:1 proposed Well under - complies
Total / Average	40,413m ²	121,670 m ² (permissible maximum GFA = 122,995m ²)	Average FSR site wide as proposed = 3:1 LEP FSR average 3:1

Floor Space Ratio

Table 8 below demonstrates that the proposed variation to the FSR control will still result in a development that achieves the objectives of the PLEP development standard.

Table 8 – FSR Assessment Against Relevant LEP Objectives

Objective	Proposal
(a) to regulate density of development and generation of vehicular and pedestrian traffic	The proposed development complies with the maximum permissible site-wide GFA and the site-wide average FSR. Accordingly, while the FSR of individual development lots exceeds the permissible maximum, the density of development is compliant and there is no additional generation of vehicular or pedestrian traffic.
(b) to provide a transition in built form and land use intensity within the area covered by this Plan	While the FSR of individual development lots exceeds the permissible maximum, the density of development is compliant and the proposed FSRs consider the provision of roads, public open space and heritage curtilage. The non-compliances with FSR are as a direct result of minor height non-compliances.
(c) to require the bulk and scale of future buildings to have regard to heritage sites and their settings	The FSR of Lot 1 is significantly less than that permissible (0.83:1 compared to 1.5:1) which is a result of the decision to locate development elsewhere on the site in respect of the heritage significance of the retained buildings. Accordingly, the FSR of Lots 2 – 5 exceeds the permissible maximum, in particular because of the reallocation of GFA, from Lot 1 to other lots within the site. This arrangement allows for a superior heritage outcome.
(d) to reinforce and respect the existing character and scale of low density residential areas	It is noted that the closest low density residential area is some distance to the south of the site across the rail corridor. Accordingly, the proposed development will have no impact on the character of this area.

Floor Space Ratio

When the various FSRs are applied to their respective site area the permissible maximum site-wide GFA equates to 122,995m². While the proposed development complies with the permissible maximum site-wide GFA and the site-wide average FSR, the FSR for the individual development lots exceeds the PLEP controls largely a result of the allocation of site area to roads and open space, and the curtilage

around the retained heritage buildings within Lot 1, which has decreased the size of the lots and therefore increased the FSR.

However, exceeding the area-specific FSRs will result in an improved urban outcome, particularly in relation to the amenity provided for future occupants and users of the site. It is also noted that the FSR of Lot 1 is significantly less than that permissible (0.65:1 compared to 1.5:1) which is a result of the decision to locate development elsewhere on the site in respect of the heritage significance of the retained buildings.

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 4.4 - FSR of PLEP 2011 is a development standard.

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

The purpose of Clause 4.4 of PLEP 2011 is to ensure that the bulk and scale of the development is suitable in regards to the area of the site and the type of development proposed. Clause 4.4 specifically states the maximum FSR permitted for development on the subject site and ultimately ensures that the development is of an appropriate bulk and scale.

3. Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EPA Act?

Compliance with the development standard would be inconsistent with PLEP 2011 which aims to provide planning controls that will encourage a sustainable development, being development which satisfies the principles of ecological (environmental, economic and social) sustainability.

Enforcing compliance with the development standard will restrict a development that would otherwise be appropriate on the site. The site is capable of being developed without unduly impacting on adjoining properties which has been demonstrated through the building envelopes.

The non-compliance is considered to be acceptable representing a variation between 8.3% and 196.1% difference to the maximum FSR for the site. The plans show that the variation in the FSR does not in this case hinder compliance with solar access, views to and from the site and bulk and scale requirements of the Parramatta Development Control Plan 2011 for mixed use developments.

The proposed development responds to the site despite the non-compliance and does so without compromising relationships with adjoining developments such as Parramatta Marist High. Strict compliance with the development standards would render the application inconsistent with the objectives specified in section 5 (a) (i) and (ii) of the EPA Act as the site will remain under-developed and would not promote the economic and social welfare of the community.

The objection to the development standard will ensure that the site is able to be developed and result in better management of the site, social enhancement for the community whilst supporting a growing and diverse population.

4. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

It is considered that it would be unreasonable to impose the maximum FSR given that the proposed development generally complies with the development requirements pertaining to residential, retail and commercial developments. It does so without adversely affecting adjoining properties in regards to solar access, acoustic impact and privacy whilst maintaining consistency with the development objectives of the zone.

Further, a departure from the standard in this case is considered to be acceptable for the following reasons:

- The overall site FSR is maintained on average.
- The site is subject to four different FSR controls. These FSR controls correspond with the subdivision pattern envisaged by PDGP 2011. However, as stated by Council's Urban Designer, the subdivision pattern in PDGP 2011 is a "...result of suboptimal concept plan". The proposed subdivision and consequently the proposed FSR allows for potential development that results in "...an improved built form outcome".
- The inclusion of internal roads, public reserves and pedestrian access reduce the lot areas.
- As the site is buffered by a rail corridor, arterial roads and a school from residential development, the site is essentially isolated. As such, increasing the FSR on individual lots is considered to be acceptable to stimulate activity to this portion of the locality, accommodate a growing population whilst providing commercial and retail services to the wider community.
- Additional information has been submitted which demonstrates that the departure to the FSR will have limited adverse solar, amenity and acoustic impacts on the users of the site.
- Lot 5 which seeks the largest departure from the FSR controls is located adjacent to the rail corridor where a bulk and scale of a 15 storey nature would have limited amenity impacts whilst encouraging public transport patronage.

- Despite the departure to the maximum FSR, the building envelopes which are within proximity of Lot 1 (which contains the heritage listed items) are of a modest density to reduce any unreasonable impacts to the heritage value of the items and its surrounding curtilage.
- The departures to the FSR was reviewed by Council's Urban Designer and Heritage Adviser both of whom raised no objections to the proposed building envelopes.
- Notwithstanding the departures to the FSR, it does not result in unreasonable traffic impacts on the wider locality. The proposed access within the site (internal road and pedestrian linkages) to support the building envelopes were supported by both Council's Traffic Engineers and RMS.
- The departure to the standard does not hinder the development from achieving the objectives of the B4 Mixed Use zone as it provides a variety of development ranging from residential, retail and commercial.
- Any future application for the individual lots will be subject to a separate development application and further assessed for compliance with the built form controls contained in PDGP 2011.

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.

Given that the proposed building envelopes responds well to the site and does so without compromising relationships with adjoining developments, do not unduly compromise other relevant controls, and that the proposed development encourages economic and sustainable development whilst improving and protecting the heritage values of the heritage items on the site,

the Clause 4.6 exception to the development standard to Clause 4.4 – FSR of PLEP 2011 is considered to be well founded.

HOUSEKEEPING DRAFT AMENDMENTS TO PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2011

Under the provisions of section 79C(1)(a)(ii) of the Environmental Planning & Assessment Act 1979, any draft environmental planning instrument that is, or has been placed on public exhibition is a relevant matter for consideration in the assessment of a development application. Any such assessment must consider the degree of weight placed upon such provisions and whether the implementation of the draft LEP is certain and imminent. It must also consider the effect of any savings provisions contained within the instrument.

The subject site is included in draft Housekeeping amendments to Parramatta Local Environmental Plan 2011. Draft Parramatta LEP 2011 was placed on public exhibition between 1 August 2013 and 31 August 2013 and is therefore a draft environmental planning instrument for the purposes of section 79C(1)(a)(ii) of the Act.

There are no zoning changes proposed in the draft housekeeping PLEP2011 and most of the proposed amendments relate to dual occupancy developments.

The main change relates to the removal of “Dual Occupancy “ from the list of land uses permitted with consent in all zones and requiring consultation with Schedule 1- Additional permitted uses, where clause 9 introduces dual occupancy developments and refers to a “Local provisions for dual occupancy developments map” and repeals the “Minimum lot sizes for dual occupancy development map”. These draft modifications aim to prohibit dual occupancies in some areas and only permit detached dual occupancies on sites with two street frontages or on heritage listed properties. This does not directly impact the proposed development and dual occupancy developments will continue to be permissible on this site.

As the application relates to the demolition, subdivision and approval of building envelopes, the amendments to PLEP 2011 are not applicable.

Zone Objectives

The objectives of the B4 Mixed Use zone include:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To encourage development that contributes to an active, vibrant and sustainable neighbourhood.*

The objectives of the SP2 Infrastructure zone include:

- *To provide for infrastructure and related uses.*

- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

It is noted that only 2A Darcy Road straddles 2 zones. However, the site and the works proposed under the subject application only extends to the area of 2A Darcy Road that is zoned B4 Mixed Use.

Accordingly, the proposed works is consistent with the aims and objectives of the B4 Mixed Use zoning applying to the land as the works provides opportunity for future development integrating business, office, residential and retail in accessibly locations to maximise public transport patronage.

DEVELOPMENT CONTROL PLANS

PARRAMATTA DEVELOPMENT CONTROL PLAN 2011

Development Control	Proposal	Compliance
Site Considerations		
2.4.1 Views and Vistas Development is to 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 2 Views and Vistas. Refer also to Views and Vistas in the Harris Park Heritage Conservation Area in Part 4.	The site is not identified as having views and vistas identified as being significant by Appendix 2 nor is the site located in the Harris Park Conservation Area.	Yes
2.4.2.1 Flooding Is the site flood affected by local or mainstream flooding? If yes refer to section 2.4.2 of DCP 2011 for detailed controls.	The site is not identified by Council as being flood prone.	N/A
2.4.2.2 Protection of Waterways Does the site adjoin a waterway?	See assessment under Clause 5.6 – Water Protection of PLEP 2011 for	Yes

	further discussion.	
<p>2.4.2.3 Protection of Groundwater</p> <p>Is a basement carpark proposed?</p> <p>If yes does the site require dewatering to facilitate this?</p>	<p>No buildings are proposed under the current application.</p> <p>Any basement related to development on the individual lots is to be assessed upon lodgment of a separate application.</p>	N/A
<p>2.4.3.1 Soil Management</p> <p>Are there adequate erosion control measures?</p>	<p>Conditions have been imposed to ensure that this development will minimise sedimentation of waterways and not unduly contribute to wind blown soil loss.</p>	Yes
2.4.3.2 Acid sulphate soils	Refer to LEP table above	Yes
<p>2.4.3.3 Salinity</p> <p>Is the site identified as being of moderate or high salinity potential or of known salinity by the 'Salinity Study Map for Western Sydney 2006'?</p> <p>If yes, have investigations been undertaken in accordance with the Western Sydney Salinity Code of Practice 2003?</p>	<p>Subject to conditions, the works will not impact or be impacted by salinity.</p> <p>The proposed landscaping is assessed as appropriate. Consultation with Council's Landscape and Tree Management Officer has found that the proposed plant species will not require an unreasonable amount of water for their maintenance.</p>	Yes
<p>2.4.4 Land Contamination</p> <p>Is the site identified as or likely to be contaminated?</p>	<p>See assessment under SEPP 55 for further discussion.</p>	Yes
<p>2.4.5 Air Quality</p> <p>Have appropriate controls been placed on the development to ensure that during demolition and construction that the</p>	<p>Standard conditions have been imposed to ensure that the potential for increased air pollution has been minimised as a result of the earthworks proposed.</p>	Yes

development does not contribute to increased air pollution?		
<p>2.4.6 Development on Sloping Land</p> <p>Does the design of the development appropriately respond to the slope of the site?</p>	<p>The proposal seeks approval for bulk earth works. The approximate volume of excavated material is 950m³.</p> <p>However, no building works are proposed. As such, a separate assessment will be undertaken on any future development on the proposed lots with regards to this control.</p>	Yes
<p>2.4.6 Biodiversity</p> <p>Is vegetation removal appropriate?</p> <p>Does the landscape plan incorporate indigenous planting listed in Appendix 3?</p> <p>If the site contains or adjoins bushland is a Statement of Flora/Fauna Impact Required?</p>	<p>The application seeks to remove 40 trees, the retention of 8 trees and tree replenishment.</p> <p>The plans submitted with the application does not include provision for species nominated in Appendix 3 of the PDCP 2011, however Council's Tree Management and Landscape Officer has not raised objection to the tree removal and landscaping scheme.</p>	Yes
<p>2.4.7.2 Development on land abutting the E2 Environmental Protection zone and W1 Natural Waterways zone</p> <p>Does the site adjoin land zoned E2 or W1?</p>	<p>The site does not adjoin land zoned E2 or W1.</p>	N/A
<p>2.4.7 Public Domain</p> <p>Does the building appropriately address the public domain?</p>	<p>No building works are proposed under the subject application. Any development proposed under the separate lots will be assessed</p>	N/A

Does the development provide appropriate passive surveillance opportunities?	further with consideration of this control. See above comment.	N/A
Have appropriate public domain enhancements including street tree planning, footpath construction or reconstruction been included as conditions of consent?	The application proposes public domain works. This proposal and the submitted alignment plan were reviewed by Council's Urban Designers and upon review raised no objections to the proposal subject to conditions of consent.	Yes
3. Preliminary Building Envelope		
Frontage Residential – 24 metres Mixed Use Development – 18 metres	Lot 1 – Educational establishment (115.83 metres x 65.31 metres) Lot 2 – Mix Use (67.31 x 50.87 metres) Lot 3 – Commercial (62.53m and 30.28m) Lot 4 – Residential (57.98m and 86.69m) Lot 5 – Residential (104.42m)	Yes
Height Does the proposal exceed the Maximum height as shown on the Parramatta LEP 2011 Height of Buildings Map?	See LEP assessment for Height.	No, but acceptable
Building Setbacks – As per Appendix 4 (Special Area Controls – Westmead)	See built form controls under Section 4 of PDCP 2011.	Acceptable
Landscaping and Deep Soil	Indicative landscaping and deep soil areas were submitted with the application. The location of these areas within the proposed lots is generally acceptable. However, the	Acceptable

	<p>minimum amount of landscaping and deep soil is reflective of the extent of development on each lot. As such, the extent of landscaping and deep soil on each lot is to be ascertained and further assessed under separate applications for each lot.</p>	
3.2. Building Elements		
<p>3.2.1 Building Form and Massing</p> <p>Are the height, bulk and scale of the proposed building consistent with the building patterns in the street?</p>	<p>The bulk of the building is consistent with the desired future character of the area.</p> <p>It is considered that the proposed development subject to conditions of consent will not adversely impede on the existing streetscape as plans indicate satisfactory setbacks and is of an acceptable height and FSR.</p> <p>See LEP and SEPP 65 assessment with regards to FSR and height for further discussion on bulk and scale.</p>	Yes
<p>3.2.2 Building Façade and Articulation</p>	<p>No building works are proposed under the development application.</p> <p>Any development on the proposed lots will be subject to further assessment in accordance with this control.</p>	N/A

<p>3.2.5 Streetscape</p> <p>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.</p>	<p>Whilst no building works are proposed, 3D modelling was submitted for conceptualisation of potential development on the proposed lots as a result of the building envelopes. Generally, the building envelopes and the associated public domain works allow for a streetscape amenity that incorporates landscaping and public spaces. However, as the subject application does not seek any building works, any development on the individual lots will be subject to further assessment against this control.</p>	<p>Yes</p>
<p>3.3 Environmental Amenity</p>		
<p>3.3.1 Landscaping</p> <p>Are Natural features on the site such as trees, rock outcrops, indigenous species and vegetation communities retained and incorporated into the design of the development?</p> <p>If the basement carpark extends beyond the building envelope is a minimum soil depth of 1m provided from the top of the slab?</p>	<p>The proposed landscaping works has the endorsement of Council's Landscape and Tree Management Officer subject to conditions of consent.</p> <p>Refer to Referrals section of this report.</p> <p>A basement is not proposed in this application.</p>	<p>Yes</p> <p>N/A</p>
<p>3.3.3 Visual Privacy</p>	<p>The proposed building envelopes indicate that there would a minimum of 18 metre building separation within and between developments on each lot to protect visual privacy.</p> <p>However, this is to be ascertained and further assessed upon development of each lot.</p>	<p>Acceptable</p>
<p>3.3.4 Acoustic Amenity</p> <p>Is the dwelling is located within</p>	<p>The site is located within proximity to the rail corridor to the south and</p>	<p>Acceptable</p>

proximity to noise-generating land uses such as major roads and rail corridors?	<p>arterial roads, Darcy Road and Hawkesbury Road.</p> <p>Any development on Lot 5 will require the provision of an acoustic assessment as it is adjacent to the railway corridor. Similarly, development on Lot 2 and 3 will also require the submission of an acoustic assessment as it addresses arterial roads. The amenity impacts to development on these lots will be subject to further assessment under a separation application.</p>	
<p>3.3.5 Solar Access</p> <p>Do all dwellings 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?</p>	<p>The applicant has submitted solar access diagrams indicating the potential extent of solar access impacts as a result of the proposed building envelopes.</p> <p>During the winter solstice, the developments on each lot will receive generally acceptable solar access (minimum 3 hours). However, it appears that the central communal open / landscaped areas of developments located on Lot 4 and 5 will receive less than 3 hours. However, as no building works are proposed, the solar access impacts to these areas are to be ascertained upon the lodgment of separate applications for each development.</p>	Acceptable
<p>3.3.6 Water Sensitive Urban Design</p> <p>Is the on-site detention system appropriately designed to minimise and control nuisance flooding and to provide safe passage for less frequent floods?</p>	<p>Council's Development Engineer has advised that the stormwater plan is satisfactory and appropriate conditions have been imposed to ensure it is designed appropriately at the construction certificate stage to achieve relevant objectives and design principles outlined in the DCP.</p>	Yes

3.3.7 Waste Management		
Is the waste management plan satisfactory?	The Waste Management Plan is satisfactory, detailing the types and amounts of waste that will be generated by the works proposed and the methods of removal and disposal.	Yes
3.4 Social Amenity		
Is an arts plan required?	<p>Whilst the site is in excess of 5000m2 with a Capital Investment Value of more than \$5,000,000.00, an Arts Plan was not submitted with the application as no building works are proposed under the subject application.</p> <p>An Arts Plan will be required upon development of the individual lots.</p>	Yes
3.4.2 Access for People with disabilities.		
Does the development contain adequate access for people with a disability?	<p>No building works are proposed. Any issues with access to future development will be assessed under a separate application.</p> <p>A public domain plan and an alignment plan was submitted with the application and consequently reviewed by Council's Urban Designer and Civil Assets. Upon review of this information, neither specialist raised any concerns with regards to the adequate access to the site for people with disability.</p>	Acceptable
3.4.4 Safety and Security		
Has the development been designed in accordance with crime prevention principles?	No building works are proposed. Any issues with safety and security of a development proposed on the individual lots will be assessed under a separate application.	Yes

3.5 Heritage		
Development must comply with the objectives, principles and controls in Part 4 and any relevant objectives, principles and controls in Parts 2 and 3 of this DCP. Where there is any inconsistency Part 4 will prevail.	<p>The site contains 2 heritage listed items.</p> <p>See Referral section with regards to discussion from Council's Heritage Adviser for further information.</p>	Yes
<p>3.5.2 Archaeology</p> <p>Is excavation proposed?</p> <p>If yes is the area within the study area of the Parramatta Historic Archaeological Landscape Management Study (PHALMS)?</p>	<p>The site is located within an area identified in PHALMS (Archaeological Management Unit ID 2893). As the works proposed require excavation and bulk earthworks, the applicant has obtained a Section 140 Excavation Permit from The Office of Environment and Heritage.</p>	Yes
3.5.3 Aboriginal Cultural Heritage		
For properties with Low Sensitivity and is located within 100 metres of a creek or river foreshore and contains uncleared bushland, advice from local Aboriginal Communities are to be obtained.	The site is not located within 100 metres of a creek.	N/A
3.6 Movement and Circulation		
<p>3.6.2 Sustainable Transport</p> <p>If the development contains more than 50 apartments and is located within 800m of a railway station/ 400m of a bus stop with a service frequency of an average of 15minutes or less between 7am and 9am is a car share parking space provided?</p>	<p>The site is within 400 metres of a railway station.</p> <p>However, no building works are proposed. The requirement under this control will be assessed upon submission of a separate application for development on each lot.</p>	N/A
3.6 Parking Provision		
	The application states that as a	Acceptable

	<p>result of the building envelopes proposed under the subject application, 1480 car parking spaces are to be accommodated on the site.</p> <p>Parking will be provided at basement level with the exception of Lot 1 which will be provided with at-grade parking to allow for the continued use of the St Vincent's building.</p> <p>The SoEE also notes that there will be some on-street parking spaces within the internal road network and will potentially be time-restricted.</p> <p>Council's Traffic Engineer has reviewed the proposal with regards to traffic generation and the number of parking spaces on site. Upon review, Council's Traffic Engineer has not raised any objections to the potential provision of 1480 spaces on the site.</p> <p>It is noted that further assessment of the parking requirements for development on each lot will be undertaken and subject to a separate approval. Further, that any proposed development on the individual lots will be required to submit a Traffic Report to reflect and ascertain the requirements of that particular development and density.</p>	
<p>3.6.3 Accessibility and Connectivity</p> <p>If the development is a large site with a street pattern that limits pedestrian movements is it appropriate for pedestrian through link with a minimum width of 3m to be provided?</p>	<p>Through site links are provided within the proposed subdivision.</p> <p>A pedestrian link has been provided in accordance with Figure 4.3.4.1.2 of PDGP 2011. Pedestrian links are proposed through Lot 2 and towards the centre of the site from east to west.</p>	Yes

<p>Southern and western frontage of Lot 5 = 3 metre landscape setback</p> <p>Western boundary of Lot 3 and 4 = 6 metre landscaped setback.</p> <p><u>Open Space</u></p>	<p>Southern and western frontage of Lot 5 = complies with 3 metre landscape setback</p> <p>Western boundary of Lot 3 and 4 = complies with 6 metre landscaped setback.</p> <p>An alignment plan and public domain plan has been submitted and is considered to be acceptable by Council's Civil Assets and Urban Designer subject to conditions of consent.</p> <p>A Public Plaza is proposed. However instead of an enclosed plaza, it is open to the north to ensure solar access to the plaza and development to the south of Lot 2. It is noted that an open plaza like the one proposed is preferable to allow solar access to the internal court yard areas of the plaza. This design was reviewed by Council's Urban Designer whom raised no objections with the concept of an open plaza.</p>	<p>No, but acceptable</p>
<p><u>Heritage</u></p>	<p>See Referral section for comments from Council's Heritage Adviser.</p>	<p>Yes</p>
<p><u>Traffic and Transport</u></p>	<p>See Section 3.6 – Parking Provision of PDCP 2011 and Referrals Section for further discussion.</p>	<p>Yes</p>

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 generally indicates acceptable footpath levels and gradients for the proposed development. Council's Civil Assets section has reviewed the plans. The comments provided by Council's Civil Assets section are discussed elsewhere in this report.

A detailed Public Domain Plan incorporating the above requirements is to be submitted to Council prior to works commencing.

PARRAMATTA S94A DEVELOPMENT CONTRIBUTIONS PLAN 2008

As the cost of works for the development exceeds \$100,000 a Section 94A development contribution **1.0%** is required to be paid. A Quantity Surveyor who is a member of the Australian Institute of Quantity Surveyors prepared a Quantity Surveyors Report. Accordingly, the Section 94A contributions will be calculated on the value of **\$6,913,294.00**.

It is noted that notwithstanding that the application is made on behalf of the Crown (UWS), the proposed works do not exempt the application from being subject to the payment of Section 94A contributions.

Previous UWS applications sought approval for works to support the ongoing use of the site as an educational establishment (UWS).

However, the current application whilst it retains a portion of the site for educational purposes (proposed lot 1), has 4 lots to be subdivided and presumably sold for private ownership.

A standard condition of consent has been imposed requiring the contribution to be paid prior to the issue of the subdivision certificate.

PARRAMATTA CITY COUNCIL 2014/2015 SECURITY BONDS FOR THE PROTECTION OF CIVIL INFRASTRUCTURE

As the works proposed under the subject application do not comprise of building works and therefore does not have a building classification, Council cannot impose

security bonds for the works proposed. It is also noted that the application is lodged by a Crown authority and are exempt from payment of security bonds.

However, future development on any of the individual lots approved under this application will be subject to payment of security bonds and will be enforced via a condition of consent.

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

SUITABILITY OF THE SITE

The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed works.

SUBMISSIONS & PUBLIC INTEREST

One submission was 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 not contrary to the public interest.

Conclusion

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 suitable for the site and is in the public interest. Therefore, it is recommended that the application be approved by deferred commencement subject to the imposition of appropriate conditions.

Recommendation

A.) Pursuant to Section 89 of the Environmental Planning and Assessment Act, 1979:

The Sydney West Joint Regional Planning Panel as the determining authority is of the opinion that the following variations under Clause 4.6 of *Parramatta Local Environmental Plan 2011* are supportable:

- (i) Maximum height under Clause 4.3 of Parramatta Local Environmental Plan 2011
- (ii) Floor space ratio under Clause 4.4 of Parramatta Local Environmental Plan 2011

That the Sydney West Joint Regional Planning Panel is also of the opinion that strict compliance with the development standards is unreasonable and unnecessary in the circumstances of this case as the proposal satisfies the objectives of the development standard and will not compromise the amenity of the locality.

B.) That the Sydney West Joint Regional Planning Panel, as the determining authority, being satisfied that the variations under Clause 4.6 of *Parramatta Local Environmental Plan 2011* is supportable and that granting consent to Development Application DA/571/2014 is consistent with the aims of the LEP, grant a Deferred Commencement Consent under S80(3) of the EPA Act 1979 subject to:

- a.) the approval of DA/699/2014
- b.) submission to Council of suitable documentary evidence that the subdivision proposed under DA/699/2014 has been registered with the NSW Land and Property Information Service.
- c.) Submission to Council of suitable documentary evidence issued by the Department of Lands confirming the creation of an easement to drain water over a downstream property or properties (as indicated in the approved stormwater plans) has been registered with the NSW Land and Property Information Service.

The above requirement(s) must be satisfied within **24 months** or the consent will lapse.

Upon compliance with the above requirements, a full Consent will be issued subject to the following conditions:

General Matters

1. The development is to be carried out in accordance with the following plans endorsed with Council's Stamp as well as the documentation listed below, except where amended by other conditions of this consent:

Drawing N^o	Dated
Master Plan Height (overlay). Drawing No. A-1101. Revision 2.	15 August 2014
Master Plan FSR (overlay). Drawing No. A-1101. Revision 2.	15 August 2014
UWS Westmead – Stormwater Layout Plan.	18 September

Drawing N ^o	Dated
Drawing No. MMD-333625-C-DR-SC01-DA-0041. Revision E.	2014
Subdivision Plan. Drawing No. PR123658-007. Issue B.	11 December 2014

Document(s)	Dated
Arborist Report. Prepared by Andrew Morton.	April 2014
Civil DA Report. Prepared by Mott MacDonald	April 2014
S140 Excavation Permit from NSW Heritage Council.	Undated
Landscape Design Report. Reference Number: _REV_02_15	August 2014
Non-Indigenous Archeological Assessment.	February 2008 – Updated April 2014
Site Audit Report and Remedial Action Plan. Ref No. 0503-1107.	November 2012
UWS Transport Management and Accessibility Plan.	14 February 2013
Private Domain Guidelines.	December 2014 – to be amended as per the relevant conditions.

Note: In the event of any inconsistency between the architectural plan(s) and the landscape plan(s) and/or stormwater disposal plan(s) (if applicable), the architectural plan(s) shall prevail to the extent of the inconsistency.

Reason: To ensure the work is carried out in accordance with the approved plans.

2. Approval is granted for the demolition of **Buildings K, L, M, N and P (referred to in Condition 1)** currently on the UWS site, subject to compliance with the following:
 - a) Demolition is to be carried out in accordance with the applicable provisions of Australian Standard AS2601-2001 - *Demolition of Structures*. **Note:** Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.
 - b) The developer is to notify owners and occupiers of premises on either side, opposite and at the rear of the development site 5 working days prior to demolition commencing. Such notification is to be a clearly written on A4 size paper giving the date demolition will commence and is to be placed in the letterbox of every premises (including every residential flat or unit, if any). The demolition must not commence prior to the date stated in the notification.
 - c) 5 working days (i.e., Monday to Friday with the exclusion of Public Holidays) notice in writing is to be given to Parramatta City Council for

inspection of the site prior to the commencement of works. Such written notice is to include the date when demolition will commence and details of the name, address, business hours, contact telephone number and licence number of the demolisher. Works are not to commence prior to the commencement date nominated in the written notice.

- d) Demolition work is to comply with Work Cover's document "Your Guide to Working with Asbestos".
- e) On demolition sites where buildings to be demolished contain asbestos cement, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. Advice on the availability of these signs can be obtained by telephoning Council's Customer Service Centre during business hours on 9806 5050. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site to an approved waste facility. This condition is imposed for the purpose of worker and public safety and to ensure compliance with Clause 259(2)(c) of the Occupational Health and Safety Regulation 2001.
- f) Demolition must not commence until all trees required to be retained are protected in accordance with the conditions detailed under "Prior to Works Commencing" in this Consent.
- g) All previously connected services are to be appropriately disconnected as part of the demolition works. The applicant is obliged to consult with the various service authorities regarding their requirements for the disconnection of services.
- h) Demolition works involving the removal and disposal of asbestos cement in excess of 10 square meters, must only be undertaken by contractors who hold a current WorkCover "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence".
- i) Demolition is to be completed within 28 days of commencement.
- j) Demolition works are restricted to Monday to Friday between the hours of 7.00am to 5.00pm. No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays.
- k) 1.8m high Protective fencing is to be installed to prevent public access to the site.
- l) A pedestrian and Traffic Management Plan must be prepared prior to commencement of demolition and/or excavation. It must include details of the:
 - (i) Proposed ingress and egress of vehicles to and from the construction site;
 - (ii) Proposed protection of pedestrians adjacent to the site;
 - (iii) Proposed pedestrian management whilst vehicles are entering and leaving the site.
- m) All asbestos laden waste, including asbestos cement flat and corrugated sheets must be disposed of at a tipping facility licensed by the Environment Protection Authority (EPA).

- n) Before demolition works begin, adequate toilet facilities are to be provided.
 - o) After completion, the applicant must notify Parramatta City Council within 7 days to assess the site and ensure compliance with AS2601-2001 – *Demolition of Structures*.
 - p) Within 14 days of completion of demolition, the applicant must submit to Council:
 - (i) An asbestos clearance certificate issued by a suitably qualified person if asbestos was removed from the site; and
 - q) A signed statement verifying that demolition work and the recycling of materials was undertaken in accordance with the Waste Management Plan approved with this consent.
3. No portion of structures including any fencing and/or gates shall encroach onto or over adjoining properties.
Reason: To ensure that the building is erected in accordance with the approval granted and within the boundaries of the site.
 4. All footings and walls adjacent to a boundary must be set out by a registered surveyor. Prior to commencement of any works a surveyor's certificate must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
Reason: To ensure that the building is erected in accordance with the approval granted and within the boundaries of the site.
 5. All works must be carried out in accordance with the current provisions of the Building Code of Australia.
Reason: To comply with the Environmental Planning & Assessment Act 1979, as amended and the Environmental Planning & Assessment Regulation 2000.
 6. If no retaining walls are marked on the approved plans no approval is granted as part of this approval for the construction of any retaining wall that is greater than 600 mm in height or within 900 mm of any property boundary.
Reason: To minimise impact on adjoining properties.
 7. Trees to be retained are (refer to Arboricultural Assessment Report by Earthscape Horticultural Services 'Version 2' dated 11 April 2014):
 Tree No's – 10 -16 and 63
Reason: To protect significant trees which contribute to the landscape character of the area.
 8. All fill imported onto the site shall be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported on to the site shall also be compatible with the existing soil characteristic for site drainage purposes.

Council will require details of appropriate validation of imported fill material to be submitted with any application for future development of the site. Hence all

fill imported onto the site should be validated by either one or both of the following methods during remediation works:

- Imported fill should be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- Sampling and analysis of the fill material shall be conducted in accordance with NSW EPA (1995) Sampling Design Guidelines

Reason: To ensure imported fill is of an acceptable standard.

9. A sign displaying the contact details of the remediation shall be displayed on the site adjacent to the site access. This sign shall be displayed throughout the duration of the remediation works.

Reason: To provide contact details for council inspectors and for the public to report any incidents.

10. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council and the principal certifying authority immediately.

Reason: To ensure that the land is suitable for its proposed use and poses no risk to the environment and human health.

11. All remediation works shall be carried out in accordance with clauses 17 and 18 of State Environmental Planning Policy 55 - Remediation of Land.

Reason: To comply with the statutory requirements of State Environmental Planning Policy 55. .

12. Any contamination material to be removed from the site shall be disposed of to an EPA licensed landfill.

Reason: To comply with the statutory requirements of the Protection of the Environment Operations Act 1997.

Prior to commencement of work

13. Prior to the commencement of works the applicant shall nominate an appropriately qualified civil engineer (at least NPER) to supervise all public area civil and drainage works to ensure that they are constructed in compliance with Council's "Guidelines for Public Domain Works".

The engineer shall:

- a. provide an acceptance in writing to supervise sufficient of the works to ensure compliance with:
- i. all relevant statutory requirements,
 - ii. all relevant conditions of development consent
 - iii. construction requirements detailed in the above Specification, and
 - iv. the requirements of all legislation relating to environmental protection,

- b. On completion of the works certify that the works have been constructed in compliance with the approved plans, specifications and conditions of approval and,
 - c. Certify that the Works as Executed plans are true and correct record of what has been built.
14. The arrangements and costs associated with any adjustment to a public utility service shall be borne by the applicant/developer. Any adjustment, deletion and/or creation of public utility easements associated with the approved works are the responsibility of the applicant/developer.
Reason: To minimise costs to Council
15. Prior to the commencement of any works on the site the applicant must prepare a Construction and Traffic Management Plan. The following matters must be specifically addressed in the Plan:
- (a) Construction Management Plan for the Site
 A plan view of the entire site and frontage roadways indicating:
 - i. Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways,
 - ii. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site,
 - iii. The locations of proposed Work Zones in the egress frontage roadways,
 - iv. Location of any proposed crane standing areas,
 - v. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries,
 - vi. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected,
 - vii. The provisions of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
 - viii. *A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage and a copy of this route is to be made available to all contractors.*
 - ix. *A detailed description of locations that will be used for layover for trucks waiting to access the construction site.*
 - (b) Written concurrence from Council's Traffic and Transport Services in relation to installation of a proposed 'Works Zone' restriction in the egress frontage roadways of the development site.

Application fees and kerbside charges for 6 months (minimum) are to be paid in advance in accordance with the Council's Fees and Charges. The 'Works Zone' restriction is to be installed by Council once the applicant notifies Council in writing of the commencement date (subject to approval through Parramatta Traffic Committee

processes). Unused fees for kerbside charges are to be refunded once a written request to remove the restriction is received by Council.

(c) Traffic Control Plan(s) for the site:

- i. All traffic control devices installed in the road reserve shall be in accordance with the NSW Transport Roads and Maritime Services publication '*Traffic Control Worksite Manual*' and be designed by a person licensed to do so (minimum RMS 'red card' qualification) The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each,
- ii. Approval shall be obtained from Parramatta City Council for any temporary road closures or crane use from public property.

(d) Where applicable, the plan must address the following:

- i. Evidence of RMS concurrence where construction access is provided directly or within 20 m of an Arterial Road,
- ii. A schedule of site inductions shall be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations.
- iii. Minimising construction related traffic movements during school peak periods,

The Construction and Traffic Management Plan shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. This Plan is to be submitted to Council for approval.

Reason: To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains the environmental amenity and ensures the ongoing safety and protection of people.

16. Should any proposed work be undertaken where it is likely to disturb or impact upon a utility installation (e.g. power pole, telecommunications infrastructure, etc) written confirmation from the affected utility provider that they have agreed to the proposed works are to be obtained prior to any works commencing. The arrangements and costs associated with any adjustment to a utility installation shall be borne in full by the applicant/developer.

Reason: To ensure no unauthorised work to public utility installations and to minimise costs to Council.

17. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, storm water drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site www.sydneywater.com.au see Your Business then Building and Developing

then Building and Renovating or telephone 13 20 92. Stamped plans by Sydney Water are to be obtained prior to works commencing on site.

The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, storm water drains and/or easement, and if any requirements need to be met. Plans will be appropriately stamped.

Reason: To ensure the requirements of Sydney Water have been complied with

Advisory note: Please refer to the web site www.sydneywater.com.au for:

- Quick Check agents details - see Building and Developing then Quick Check and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building and Developing then Building and Renovating or telephone 13 20 92.

18. A heavy duty vehicular crossing shall be constructed for Lot 1 in accordance with Council's Standard Drawing numbers [DS9 & DS10].

A Vehicle Crossing application must be submitted to Council together with the appropriate fee as outlined in Council's adopted Fees and Charges prior to any work commencing.

Reason: To ensure appropriate vehicular access is provided.

19. Oversize vehicles using local roads require Council's approval. The applicant is to be required to submit an application for an Oversize Vehicle Access Permit through Council's Traffic and Transport Services, prior to driving through local roads within Parramatta LGA.

Reason: To ensure proper management of Council assets.

20. The demolition sites must be enclosed with a 1.8 m high security fence to prohibit unauthorised access. The fence is to be located wholly within the development site prior to commencement of any works on site.

Reason: To ensure public safety.

21. Council property adjoining the construction site must be fully supported at all times during all excavation and construction works. Details of shoring, propping and anchoring of works adjoining Council property, prepared by a qualified structural engineer or geotechnical engineer, must be prepared before the commencement of the works. A copy of these details must be forwarded to Council. Backfilling of excavations adjoining Council property or any void remaining at completion of construction between the building and Council property must be fully compacted prior to the completion of works.

Reason: To protect Council's infrastructure.

22. The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to

public utility services (e.g. telephone, electricity, sewer, water or gas) are required within the road reserve. No drainage work shall be carried out on the footpath without this permit being paid and a copy kept on site.

Reason: To protect Council's assets throughout the development process.

23. Prior to commencement of any works, including demolition and excavation, the applicant is to prepare documentary evidence including photographic evidence of any existing damage to Council's property. Council's property includes footpaths, kerbs, gutters and drainage pits.

Reason: To ensure that the applicant bears the cost of all restoration works to Council's property damaged during the course of this development.

24. Prior to commencement of works and during construction works, the development site and any road verge immediately in front of the site are to be maintained in a safe and tidy manner. In this regards the following is to be undertaken:

- I. all existing buildings are to be secured and maintained to prevent unauthorised access and vandalism
- II. all site boundaries are to be secured and maintained to prevent unauthorised access to the site
- III. all general refuse and/or litter (inclusive of any uncollected mail/advertising material) is to be removed from the site on a fortnightly basis
- IV. the site is to be maintained clear of weeds
- V. all grassed areas are to be mown on a monthly basis

Reason: To ensure public safety and maintenance of the amenity of the surrounding environment.

25. If development involves excavation that extends below the level of the base, of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the persons own expense:

- Protect and support the adjoining premises from possible damage from the excavation
- Where necessary, underpin the adjoining premises to prevent any such damage.

Note: If the person with the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to the condition not applying, this condition does not apply.

Reason: As prescribed under the Environmental Planning and Assessment Regulation 2000.

26. Prior to any excavation on or near the subject site the person/s having benefit of this consent are required to contact the NSW Dial Before You Dig Service (NDBYD) on 1100 to received written confirmation from NDBYD that the proposed excavation will not conflict with any underground utility services. The person/s having benefit of this consent are required to forward the written

confirmation from NDBYD to their Principal Certifying Authority (PCA) prior to any excavation occurring.

Reason: To prevent any damage to underground utility services.

27. During the works, the applicant shall fulfil any requirements for archaeological survey as per the conditions of consent to the Application under the S.140 of the Heritage Act, issued by the NSW Heritage Branch of Department of Planning. The applicant shall implement any archaeological watching brief as required by the conditions of consent to the Application under the S.140 of the Heritage Act, issued by the NSW Heritage Branch of Department of Planning.

If any European archaeological relics are discovered (or are believed to be discovered) during works, the works shall cease and the NSW Heritage Branch of Department of Planning shall be notified, in accordance with the NSW Heritage Act.

If any Aboriginal archaeological relics are discovered (or are believed to be discovered) during works, the works shall cease and the NSW Department of Environment and Climate Change (National Parks and Wildlife Service) shall be notified, in accordance with the NSW National Parks and Wildlife Service Act.

28. Erosion and sediment control measures are to be installed in accordance with the publication 'Urban Stormwater: Soils and Construction "The Blue Book" 2004 (4th edition) prior to the commencement of any demolition, excavation or construction works upon the site. These measures are to be maintained throughout the entire works.

Reason: To ensure soil and water management controls are in place before site works commence.

29. An Archival Photographic Recording of the building L is to be prepared and submitted to Council prior to its demolition. This report is to be prepared by a professional photographer. The recording is to be submitted in CD and hardcopy format.

Reason: To facilitate the recording of Parramatta's Heritage.

30. Prior to the commencement of any demolition, excavation or construction works, tree protection measures shall be installed in accordance with the Australian Qualifications Framework (AQF) Level 5 arborist recommendations as outlined in Section 8 of the submitted Arboricultural Assessment Report by Earthscape Horticultural Services 'Version 2' dated 11 April 2014.

Reason: To ensure the protection of the existing trees on the site.

31. The trees identified for protection on Tree Retention & Removal Plan by Mott MacDonald (Drawing No TRA-LS-DR-DA-0001/Rev 'D') dated 15 August 2014 and referenced in Arboricultural Assessment Report by Earthscape Horticultural Services 'Version 2' dated 11 April 2014 shall be protected prior to and during the demolition/construction process in accordance with the documents referenced above.

Reason: To ensure the protection of the tree(s) to be retained on the site.

32. Consent from Council must be obtained prior to any pruning works being undertaken on any tree on site, or any trees located in adjoining properties. All approved pruning works must be supervised by an Australian Qualifications Framework (AQF) Level 3 certified Arborist. This includes the pruning of any roots that are 30mm in diameter or larger.
Reason: To ensure the protection of the tree(s) to be retained.
33. No materials (including waste and soil), equipment, structures or goods of any type are to be stored, kept or placed within 5m of the trunk of a tree or within the drip line of any tree.
Reason: To ensure the protection of the tree(s) to be retained on the site.
34. No service, structure, conduit or the like is permitted to be fixed or attached to any tree.
Reason: To ensure the protection of the tree(s).
35. All trees planted as required by the approved landscape plan are to be a minimum 45 litre container size. All shrubs planted as part of the approved landscape plan are to have a minimum 200mm container size.
Reason: To ensure appropriate landscaping.
36. All trees supplied above a 25L container size must be grown and planted in accordance with:
- *Clarke, R 1996 Purchasing Landscape Trees: A guide to assessing tree quality.*
 - *Natspec Guide No.2.*
- Certification is to be forwarded to the Principal Certifying Authority upon completion of the planting, certifying the trees have been grown to Natspec guidelines. A copy of this certificate is to be forwarded to Council with the Occupation Certificate.
Reason: To minimise plant failure rate and ensure quality of stock utilised.
37. Trees to be removed are (refer to Arboricultural Assessment Report by Earthscape Horticultural Services 'Version 2' dated 11 April 2014): Tree No's – 4-9, 18-22, 56-62, 64, 73-76, 82-85, 89-96, 98, 102 & 103
Reason: To facilitate development.
38. All trees planted within the site must be of an adequate root volume and maturity so as not to require staking or mechanical support. Planting must be carried out in accordance with the planting and growth requirements of Council's Standard Drawing DS39.
Reason: To ensure the trees planted within the site are able to reach their required potential.
39. All approved tree removal must be supervised by an Australian Qualification Framework (AQF) Level 3 Arborist in accordance with the provisions of the Draft Tree Work Code of Practice 2007.

Reason: To ensure works are carried out in accordance with the Draft Tree Work Code of Practice 2007.

40. An updated Waste Management Plan is to be submitted immediately to Council detailing the:
- (a) expected volumes and types of waste to be generated during the demolition and construction stages of the development;
 - (b) destination of each type of waste, including the name, address and contact number for each receiving facility.

The Waste Management Plan is to be submitted to Council prior to commencement of any works on site.

Reason: To ensure waste is managed and disposed of properly.

41. The applicant is to provide copies of all validation and monitoring reports to Council's Environment and Health unit for the site remediation prior to works commencing.

Reason: To ensure compliance with clause 17 and 18 of State Environmental Planning Policy 55 - Remediation of Land.

42. A detailed public domain plan to be submitted to Council's Urban Design team for review and approval. The detailed public domain plan must address:
- a. The inclusion of levels, lighting and signage poles, street trees and pits, paving, furniture, raised crossings and other as detailed in the PCC Public Domain Guidelines;
 - b. Previous Urban Design advice that Magnolia grandiflora 'Little Gem' is not supported as a street tree due to its small, compact habit which provides inadequate shade. Street trees must be large with spreading canopy. (Large = 16-20m high / Canopy = 16m spread).
 - c. Previous Urban Design comments that street trees must be included along Road 2 frontage, at minimum 12m spacing (incorporated within parking bays where necessary).

43. The location of Easement B (a 4.5 metre Pedestrian Accessway and referred to in Condition 1) is to be in accordance with the subdivision plan (ie, on Lot 1). The illustrative concept Plan and Landscape Plan are to be amended indicating the relocation of Easement B to Lot 1 to reflect the subdivision plan.

44. The Private Domain Guideline is to be amended in accordance with the annotations from Council as per the Private Domain Guidelines referenced in Condition 1.

Note: The Deep Soil and Landscaping upon development of each site is to be assessed under a separate application.

45. The proposed development for University of Western Sydney Westmead site shall comply with the approved Westmead Precinct Development Traffic Management and Accessibility Plan (TMAP).

46. The provision of the fourth leg to the traffic control lights and civil works on Darcy Road shall be designed to meet Roads and Maritime requirements and

endorsed and drawn by a suitably qualified practitioner. The design requirements shall be in accordance with Austroads Road Design Guide, Roads and Maritime Traffic Signal Design Manual and other Australian Codes of Practice. Roads and Maritime Services fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works. The developer may be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the WAD will need to be executed prior to Roads and Maritime assessment of the detailed civil design plans.

Reason: To comply with Austroads Road Design Guide, Roads and Maritime Traffic Signal Design Manual and other Australian Codes of Practice.

47. The proposed phasing arrangement for the intersection of Darcy Road and the proposed site access is to be submitted to Roads and Maritime Services for review and approval along with the Traffic Control Signal (TCS) plan. Details are to be illustrated on plans submitted with the construction certificate.

Reason: To comply with the Austroads Road Design Guide, Roads and Maritime Traffic Signal Design Manual and other Australian Codes of Practice.

48. The proposed service vehicle access on Darcy Road shall be restricted to left-in only. Details are to be illustrated on plans submitted with the construction certificate.

Reason: To comply with Council and RMS requirements.

49. The boundary alignment along Hawkesbury Road for 20m on the approach to Road 1 off Hawkesbury Road is to be set back 3m (with an additional 3m splay of the approach). This is to allow Council to install a vehicle queuing area on the approach to a possible future pedestrian crossing across Road 1 at Hawkesbury Road.

Reason: To allow for future pedestrian safety improvements to be provided with minimal effect on motorist safety and traffic flow.

50. A raised concrete median on Hawkesbury Road is to be provided in order to physically restrict right turn movements into the subject site and is to be constructed in accordance with Austroads Road Design Guide, RMS and Council's requirements. Details are to be illustrated on plans submitted with the construction certificate.

Reason: To comply with Council and RMS requirements.

51. The two pedestrian crossings (including 1 raised crossing) and other traffic facilities for the UWS Westmead subdivision, as shown in the submitted civil design plans are to be installed. Detailed design plans of these traffic facilities, in accordance with the Austroads Road Design Guide, Roads and Maritime Services Technical Direction and design guidelines and other relevant Australian Standards and Council requirements, are to be submitted to Parramatta Traffic Committee for consideration and approval by Council, through Council's Service Manager – Traffic and Transport. Details are to be illustrated on plans submitted with the construction certificate.

Reason: To comply with Council and RMS requirements.

52. Adequate sight distance to pedestrians at the existing UWS driveway access point on Hawkesbury Road is to be provided to ensure safe pedestrian and vehicle movements.
Reason: To comply with Council requirements, Australian Standards, RMS Design Guidelines and ensure pedestrian safety.
53. The layout of the proposed car parking areas, loading docks and access driveway associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004 and AS 2890.2 - 2002 for heavy vehicle usage.
Reason: To comply with Council's requirements and Australian Standards.
54. All stormwater drainage works to be designed and constructed to Council standards and requirements.
55. All pipes to be rubber ring jointed, reinforced concrete, minimum 375mm diameter.
56. No stormwater drainage works to commence on site until detailed design drawings have been submitted to and approved by Catchment Management Section/ Civil Infrastructure Unit of Council.

The detailed drawings shall include:-

- Longitudinal sections with pit/pipe invert levels, pipe sizes/slopes and ground levels.
 - Grade line analysis.
 - Location and level of all utilities to confirm no conflict with such services and compliance with all utility authority requirements in regard to minimum clearances, access etc.
-
57. Road widths are to be 3.5m near centre of the road with minimum of 3.0m. The Travel lane at kerb side should be 3.7m with a minimum of 3.4m. Parallel parking lane as per Australian Standard should be 2.3m with a minimum of 2.1m.
 58. All kerb ramps at signalised intersection (Darcy Rd) shall be to RMS standards and approvals. Internal roads shall be designed in accordance with PCC DS4 and/or DS40.
 59. The splitter island at the intersection with Hawkesbury Road shall be redesigned to have a minimum of 2.0m width at pedestrian access point and be 3.0m wide, as per RMS Technical Direction for pedestrian refuge island. The finishes of this island are to be reviewed and approved by PCC Urban Design team prior to works commencing.
 60. The raised crossing is to be 100mm high, top, flat platform to be a min 4.0m wide. The ramps are to be 1:15 grade. Threshold to be flushed with top of

kerb to allow for smooth and easy pedestrian access. Drainage pits (both sides) are to be installed on high side to ensure no water ponding. Grate channels are not recommended as they are prone to blockages and frequent, regular maintenance. The threshold ramps are to have piano key installed. All traffic linemarking to be approve thermoplastic. The Threshold concrete is not to have silica based additives (accelerator).

61. The applicant is to prepare a formal detailed pavement design in accordance with NAT Spec 0042 and submitted to Council prior to works commencing.
62. Prior to works commencing, the following is to be undertaken:
 - a) A geotechnical investigation is to be conducted for the assessment of subgrade in terms of its strength (CBR testing) and its plasticity and swell potential.
 - b) Conduct assessment of a design traffic over a design period that cannot be less than 25 years
 - c) Propose the pavement and surface materials and pavement composition
 - d) Design pavement thickness in accordance with Austroads Pavement Design Guide
 - e) Provide detailed design of the interface between proposed pavements for internal roads and existing pavements at Darcy Road and Hawkesbury Road
 - f) Submit in such way prepared pavement design to Council for all roads that will be dedicated to Council after construction
63. The applicant is to revise its general notes (Drawing MMD-333625-C-DR-SC01-DA-0002) to be consistent with pavement details on Drawing MMD-333625-C-DR-SC01-DA-0032 and NAT Spec or RMS Specifications.
64. Details of the proposed reinforced concrete pipe-work shall be submitted for Council's City Works Unit approval prior to commencement of any work.
Reason: To ensure adequate stormwater infrastructure is provided.
65. All on site detention planning shall be generally in accordance with the Upper Parramatta River Catchment Management Trust Handbook Edition 3 or 4, subject to amendments by Council. (Note: For the Edition 3 method, such calculations shall assume an SSR of 470 L/ha and a PSD of 80 l/s/ha.)
66. Facilities for connection of stormwater drainage to each proposed lot shall be provided within each lot to Council specifications. This shall include allowing for on-site detention design requirements, levels etc.
67. Council notes the proposed drainage from Lot 5 is via an existing easement to drain water in Lot 8 DP 1077852 (Marist School). This consent is granted on the basis that such easement is a private interallotment drainage easement and will not drain Council land, nor be dedicated to Council for ongoing maintenance. The applicant shall submit a full engineering analysis of the drainage system (pipeline and overland flow) associated with this easement and flow route to ascertain its capacity and condition and whether it is suitable

for this purpose or what proposals are envisaged for its reconstruction, upgrading and/or amplification and long term maintenance. This may include adjustment of the easement boundaries. Such analysis shall be submitted for Council approval prior to detail design, construction approval, construction and the release of the subdivision certificate. This analysis shall account for the 1% EAP flow event and shall include analysis and any redesign of the overland flow path for when the pipeline is fully blocked and so has no capacity.

During Works

68. The Full height (150mm) Kerb & Gutter as per Council's Standard Drawing DS1 (type 1) is to be provided instead of the mountable kerb and gutter.
69. Kerb Ramps to be constructed in accordance with Council Standard Drawing DS4 (or adopted treatment) with a minimum ramp opening of 1.50m not 1.0m as shown on plan number MMD-333625-C-DR-SCO1-DA-0032 (page 76 of document number D03294833).
70. The vehicular entry/exits to the site within Council's road reserve must prevent sediment from being tracked out from the development site. This area must be laid with a non-slip, hard-surface material which will not wash into the street drainage system or watercourse. The access point is to remain free of any sediment build-up at all times.
Reason: To ensure soil and water management controls are in place before site works commence.
71. All redundant lay-backs and vehicular crossings shall be reinstated to conventional kerb and gutter, foot-paving or grassed verge as appropriate.
Reason: To provide satisfactory drainage.
72. A copy of this development consent, stamped plans and accompanying documentation is to be retained for reference with the approved plans on-site during the course of any works. Appropriate builders, contractors or sub-contractors shall be furnished with a copy of the notice of determination and accompanying documentation.
Reason: To ensure compliance with this consent.
73. Noise from the construction, excavation and/or demolition activities associated with the development shall comply with the NSW Department of Environment and Conservation's Environmental Noise Manual and the Protection of the Environment Operations Act 1997.
Reason: To protect the amenity of the area.
74. Dust control measures shall be implemented during all periods of earth works, demolition, excavation and construction in accordance with the requirements of the NSW Department of Environment and Conservation (DEC). Dust nuisance to surrounding properties should be minimised.
Reason: To protect the amenity of the area.

75. No building materials skip bins, concrete pumps, cranes, machinery, signs or vehicles used in or resulting from the construction, excavation or demolition relating to the development shall be stored or placed on Council's footpath, nature strip or roadway.
Reason: To ensure pedestrian access.
76. All plant and equipment used in the construction of the development, including concrete pumps, wagons, lifts, mobile cranes, etc, shall be situated within the boundaries of the site and so placed that all concrete slurry, water, debris and the like shall be discharged onto the building site, and is to be contained within the site boundaries.
Reason: To ensure public safety and amenity on public land.
77. All demolition, building and excavation work; and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (e.g. loading and unloading of goods, transferring tools etc) in connection with the proposed development must only be carried out between the hours of 7.00am and 5.00pm on Monday to Fridays inclusive, and 8.00am to 5.00pm on Saturday. No work is to be carried out on Sunday or public holidays.
Reason: To protect the amenity of the area.
78. The applicant shall record details of all complaints received during the construction period in an up to date complaints register. The register shall record, but not necessarily be limited to:
- (a) The date and time of the complaint;
 - (b) The means by which the complaint was made;
 - (c) Any personal details of the complainants that were provided, or if no details were provided, a note to that affect;
 - (d) Nature of the complaints;
 - (e) Any action(s) taken by the applicant in relation to the complaint, including any follow up contact with the complainant; and
 - (f) If no action was taken by the applicant in relation to the complaint, the reason(s) why no action was taken.
79. A Waste Data file is to be maintained, recording building/demolition contractors details and waste disposal receipts/dockets for any demolition or construction wastes from the site.
Reason: To confirm waste minimisation objectives under Parramatta Development Control Plan 2011 are met.
80. Any damage to Council assets that impact on public safety during construction is to be rectified immediately to the satisfaction of Council at the cost of the developer.
Reason: To protect public safety.
81. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development are to occur entirely on the property. The applicant, owner or

builder must apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property pursuant to Section 138 of the Roads Act 1993:

- (a) On-street mobile plant:
- (b) Storage of building materials and building waste containers (skips) on Council's property.
- (c) Utilise Council property for the storage of building materials and building waste containers (skips).
- (d) Alteration to existing Kerbside restrictions, adjacent to the development and provision of construction zones.

Reason: Proper management of public land.

82. Erosion and sediment control devices shall be installed prior to the commencement of any demolition, excavation or construction works upon the site. These devices must be maintained throughout the entire demolition, excavation and construction phases of the development.

Reason: To ensure soil and water management controls are in place before site works commence.

83. Stockpiles of topsoil, sand, aggregate, soil or other material are not to be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

Reason: To ensure that building materials are not washed into stormwater drains.

84. The grades of all driveways, including transitions, must comply with Australian Standard 2890.1 (2004) - "Off-street car parking" to prevent the underside of the vehicles scraping.

Reason: To provide suitable vehicle access without disruption to pedestrian and vehicular traffic.

85. During construction of all public area civil and drainage works a qualified civil engineer must supervise the work to ensure it is completed in accordance with Council's "Guidelines for Public Domain Works".

Reason: To ensure Council's assets are appropriately constructed.

86. Site water discharged must not exceed suspended solid concentrations of 50 parts per million, and must be analysed for pH and any contaminants of concern identified during the preliminary or detailed site investigation, prior to discharge to the stormwater system. The analytical results must comply with relevant Environmental Protection Authority and ANZECC standards for water quality.

Other options for the disposal of excavation pump-out water include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.

Reason: To prevent pollution of waterways.

87. During demolition, excavation and construction, there is a need to ensure that there will be no adverse impact on the integrity of Sydney Trains facilities, or the operation of the network.
Reason: To comply with Transport NSW Requirements.
88. No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and 1500V catenary, contact and pull-off wires of the adjacent tracks, and to any high voltage aerial supplies within or adjacent to the rail corridor.
Reason: To comply with Transport NSW Requirements.
89. During the construction, the applicant is to follow relevant NAT Specifications or RMS Specifications (e.g. NAT Spec 1141 or RMS 3051 and R71 for construction of flexible pavement layers, NAT SPEC 1143 or RMS R106 or R107 for spray seals, NAT Spec 1144 or RMS R116 or R117 for asphaltic concrete etc). The applicant is to provide results of construction testing required under these Specifications. The constructed pavements will be accepted if testing is done in accordance to Specifications and if the results comply with Specification requirements.
Reason: To comply with Transport NSW Requirements.

Prior to the Issue of the Subdivision Certificate

90. A monetary contribution comprising **\$69,132.95** is payable to Parramatta City Council pursuant to Section 94A of the *Environmental Planning and Assessment Act, 1979* and the *Parramatta Section 94A Development Contributions Plan*. Payment must be by EFTPOS, bank cheque or credit card only. The contribution is to be paid to Council prior to the issue of a **subdivision certificate**. At the time of payment, the contribution levy will be indexed quarterly in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.
91. The proposed relocation of the taxi rank and on-street parking shall be referred to Parramatta Traffic Committee under delegated authority and Council for approval prior to the issue of the subdivision certificate.
Reason: To comply with Australian Standards, RMS Design Guidelines and ensure vehicular and pedestrian safety.
Advisory Note: This process can take in excess of 6 weeks, so early commencement of this process is encouraged.
92. Works-As-Executed stormwater plans shall be prepared, certifying that the stormwater drainage system has been constructed and completed in accordance with the approved stormwater plans. The following documentation is to be contain:
- The Work-As-Executed plans are prepared on the copies of the approved drainage plans issued with the Construction Certificate and variations are marked in red ink.

- The Work-As-Executed plans have been prepared by a registered surveyor certifying the accuracy of dimensions, levels, storage volumes, etc.
- As built On-Site Detention (OSD) storage volume calculated in tabular form (depth verses volume table).
- OSD Works-As-Executed dimensions form (refer to UPRCT Handbook).
- Certificate of Hydraulic Compliance from a qualified drainage / hydraulic engineer (refer to UPRCT Handbook).
- Approved verses installed Drainage Design (OSD) Calculation Sheet.
- The original Work-As-Executed plans and all documents mentioned above have been submitted to Council's Development Services Unit.

Reason: To ensure works comply with approved plans and adequate information are available for Council to update the Upper Parramatta River Catchment Trust.

93. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained prior to the issue of an Subdivision Certificate. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.

Reason: To ensure the requirements of Sydney Water have been complied with.

94. All redundant lay-backs and vehicular crossings shall be reinstated to conventional kerb and gutter, foot-paving or grassed verge as appropriate.

Reason: To provide satisfactory drainage.

95. A qualified Landscape Architect/Designer must certify the completed works are in accordance with the approved landscape plan.

Reason: To ensure restoration of environmental amenity.

96. A separate application must be made to Council to obtain approval of the plan of subdivision under Part 4A of the *Environmental Planning and Assessment Act 1979*.

Prior to the issue of the Part 4A (Subdivision Certificate) the applicant shall submit an original plan of subdivision plus 1 digital disc (eg. CD ROM) for Council's endorsement. The following information shall also be submitted:

- (a) Evidence that all conditions of the Development Consent have been satisfied (including required utility provider certificates etc).
- (b) Evidence of payment of all relevant fees.
- (c) The 88B/E instrument (if required).
- (d) All surveyors or engineers' certification if required by the development consent

Reason: To comply with the *Environmental Planning & Assessment Act 1979*

101. Submission of documentation confirming satisfactory arrangements have been made for the provision of electricity services from an approved electrical energy provider prior to the issue of the subdivision Certificate.
Reason: To ensure appropriate electricity services are provided.
102. Prior to the issue of the subdivision certificate, provision of a 40kph maximum speed limit at all times in High Pedestrian Activity Areas (HPAA) in accordance with the requirements of the RMS is to be introduced and applied through RMS. This creates a safer road environment for all road users, particularly for pedestrians, cyclists and children.
Reason: To satisfy the requirements of the NSW RMS, comply with Australian Standards, RMS Design Guidelines and ensure appropriate vehicular and pedestrian safety.
103. Plans submitted with the subdivision certificate must indicate that the northern lot identified on the approved plans as 'proposed public reserve' forms part of Lot 4 and the southern lot identified on the approved plans as 'proposed public reserve' forms part of Lot 5.

Advisory Note: Plans submitted with future applications for these lots must indicate that these areas are used for private recreation opportunities.
104. All works intended to be dedicated to Council, including roads, footpaths, drainage, lighting, furniture and other landscape treatments shall be designed and constructed to Council's specifications, standards and reasonable satisfaction prior to release of the subdivision certificate.
105. The applicant shall submit with or before the application to Council for a Subdivision Certificate provision for the creation of appropriate positive covenants easements and restrictions on the respective titles to secure the future construction and maintenance of on-site detention and stormwater retention systems to Council specifications and requirements.

The Use of the site

102. Any development and/or additional works on the individual lots are subject to a separate approval.
Reason: To comply with the *Environmental Planning & Assessment Act 1979*
103. All landscape works shall be maintained for a minimum period of two (2) years following the subdivision works, in accordance with the approved landscape plan and conditions.
Reason: To ensure restoration of environmental amenity.
104. Stormwater planning and design for the subdivision shall allow for the provision of on-site detention for each lot, which will occur when that lot is individually developed.

Report prepared by:

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