

JOINT REGIONAL PLANNING PANEL

(Sydney West Region)

JRPP No	2015SYW058
DA No.	DA/164/2015
Date of receipt	20 March, 2015
LGA	Parramatta
Proposed development	Tree removal, subdivision, new roads and construction of a mixed use development complex containing 496 apartments and 4 retail/commercial tenancies.
Street address	No. 1 Broughton Street and No. 2 Morton Street, Parramatta
Property Description	Lot 1 in DP 817709
Applicant	Starryland Sydney Pty Ltd
Owner	Starryland Sydney
Number of submissions	1
Regional Development Criteria (Schedule 4A of the Act)	Pursuant to Clause 3 of Schedule 4A of the Environmental Planning and Assessment Act 1979, the development has a capital investment value of more than \$20 million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 55; • State Environmental Planning Policy No. 65; • State Environmental Planning Policy (Basix) 2004; • State Environmental Planning Policy (Sydney Harbour Catchment) 2005; • State Environmental Planning Policy (Infrastructure) 2007; • State Environmental Planning Policy (State and Regional Development) 2011; • Parramatta Local Environmental Plan 2011; and • Parramatta Development Control Plan 2011.
Recommendation	Approval, subject to conditions
Report by	Brad Roeleven, Executive Planner

1. Executive summary

This report considers a proposal to construct a mixed use development comprising multiple buildings on land at Morton and Broughton Streets Parramatta.

This proposal is stages 2 and 3 of concept plan lodged under section 83B of the Environmental Planning and Assessment Act and approved in 2012.

Assessment of the application against the relevant planning framework, and consideration of various design matters by Council's technical departments has not identified any fundamental issues of concern. Consequently this report concludes this application is sound in terms of its design, function, and relationship with its neighbours.

This report recommends that consent be granted to this application, in accordance with conditions provided at **Attachment 1**.

2. Concept plan approval

DA/391/2012 was lodged with Council in July 2012 as staged development application under section 83B of the Environmental Planning and Assessment Act. The application comprised concept plans for a mixed use development across the entire site, to be completed in 3 stages, and the detailed design for Stage 1.

The concept scheme comprised the following key elements:

- The layout of development for ten buildings, with two low scale podium elements, ranging in height from three to 12 storeys, including height and setbacks;
- Building envelopes and a maximum total gross floor area across the site;
- Up to four levels of above ground parking generally flanked by residential uses;
- Three new roads within the site, with access points on Broughton and Morton Streets;
- Public open space on the Parramatta River foreshore; and
- Landscaping concept works in accordance with the requirements of a Voluntary Planning Agreement.

The detailed proposal for Stage 1 (Site A) of the application comprised:

- Four buildings (including a low scale podium building), ranging in height from three to 12 storeys;
- 277 apartments, including 60 one bedroom, 209 two bedroom and 8 three bedroom apartments;
- 404 car parking spaces;
- Pedestrian and vehicle entry points on Broughton Street;
- Landscaping works in kind to meet the requirements of the 2 Morton Street VPA (Stage 1); and
- Associated open space and landscaping, including a landscaped courtyard and elements of the foreshore open space.

That application was granted a “deferred commencement” consent by the Sydney West Joint Regional Planning Panel on in December, 2012. The consent became operative in 2014.



Figure 1: Concept plan

3. Site description, location and context

The site is legally described as Lot 1 in DP 817709. This application relates to sites B and C of the concept plan, with Site B being No. 1 Broughton Street Parramatta, and Site C being No. 2 Morton Street Parramatta.

The site is trapezoidal in shape with an area of approximately 4.924ha. The area the subject of this application is currently developed for light industrial uses including three industrial buildings, with two separate at-grade parking areas.

The land slopes from the north to south, with a fall of approximately 11 metres. The natural topography of the site has been altered with the levelling of the south-western corner of the site to accommodate the car park. Areas of artificial terracing are also evident.

Parts of the southern and eastern portions of the site are flood prone land, being within the 1 in 100 year flood levels of the Parramatta River.

Existing vegetation on the site is dominated by exotic plant species, including noxious and significant environmental weeds. Mangroves on the site's southern boundary are a locally listed heritage item under Parramatta Local Environmental Plan 2011 (PLEP 2011).



Figure 2: Locality plan

4. The proposal

The application is for the remaining two stages of the concept plan scheme, and in summary comprises the following key elements:

Stage 2 (Site B)

- Tree removal and bulk earthworks;
- Construction of residential buildings ranging in height up to eight storeys above Broughton Street containing 198 apartments;
- 257 parking spaces including residential visitor, retail/commercial and 1 car share space
- Construction and dedication of the New Zealand Street extension and the southern part of the north-south street;
- Super lot subdivision; and
- Landscaping, civil and public domain works.

Stage 3 (Site C)

- Tree removal and bulk earthworks;
- Construction of residential buildings on Site C ranging in height from four to 12 storeys

- containing 298 apartments;
- 391 parking spaces including residential, visitor and retail/commercial spaces
- Construction and dedication of Foreshore Road;
- Super lot subdivision; and
- Landscaping, civil and public domain works.



Figure 3: Photomontage – View from the foreshore



Figure 4: Photomontage - View from Morton and Broughton Street.

5. Referrals

The Tables below provides a summary of assessment provided by departments within Council. Issues from those referrals which warrant discussion are addressed at sections 8 and 9 of the report.

Table 1: Internal referrals

Development Engineer	No objections - see further comments at section 10.8
Environmental Health	No objections - conditions provided
Heritage Advisor	No objections - see further comments at section 10.7
Open Space/ Natural Areas	No objections - see further comments at section 10.3
Traffic Engineer	No objections - see further comments at section 10.4
Tree management & Landscape	No objections - conditions provided
Urban Design	No objections - conditions provided to resolve minor concerns

Table 2: External referrals

Endeavour Energy	No objections - see comments at section 10.13
Roads and Maritime Services	No objections - see comments at section 8.6
Sydney Water	No objections - see comments at section 10.13

6. Environmental Planning and Assessment Act 1979

6.1 Section 5A: Significant effect on threatened species, populations or ecological communities, or their habitats

This section requires a range of matters to be taken into account in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats.

Implementation of stages 2 and 3 requires the removal of all trees from the site. The application is therefore supported by a flora and fauna assessment report which:

- Establishes the ecological values of the site;
- Considers direct impacts on vegetation communities and potential indirect impacts including run-off, sedimentation and erosion; and
- Identifies mitigation measures to be adopted.

The report provides the following conclusion:

“No TSC Act or EPBC Act listed threatened vegetation communities occur on the subject site. One significant vegetation community consisting of mangroves occurs adjacent to the subject site along the foreshore. This community will not be directly impacted by the development and potential indirect impacts have been minimised in order to prevent any significant threats to this community.

No naturally occurring threatened flora species were detected on site or considered likely to occur. Therefore no significant impacts upon threatened flora species or known habitat for those species, listed under the TSC Act or EPBC Act is expected to occur.

A number of urban-adapted fauna, including threatened fauna may utilise the site occasionally for foraging purposes as part of a much wider foraging range. As such, removal of vegetation

from the site and subsequent re-planting and landscaping is not expected to cause a significant impact to any threatened fauna species or their habitat.

In conclusion, no Species Impact Statement (SIS) is required to assess the impacts of the proposed development under the TSC Act, and a referral to DoE, under the EPBC Act is not required.”

Mitigation measures identified in the report are addressed by conditions for inclusion in any consent.

6.2 Section 79C: Evaluation

This section specifies the matters which a consent authority must consider when determining a development application, and these are addressed in the Table below:

Table 3: Section 79C(1)(a) considerations

Provision	Comment
Section 79(1)(a)(i) - Environmental Planning Instruments	Refer to section 8
Section 79C(1)(a)(ii) - Draft Environmental Planning Instruments	Not applicable
Section 79C(1)(a)(iii) - Development Control Plans	Refer to section 9
Section 79C(1)(a)(iiia) - Planning agreement	Refer to section 6.5
Section 79C(1)(a)(iv) - The Regulations	Refer to section 7
Section 79C(1)(a)(v) - Coastal zone management plan	Not applicable.
Section 79C(1)(b) - Likely impacts	Refer to section 10
Section 79C(1)(c) - Site suitability	Refer to section 11
Section 79C(1)(d) - Submissions	Refer to section 12
Section 79C(1)(e) - The public interest	Refer to section 13

6.3 Section 91: Integrated Development

The application was not lodged as “integrated development” however the matter nevertheless warranted consultation with the Department of Primary Industries (Office of Water) as explained below.

In September 2012 the DPI issued its General Terms of Approval (GTA) to DA 391/2012 relative to the need for a “Controlled Activity Approval” (CAA) under the Water Management Act 2000 for works within 40m of the Parramatta River.

For the purposes of this application Council sought to clarify whether those GTAs applied equally to this current application for Stages 2 and 3, or whether DPI expected that separate GTAs would need to be issued. The DPI advised that:

- Its GTAs from 2012 apply for the master plan that cover the three stages; however
- The Controlled Activity Approval (CAA) was issued for stage 1 and included the Vegetation Management Plan that covered that stage only;
- The applicant needs to apply for a CAA for stage 3 to include and extend the VMP.

A condition addressing this matter is included in the recommendation.

6.4 Section 83D: Status of staged development applications and consents

Section 83(D)(2) provides that

“While any consent granted on the determination of a staged development application for a site remains in force, the determination of any further development application in respect of that site cannot be inconsistent with that consent.”

The framing of that provision contemplates a degree of variance between a concept plan and the associated future development application. In this instance Stages 2 and 3 do vary from the approved concept plan, and such is to be expected as the design is progressed and refined. In part some of the variations are a direct response to specific comments by Council's Design Excellence Advisory Panel (refer to section 8.3).

The following table provides a summary of the variances with the concept plans. These adjustments are not contradictory to, or incompatible with the master plan, such that section 83(D) is satisfied by this application.

Table 4: Comparison with concept plan approval

Element	Comment
Non-residential GFA	No quantum nominated with concept plan – however is reduced in this DA
Residential units	Total yield in concept plan = 774 apartments Total yield as now proposed = 782
GFA	No change to maximum of 64,418m ² across the whole site
Building footprints	<p><u>Site B</u></p> <ul style="list-style-type: none"> • Link through site B replaced with new plaza at Boughton Street. • Buildings B2 and B5 have revised footprint as consequence of removal of link. • Two levels of basement parking deleted (revised parking rates used to justify reduction in supply) • Location of retail changed

	<u>Site C</u> <ul style="list-style-type: none">• Pocket park at NE corner of Site C is deleted because of removal of link.• Buildings C1, C2 and C4 (now C5) have revised footprints																											
Building setbacks	Excepting changes to footprints noted above, the setbacks are otherwise consistent																											
Maximum Heights	Concept plan shows max RL 44.65. This proposal is RL 46.3 (ie +1.7m)																											
Height in storeys	<table><tr><td></td><td>Masterplan</td><td>DA</td></tr><tr><td>B1</td><td>8</td><td>8</td></tr><tr><td>B2</td><td>7</td><td>7</td></tr><tr><td>B3</td><td>7</td><td>8</td></tr><tr><td>B5 (was B4)</td><td>8</td><td>7</td></tr><tr><td>C1</td><td>12</td><td>12</td></tr><tr><td>C2</td><td>7</td><td>7</td></tr><tr><td>C3</td><td>8 and 12</td><td>8 and 12</td></tr><tr><td>C5 (was C4)</td><td>4</td><td>5</td></tr></table>		Masterplan	DA	B1	8	8	B2	7	7	B3	7	8	B5 (was B4)	8	7	C1	12	12	C2	7	7	C3	8 and 12	8 and 12	C5 (was C4)	4	5
	Masterplan	DA																										
B1	8	8																										
B2	7	7																										
B3	7	8																										
B5 (was B4)	8	7																										
C1	12	12																										
C2	7	7																										
C3	8 and 12	8 and 12																										
C5 (was C4)	4	5																										
Quantum and location of public open space	Locations and amounts generally consistent with concept plan																											
Quantum and location of common open space	Locations and amounts generally consistent expecting changes arising from variations to footprints as noted																											

6.5 Section 93F: Voluntary Planning Agreement (VPA)

A VPA for the development was executed in December 2010.

7. Environmental Planning and Assessment Regulation 2000

The application satisfies relevant clauses of the Regulation as follows:

- Clause 50(1)(a) - the nominated documentation is provided, including a design verification statement, an explanation of the design in terms of the principles set out in Part 2 of SEPP 65, and relevant drawings and montages;
- Clause 92 - demolition work will be undertaken in accordance with AS 2601 - 1991 and
- Clause 98 - All building work will be carried out in accordance with the provisions of the Building Code of Australia.

8. Environmental planning instruments

8.1 Overview

The instruments applicable to this application comprise:

- State Environmental Planning Policy No. 55;
- State Environmental Planning Policy No. 65;

- State Environmental Planning Policy (Basix) 2004;
- State Environmental Planning Policy (Sydney Harbour Catchment) 2005;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (State and Regional Development) 2011; and
- Parramatta Local Environmental Plan 2011.

Compliance with these instruments is addressed below.

8.2 State Environmental Planning Policy No. 55

Clause 7 of this Policy requires that the consent authority must consider if land is contaminated and, if so, whether it is suitable, or can be made suitable, for a proposed use.

The application as lodged is supported by a Phase 1 Environmental Site Assessment (ESA) prepared to summarise previous investigations and assess the potential for contaminating activities to have occurred since previous investigations undertaken for DA 391/2012. The ESA identified the following potential for contamination:

- Uncontrolled filling across the central and southern parts of the site;
- Use of pesticides below current buildings and structures
- Spray painting activities in the near the southern building
- Use of a former factory building, at the southern part of the site, as a timberyard, and the manufacture of plywood and batteries.

The report concluded the Phase 1 ESA provided a robust platform for the preparation of a Phase 2 ESA and Remediation Action Plan (RAP), providing a framework for rendering the site suitable for the proposed development.

The proponent subsequently provided Phase 2 ESA which presents the following analysis:

Table 5: Phase 2 ESA findings

Northern portion of the site	Pending the results of the asbestos results from GATP119 to GATP125 (which are considered to be largely confirmatory at this stage), the northern portion is considered to be suitable for the proposed land use without further environmental assessment or remediation
Southern portion of the site	A triangular grassed portion, to the west of the concrete slab, is not considered suitable for the proposed land use without remediation due to the presence of asbestos fragments and fibres in shallow soils and, to a lesser extent, detection of TRH concentrations that exceed guidelines. A Remediation Action Plan (RAP) will be prepared for this portion of the site. Subject to completion of these requirements on the Southern Portion, the area would be suitable for the proposed land use.
Boundary conditions	Asbestos has been detected in fill located on the western and northern site boundaries. These are considered to be associated with the construction of Broughton and Morton Streets, and in that sense are considered to be 'off-site' issues. Nonetheless they infringe on the site proper (mainly due to poor

	demarcation of site boundaries in the past) and present impediments to development. They require consideration in the RAP. Subject to completion of appropriate remediation, the affected areas would be suitable for the proposed land use.
Groundwater	An off-site source is considered to be the most plausible cause of the mildly elevated concentrations in groundwater; The concentrations in the second round of sampling are well below nominated guidelines. A third round of sampling (for TRH/BTEX) may be warranted to assess the potential for temporal variations, however, the issues are not considered to preclude the proposed landuse and do not require remediation or ongoing management.

Based on those findings, the Phase 2 report presents the following conclusion:

“Overall, on the basis of the findings to date the site is considered to be appropriately characterised and where targeted remediation is deemed to be required, this is considered to be achievable using routine remediation approaches. A RAP will be required to address the issues identified above, including:

- *The triangular portion to the west of the concrete slab; and*
- *The areas where apparently impacted materials associated with the construction of Morton and Boundary Streets infringe on the site boundaries.”*

The information provided is comprehensive and sufficient for the purposes of clause 7 of the Policy. The recommendation to this report therefore includes conditions which require, prior to the issue of any Construction Certificate:

- The preparation of an RAP, and completion of required works; and
- The issuing by an accredited Auditor of a Site Audit Statement (SAS) or a Site Audit Report (SAR) as appropriate.

8.3 State Environmental Planning Policy No. 65

This Policy aims to improve the design quality of residential flat development. This proposal has been assessed against the following matters relevant to SEPP 65 for consideration:

- Urban Design Review Panel;
- The 10 SEPP 65 Design Quality Principles; and
- The NSW Residential Flat Design Code guidelines (note the DA was lodged prior to SEPP amendments which introduced the Apartment Design Guide).

Design Excellence Advisory Panel (DEAP)

The proposal was considered by DEAP at pre-lodgement stage, and again as a formal development application. At its meeting of 14 May 2015 DEAP provided the following overall conclusion:

“The Panel last reviewed this proposal on the 3rd December 2014 and made a number of suggestions/recommendations for further exploration of the design. It was clear that most of

these recommendations had been taken on board and the Panel is of the opinion that this has improved the public domain and interface around the development. In particular the proposal to remove the cross-site link on Site B and reconfigure the address to Broughton and New Zealand Streets is seen as positive.”

Notwithstanding DEAP identified various additional design matters, the majority of which have been addressed through amended plans.

Design Quality Principles

Part 2 of the Policy introduces 10 design quality principles. These principles do not generate design solutions, but provide a guide to achieving good design and the means of evaluating the merits of proposed solutions. As required by the Environmental Planning and Assessment Regulation, the application is accompanied by a response to those design principles, as prepared by the project architect.

The following table provides an assessment of the proposal against the 10 design principles of the SEPP having regard to the comments of DEAP and assessment by Council's officers:

Table 6: Response to SEPP 65 design principles

Principle	Comment
Context	The locality is transforming to a high density residential/mixed use precinct. The development generally accords with the desired future character nominated by the LEP and DCP. The building will contribute to the quality and identity of the area.
Scale	The bulk and scale of the proposal suits the scale of the street and the surrounding buildings.
Built Form	Satisfactory with regard to considerations of building alignments, proportions, building type and articulation/massing of building volume. Subject to minor amendments, appropriate levels of amenity for future residents of the building are achieved when tested against RFDC best practice outcomes.
Density	The proposed density is sustainable relative to the context of the site in terms of availability of infrastructure, public transport, community facilities and environmental quality. The overall FSR is consistent with the LEP controls.
Resource, energy and water efficiency	Energy and water efficiency targets under SEPP (Basix) 2004 are achieved. The design is consistent with best practice 'rules of thumb' for cross ventilation and solar access under the Residential Flat Design Code.
Landscape	The landscape treatment is generally satisfactory. Issue of concern identified in this report go to matters of detail, which can be resolved

Amenity	Amenity for the apartments is satisfactory when tested against best practice 'rules of thumb' identified in the Residential Flat Design Code which supports the SEPP.
Safety and Security	Appropriate outcomes achieved through the design generally, and otherwise by conditions of consent as proposed.
Social dimensions and housing affordability	The proposal was revised to achieve a suitable mix of housing. The design includes the required number of adaptable housing units.
Aesthetics	The composition of building elements and materials is satisfactory.

Residential Flat Design Code

The SEPP requires consideration of the "Residential Flat Design Code" (RFDC) which supports the 10 design quality principles by giving greater detail as to how those principles might be achieved. The following table provides an assessment of the proposal against relevant the matters in the RFDC:

Table 7: Response to SEPP 65 design principles

Element + Rule of Thumb (RoT)	Proposal	Consistent
<i>Building Depth</i> Should be between 10-18m	Buildings depths above the podium levels are between 10 and 20m. This variation to the RoT is minor and acceptable	Yes
<i>Separation</i> 12m between habitable rooms (up to 4 storeys) and 18m between habitable rooms (5-8 storeys)	See further comments at section 10.3	No – but acceptable on merit.
<i>Balconies</i> Primary balconies to have a minimum depth of 2m	All balconies have a minimum depth of 2m	Yes
<i>Residential Ceiling Heights</i> Minimum = 2.7m	A floor to floor height of 3.1m has been used to provide floor to ceiling heights of 2.7m in habitable rooms and 2.25m – 2.4m in non-habitable rooms.	Yes
<i>Min. Apartment Sizes</i> 1 bedroom 50m ² 2 bedroom 70m ² 3 bedroom 95m ²	All unit types meet or exceed the minimum areas in the RoT	Yes

<i>Open Space</i> Communal open space should be 25-30% of the site area	Approximately 8,280m ² of the site is designated as communal open space (42%).	Yes
<i>Deep Soil</i> A minimum of 25% of the open space area should be a deep soil zone.	48% of the communal space is configured for deep soil zones.	Yes
<i>Internal circulation</i> A maximum of 8 units should be provided off a double loaded corridor.	Building C1 and C3 have 10 and 11 apartments accessed via a single lift lobby. This variation to the RoT is minor and acceptable	No – but acceptable on merit.
<i>Daylight Access</i> Living rooms and private open spaces for at least 70% of apartments should receive 3 hrs direct solar access at winter solstice. In dense urban areas 2hrs may be acceptable.	71% achieve 2 hours of sunlight The 2 hr criterion is appropriate as the planning controls facilitate the locality transitioning to a dense urban precinct. The 2hr criterion is also consistent with recently introduced ADG.	Yes
<i>Daylight Access</i> Limit the number of single aspect apartments with a SW-SE aspect to a maximum of 10%	9% of units have a single southerly aspect.	Yes
<i>Natural ventilation</i> 60% of units should be naturally cross ventilated.	66% are naturally cross ventilated	Yes

8.4 State Environmental Planning Policy No. 65

The Policy seeks to ensure that new dwellings are designed to use less water and be responsible for fewer greenhouse gas emissions by setting energy and water reduction targets, which are based on the NSW average benchmark. The Policy also sets minimum performance levels for the thermal comfort of a dwelling.

This application is accompanied by Basix Certificates (Nos 607485M_02 and 608031M) which confirm the required targets will be met.

8.5 Deemed State Environmental Planning Policy(Sydney Harbour Catchment) 2005

This Policy, which applies to the whole of the Parramatta local government area, aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.

The nature of this project and the location of the site are such that there are no specific controls which directly apply, with the exception of the objective of improved water quality. That outcome will be achieved through the imposition of suitable conditions to address the collection and discharge of water during construction and operational phases.

8.6 State Environmental Planning Policy (Infrastructure) 2007

Consistent with clause 104 this Policy (Traffic Generating Development) this application was referred to Roads and Maritime Services (RMS) for comment.

The initial response from RMS stated the applicant's traffic modelling did not adequately consider the cumulative impacts of traffic distribution and assignment on the classified road network and signalised intersections, particularly the impact on James Ruse Drive and Victoria Road. In consequence, RMS considered the increase in traffic generation from this development would add pressure to those classified roads and likely result in an increase in queuing and delay at the signalised intersections.

The proponent responded with additional information which provided further analysis on impacts James Ruse Drive and Victoria road, as well as for key intersections within the classified road network.

That information was referred back to RMS for evaluation. In its further comments RMS did not raise any further concerns with regards to any elements of the classified road network, but did note the development will add delay and queuing to the local road network, particularly the intersection of Macarthur and Thomas Streets.

Council has reviewed the RMS concerns but has completed its own assessment of impacts for the local road network. Council's Service Manager – Traffic and Transport advises that the intersections in Macarthur Street and Harris Street to the north and south of Thomas Street are a greater constraint to the network, and that no objections are raised on the basis of traffic generation.

8.7 State Environmental Planning Policy (State and Regional Development) 2011

As this proposal has a Capital Investment Value of more than \$20 million, Part 4 of this Policy provides that the Joint Regional Planning Panel is the consent authority for this application.

8.8 Parramatta Local Environmental Plan 2011

Zoning

The site is subject to the following zones:

- R4 High Density Residential
- B4 Mixed use
- RE 1 Public Recreation
- W1 Natural Waterways



Figure 5: Extract from LEP 2011 zone map – site outlined in blue

Permissibility

Multiple land uses, as defined within the Dictionary to the LEP are proposed within the various zones applying to the site as follows:

Table 8: Proposed land uses by zone

Zone	Proposed land use (as defined)
R4	<ul style="list-style-type: none"> • Residential flat building • Neighbourhood shops • Roads
B4	<ul style="list-style-type: none"> • Commercial premises • Residential flat building • Roads
RE1	<ul style="list-style-type: none"> • Roads
W1	<ul style="list-style-type: none"> • Not applicable

All of the uses are permitted with consent within those respective zones.

Zone objectives

Clause 2.3(2) of the Plan requires the consent authority to have regard to the zone objectives when determining a development application.

Table 9: PLEP 2011 zone objectives

Zone	Objectives
R4 High Density Residential	<ul style="list-style-type: none"> • To provide for the housing needs of the community within a high density residential environment. • To provide a variety of housing types within a high density residential environment. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To provide opportunity for high density residential development close to major transport nodes, services and employment opportunities. • To provide opportunities for people to carry out a reasonable range of activities from their homes if such activities will not adversely affect the amenity of the neighbourhood.
B4 Mixed Use	<ul style="list-style-type: none"> • 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.
RE 1 Public Recreation	<ul style="list-style-type: none"> • To enable land to be used for public open space or recreational purposes. • To provide a range of recreational settings and activities and compatible land uses. • To protect and enhance the natural environment for recreational purposes.
W1 Natural Waterways	<ul style="list-style-type: none"> • To protect the ecological and scenic values of natural waterways. • To prevent development that would have an adverse effect on the natural values of waterways in this zone. • To provide for sustainable fishing industries and recreational fishing. • To provide for cultural and scientific study of natural waterways. • To enable works associated with the rehabilitation of land towards its natural state.

Given the outcomes of this assessment the application is consistent with those objectives.

Remaining provisions

Consideration of the remaining provision of the Plan which may be relevant to this application is addressed in the following table:

Table 10: PLEP 2011 compliance table

Clause	Comment	Complies
Clause 2.7 Demolition	The applicant advises these works will be completed as Complying Development under the Codes SEPP.	N/A
Clause 4.1 Subdivision	Re-subdivision of the site as proposed will create allotment within the R4 zone, which readily exceed the minimum lot size. Otherwise, the LEP does not prescribe minimum lot sizes for the remaining zones.	Yes

Clause 4.3 Height	The mapped height control for the site (R4 and B4 zone only) is 40m. The proposal exceeds that control. Refer to clause 4.6	No
Clause 4.4 FSR	The mapped FSR for the site (R4 and B4 zone only) is 1.75:1. The proposal has an FSR of 1.73:1	Yes
Clause 4.6 Exceptions to development standards	The application relies upon this clause to enable a variation to the 40m building height control for limited parts of Buildings C1 and C3. See further comments at the end of this table.	Yes
Clause 5.4 Additional permitted uses	The retail tenancies (neighbourhood shops) located in the R4 zone are less than 80m ² as prescribed in clause 5.4(7).	Yes
Clause 5.10 Heritage	The site is not a heritage item, nor is it located within a heritage conservation area. However it is located in proximity to items of local significance. Refer to section 10.7.	Yes
Clause 6.1 Acid sulphate soils	The site is both class 4 and Class 5 ASS.	Yes
Clause 6.2 Earthworks	The site works have been assessed with regard to the various matters for consideration identified in this clause. Impacts will be managed by mitigation measures such that the proposal is consistent with objectives of this clause in terms of environmental functions and processes, neighbouring uses, cultural or heritage items and features of the surrounding land.	
Clause 6.3 Flood planning	Part of this site is below the flood planning level. Further commentary is provided at provided at section 10.8	Yes
Clause 6.4 Biodiversity	The site is identified as "Biodiversity" on the relevant map." However the extent of that affectation is limited to the part of the site already subject to DA 391/2012 for Stage 1 of this development.	Yes
Clause 6.5 Water protection	The site is identified as "Riparian Land and Waterways" on the relevant map. However the extent of that affectation is limited to the part of the site already subject to DA 391/2012 for Stage 1 of this development.	Yes
Clause 6.6 Landslide risk	The site is not identified as "Landslide risk land" on the relevant map	N/A

Variation to building heights

Parts of Building C1 and C3 exceed the prescribed building height of 40m. The extent of the breach varies, as indicated on the Figure below, however both buildings have a maximum height of 43.46m as shown on the detailed drawings at **Attachment 1**.



Figure 6: Buildings C1 and C3 viewed from south. Extent of the breach of 40m height standard shown in red

The application relies upon the mechanism provided by clause 4.6 of the PLEP 2011 to enable consent to be granted in contravention of the building height standard. A comprehensive submission (**Attachment 2**) has been provided addressing the matters for consideration in clause 4.6, as well as responding to the principles and tests established by decisions of the Land and Environment Court, including the recent decision in *Four2Five Pty Ltd v Ashfield Council*. An evaluation of the request to vary the building height control is provided below.

Clause 4.6(3)(a) – Justification for the variation

- The request maintains that compliance with the development standard is unreasonable or unnecessary in the circumstances as the objectives of the standard will still be achieved. In support the submission notes:
 - The variation is minor, being a maximum 8.65% increase beyond the 40m control;
 - The buildings will remain at 12 storeys, consistent with the concept approval granted to DA 391/2012, and the buildings will still read as being of 12 storeys;
 - There would be no adverse streetscape impacts;
 - Diagrams demonstrate that, compared to a height complaint scheme, shadow impacts for the public domain and adjacent residential sites would be nominal; and
 - Relative to a complaint scheme, the additional height would have no privacy or other amenity impacts, such as view loss.

These contentions are considered valid.

- The request maintains that compliance with the development standard is unreasonable or unnecessary in the circumstances as the underlying purpose would be thwarted if compliance was required. In support the submission notes:
 - Compliance with the height control would thwart an objective of the standard, being to minimise visual impact. The applicant contends the top floor treatment allows for rooftop plant and equipment to be fully concealed by the façade design. The additional height associated with that outcome is noted as being more desirable

than a height compliant design that would leave rooftop plant and equipment exposed.

These contentions are considered valid.

Clause 4.6(3)(b) – Sufficient Environmental planning grounds to justify the variation

The request maintains that site topography is a key feature that affects building design and associated non-compliances with the building height standard. In support the submission notes:

- Change in levels across the site, in particular towards the foreshore at the southern boundary, are such that strict compliance with the height control would result in a less than optimal design and amenity outcome; and
- Due to the slope of the site and the minor nature of the variation, the building would not be prominent when viewed from the public domain, and will continue to read as 12 storeys and would remain consistent with the scale of development contemplated by the planning controls.

In isolation site topography is not so unique relative to the locality that it should be deemed as a site specific limitation. However the management of that slope in the context of the approved concept plan, and the refinement of that scheme through the development application process, is a particular circumstance. The contentions are therefore considered valid.

Clause 4.6(4)(a)(i) – Content of the request

The submission provided by the applicant has adequately addressed the matters required to be demonstrated by subclause (3)

Clause 4.6(4)(a)(ii) – The public interest

The request contends the development would be in the public interest because it would remain:

- Consistent with the objectives of both the R4 and B4 zones (see Table 8 above); and
- Consistent with objectives which underpin the building height standard, being to:
 - Nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan;
 - Minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development;
 - Require the height of future buildings to have regard to heritage sites and their settings;
 - Ensure the preservation of historic views; and
 - Reinforce and respect the existing character and scale of low density residential areas.

Noting the evaluation elsewhere within this report it is agreed that the zone objectives, and those of the height standard, are satisfied.

9. Development control plans

9.1 Parramatta Development Control Plan 2011

The purpose of this DCP is to supplement the Parramatta LEP 2011 to provide more detailed provisions to guide development. The following parts of the DCP are relevant to this proposal:

- Part 3 - Development principles
- Part 4 - Special precincts (4.1.9 Morton street Precinct)

Application of some elements of the DCP is limited by the approval granted to the concept plan under DA 391/2012 and otherwise by the scope of the SEPP 65 and the RFDC. Compliance tables are provided below:

Table 11: DCP 2011 – Part 3 – compliance table

Provision	Comment	Complies
3.1 Preliminary building envelope	Site planning is determined by the approved concept plan. Exceedence of the LEP height controls is addressed at section 8.8 above.	Yes
3.2 Building elements	Form, massing and presentation are satisfactory noting the assessment provided at section 8.3 above.	Yes
3.3 Environmental amenity	<ul style="list-style-type: none"> • Amenity for residents of the apartments is satisfactory. Minor variations to balcony sizes are acceptable. Refer to section 10.3. • Outcomes for stormwater management are satisfactory – refer to section 10.8. • Arrangements for waste management are satisfactory- refer to section 10.11 	Yes
3.4 Social amenity	<ul style="list-style-type: none"> • Access for people with a disability is satisfactory. Refer to section 10.3 • Public Art is addressed via the consent granted to DA 391/2012 and the associated VPA. • Safety and security is satisfactory. Refer to section 10.9. • Unit mix is not strictly consistent with DCP provision, but is acceptable. 	Yes
3.5 Heritage	Heritage considerations, including Aboriginal and European archaeology, have been fully addressed. Refer to section.....	Yes
3.6 Movement and circulation	Refer to section 10.4	Yes
3.7 Residential subdivision	The proposed subdivision is project specific and is designed to facilitate the staging development and allow for the progressive provision of open space	Yes

Table 12: DCP 2011 – Part 4.1.9 – compliance table

Provision	Comment	Complies
Desired future character	The proposal is consistent with concept plan approved with DA 391/2012	Yes
Indicative building envelopes	The proposal is consistent with concept plan approved with DA 391/2012	Yes
Building height	The proposal is consistent with concept plan approved with DA 391/2012. The departure from the LEP height control is satisfactory on merit, as addressed at section 8.8	Yes
Building form	Satisfactory having regard to the assessment at section 8.3	Yes
Urban design	Satisfactory having regard to the assessment at section 8.3	Yes
Development in the B4 zone	Site planning and design respond to the nominated considerations.	Yes
Landscaping and deep soil	Satisfactory other than for minor matters noted at section 10.3	Yes
Traffic access and parking	Refer to sections 8.6 and 10.4	Yes
Public domain	Refer to sections 10.3 and 10.5	Yes

10. Likely impacts

10.1 Context and setting

The Land and Environment Court planning principle on “compatibility with context” as established in *Project Venture Developments v Pittwater Council* provides the following test to determine whether a proposal is compatible with its context:

Are the proposal’s physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites ?

And

Is the proposal’s appearance in harmony with the buildings around it and the character of the street?

This proposal will have a satisfactory relationship with its context for the following reasons:

- It provides for landuses which is compatible with adjacent and surrounding sites;
- The scale, form and presentation of the building is acceptable;
- The built form does not result in any adverse impacts for adjacent sites or public spaces;
- Its operation will not result in any adverse impacts for adjacent sites or the wider locality; and
- The values of heritage items adjoining the site, and in the wider visual catchment of heritage view corridors, are not diminished.

10.2 Site works

Excavation

The design requires a maximum excavation in the order of 7m to accommodate the basement levels. Only limited geotechnical information has been provided with the application. Accordingly the relevant issues are addressed as follows:

- A CCA is required from DPI (Water) which will address dewatering as necessary;
- Conditions of consent are recommended to address various construction management issues associated with the bulk earth works.

Tree removal

The application is supported by an arborist report which has assessed 148 trees on sites B and C. That report notes all 148 trees are located within the footprint of the proposed buildings and are required to be removed to accommodate the proposed development. The report states:

- 131 are identified as protected species under Council's Tree Preservation Order (TPO). Of these, the majority appear to be planted specimens, although several are likely to be locally indigenous species;
- The majority of these trees are rated as having low to moderate retention value for a number of reasons including declining health and / or condition, or low landscape significance;
- 15 trees have high retention value;
- 17 trees are exempt from protection under the TPO, being identified as dead or undesirable species;
- 7 trees located adjacent to the southwest boundary of the site are River She-oak trees growing in the adjacent road reserve / nature strip and are required to be removed to facilitate the construction of Foreshore Road.

The Report concludes that the tree loss will be offset by extensive planting within the site, and within the foreshore open space, with scope to re-introduce more of the locally indigenous species into the site to improve the ecological values of the new landscape.

Council's Tree Management and Landscape Officer has reviewed that report, concurs with its recommendations, and has provided conditions for inclusion in any consent.

10.3 Site planning and design

Site layout

Matters relating to the configuration of the proposal, in terms of internal roads, building footprints and setbacks were established via the consent granted to the concept plan under DA 391/2012. This proposal is consistent with plan, expecting for changes to site planning undertaken in direct response to the recommendations of DEAP.

Height, scale and mass

These aspects of the proposal were similarly established via the consent granted to the concept plan under DA 391/2012, and this proposal remains consistent with that approval. The variation to the LEP height control for buildings C1 and C3 is minor, and acceptable, as noted in the evaluation at section 8.8.

Built form, presentation and materials

These elements of the proposal are satisfactory noting that DEAP has acknowledged that the majority of its earlier recommendations have been incorporated into the scheme, including changes to the expression of the central element of the southern elevation of Site C to enhance the legibility of the differing forms and the slenderness of the adjoining towers.

Internal amenity

The design is satisfactory noting the assessment relative to SEPP 65 and the RFDC. Nevertheless, two matters require discussion:

- Building separation

Separation distances between some building elements do not strictly accord with the RFDC 'rules of thumb'. The areas of concern and proposed design treatments are addressed in the table below:

Table 13: Evaluation of separation distances

Location	Separation distance	Design solution
Between B1 and B2	At levels 3, 5, 6 and 7 the separation is 10m instead of 12m.	No elevation is provided however the floor plans indicate the east wall of B2 comprises a masonry treatment. This design solution is satisfactory.
Between B1 and B2	At level 8 the separation distances are 10m between habitable rooms and balconies, and 15m between habitable rooms. instead of 18m	The amended plans provide only for a narrow planter at the eastern edge of balconies on B2. This is insufficient and a revised treatment is needed to ensure proper visual privacy between units. Addressed by condition.
Between B1 and B5	At level 8 the separation is 17m instead of 18m between	The amended plans provide only for a narrow planter at the eastern edge of balconies on B2.

	habitable rooms and balconies.	This is insufficient and a revised treatment is needed to ensure proper visual privacy between units. Addressed by condition.
Between B2 and B3	At levels 5-8, the separation distance is 16.5m instead of 18m	No elevation is provided however the floor plans indicate the west wall of B2 comprises a predominantly masonry treatment. This design solution is satisfactory.
Between B3 and B5	At levels 3-7, the separation distance is 11.5m instead of 12m. At level 8 the separation distance is also 11.5m instead of 18m	No elevation is provided however the floor plans indicate the west wall of B5 comprises a predominantly masonry treatment at levels 3-7. That design solution is satisfactory. At level 8 the amended plans provide only for a narrow planter at the eastern edge of balconies on B5. This is insufficient and a revised treatment is needed to ensure proper visual privacy between units. Addressed by condition.
Between C1 and C2	At levels 6-8 the separation distance is 11.5m instead of 12m.	No elevation is provided however the floor plans indicate the east wall of wall of C2 comprises a predominantly masonry treatment. That design solution is satisfactory.
Between C3 and C5	The southernmost apartments in C3 are as close as 6m to those in C5.	The plans have been amended to include full height screens to balconies of units in building C5 to improve privacy. That solution is satisfactory.

- Balcony sizes

The RFDC does not nominate a rule of thumb and therefore the DCP prevails, and it nominates a minimum area of 10m² regardless of unit size. For the application as lodged, many of the apartments did not meet that control. The revised plans have satisfactorily resolved this issue as follows:

- There are 31 different 1x bedroom unity typologies. All but 8 of those types readily exceed the DCP control. For those that do not, balcony sizes are either 8m² or 9m². While that is less than the DCP, it nevertheless meets the Apartment Design Guide (ADG) design criteria of 8m² and is therefore acceptable. All balcony depths are satisfactory.

Accessibility

The application is supported by a technical report which has evaluated the proposal relative to the Disability Discrimination Act (DDA), DDA Access to Premises Standards (including DDA Access Code), Building Code of Australia (BCA), AS 1428 series (access and mobility) and AS 4299 (Adaptable housing).

That report includes various recommendations necessary to ensure the design and construction of the building is able to meet statutory requirements. The matters identified are minor in nature

and can be addressed at the time of the Construction Certificate. This matter is addressed by conditions.

Landscape treatment

The application is supported by:

- A comprehensive landscape report outlining the design philosophy and principles for the onsite and public domain areas;
- A series concept plan providing preliminary details for design treatment for the various precincts within the development.

In terms of the landscape treatment for sites B and C, Council's Tree Management and Landscape Officer has not raised any concerns.

In terms of the landscape treatment for the public domain elements of the proposal:

- Council's Open Space & Natural Area Planner is generally supportive of the intended treatment, and is strongly supportive of the use of large Australian native trees in order to soften the visual and scale the development, whilst also providing increased habitat for local wildlife.

However concern is raised with regard to the proposed verge and pathway widths, and is seeking a minimum of 1.5m verge width to provide for the healthy development of mature native street trees. This matter is addressed by way of conditions.

- Council's Urban Design team similarly has identified a number of instances where there is opportunities to achieve an improved outcome. These matters are minor, and are addressed by way of a condition requiring the preparation of amended plans.

10.4 Access, parking and traffic

Access

Each site is provided with a single entry/exit driveway connecting to the new internal road (New Zealand Street). This arrangement has been assessed as satisfactory by Council's Traffic Engineer.

Parking supply

The application provides for total of 648 spaces, an oversupply of only 2 spaces relative to the DCP control. This circumstance is acceptable noting that concessional supply rates in the DCP have been used given the site's proximity to the CBD and public transport services.

The allocation of parking between the two sites, and the split to meet resident, visitor, retail and care share requirements are all satisfied.

Traffic generation

The application is supported by a Traffic Impact and Parking Assessment report which considered the operational impacts from this proposal relative to the capacity and operation of the local road network. That report provided the following conclusion:

“The proposed development’s traffic impact has previously been assessed with details of the assessment provided in the report prepared by Brown Consulting titled 2 Morton Street, Parramatta – Masterplan & Stage 1 DA Traffic Impact Assessment dated June 2012. The report details the likely traffic impact at the Thomas Street / Macarthur Street intersection as well as the Thomas Street / Morton Street intersection using the Sidra software.

The report concluded that both intersections were operating within their notional capacity and upon completion of the development the intersections will operate satisfactorily with excessive queueing anticipated at the right turn from Macarthur Street northbound during the morning peak period only.

The previous assessment was based on a traffic survey undertaken in 2009 and applying an annual traffic growth rate of 1.5%. A recent traffic survey undertaken at the Thomas Street / Macarthur Street intersection reveals that the annual traffic growth rate is closer to 0.35%, thereby indicating that the estimated future background traffic volumes were too conservative.

The traffic generation rates adopted in the previous assessment of 0.29 trips per unit during each peak period were taken from the RTA Guide to Traffic Generating Developments dated 2002. The RMS Technical Directions (TDT 2013/04a) Guide to Traffic Generating Developments Updated Traffic Surveys provides more appropriate traffic generation rates based on more recent surveys (i.e. 0.19 trips / unit and 0.15 trips / unit during the morning and evening peak periods respectively). This indicates that the estimated traffic generation for the proposed development in the previous assessment was too conservative.

Given the conservative nature of the previous assessment it is anticipated that the proposed development will in fact have less impact than originally anticipated and it is likely that there will not be any concern in terms of the available storage space to cater for the right turn movement from Macarthur Street northbound.

In light of the above, it is anticipated that the proposed development will have no adverse impact in terms of onstreet parking supply or traffic impact on the surrounding road network and will not require any ameliorative treatment.”

Council's Traffic Engineer has reviewed and accepted the findings of that report.

Design and operation

The layout and geometry of the access, manoeuvring, service and parking areas is generally satisfactory, subject to minor amendments as identified by Council's Traffic Engineer. Those matters are addressed by conditions in the recommendation to this report.

10.5 Relationship with public domain

The design allows for positive public domain outcomes as:

- The buildings address all street frontages and the foreshore public open space;
- Ground floor levels satisfactorily relate to street edges noting the need to manage site topography;
- Vehicle access points are consolidated and located on secondary frontages;
- Service areas are integrated into the building design and do not visually dominate the streetscape or pedestrian areas adjoining the site;
- Many areas within the building enjoy a direct visual connection to the street frontages ensuring a high degree of passive surveillance which will encourage a sense of safety within the public spaces around the site.

10.6 Relationship with adjacent sites

Overlooking

Separation distances achieved from the road network will minimise overlooking of any neighbouring sites.

Overshadowing

Diagrams accompanying the application demonstrate that shadow impacts for neighbouring sites, and the public domain, is limited such that no concerns arise.

Operational noise

This application is supported by an acoustic report which confirms that operational noise from mechanical plant can be managed, through appropriate plant selection and standard acoustic treatment, such that noise emissions will comply with relevant criteria.

10.7 Heritage

Overview

The site is not a heritage item, nor is it within a heritage conservation area, however it adjoins an area of wetlands on the riverbank, which are listed in PLEP 2011 as an item of local significance. The site is traversed by two historic view corridors, and adjoined by a further 2 such corridors, which are identified within Parramatta DCP 2011.

The application is supported by:

- An Aboriginal archaeology assessment ; and
- A Non- Indigenous heritage impact statement.

These reports have been evaluated by Council's Heritage Advisor who, in summary, has no

objection to the proposal.

Impacts on the wetlands

Council's Heritage Advisor has provided the following conclusion:

"The wetlands along Parramatta River are of significance for Parramatta area as remnant representative areas of mangroves and salt marshes which once extensively lined the foreshores and tidal water flats of the region. Given the dimensions of the site, and separation between wetlands and the proposal, and given the nature of the proposal, it is deemed that significance of the item will not be impacted."

Aboriginal Archaeology

Council's Heritage Advisor has provided the following conclusion:

"The site has been identified as having high Aboriginal sensitivity in the Parramatta Aboriginal study, which was apparently an error, given the level of disturbance of the grounds in the past. In any case, the Aboriginal report prepared for this DA demonstrates that:

- (a) There are no recorded Aboriginal sites within the study area;*
- (b) It is unlikely that the study area contains a section of the Parramatta sand body; and*
- (c) The study area has a low archaeological potential.*

Based on the above, the submitted report supported the proposal, with usual caution recommended. There are thus no constraints on the proposed development with regard to Aboriginal heritage, albeit approval may be conditioned to the effect that, "If unexpected Aboriginal objects are located during the proposed works, work in the area must stop and OEH and Parramatta City Council be contacted for advice".

Non-Indigenous heritage

Council's Heritage Advisor has provided the following conclusion:

"The site has little European archaeological potential, and in the unlikely case that any archaeological material is found, it would not exceed local level of significance. Archaeological investigation of the archaeological potential of the study area has been completed under a section 140 excavation permit granted by the NSW Heritage Council under the provisions of the Heritage Act 1977. The archaeological report, prepared for this DA, indicates that no further archaeological investigation is required. However, it also recommends that:

- (a) heritage induction should be conducted for all workers on the site during subsurface excavations and,*
- (b) if archaeological remains are encountered during development, work should cease and the NSW Heritage Council and archaeologist should be notified.*

Based on this, it is assumed that an approval under NSW Heritage Act will not be required for

case, archaeological matters were (or will be) resolved by NSW OEH, possibly through conditions of consent under the NSW Heritage Act, and thus it is deemed that any DA approval would not require separate conditions regarding archaeology.”

Appropriate conditions are included in the recommendation to this report to implement those requirements.

Historic view corridors

A number of these corridors are identified in the DCP 2011, as shown on the figure below.

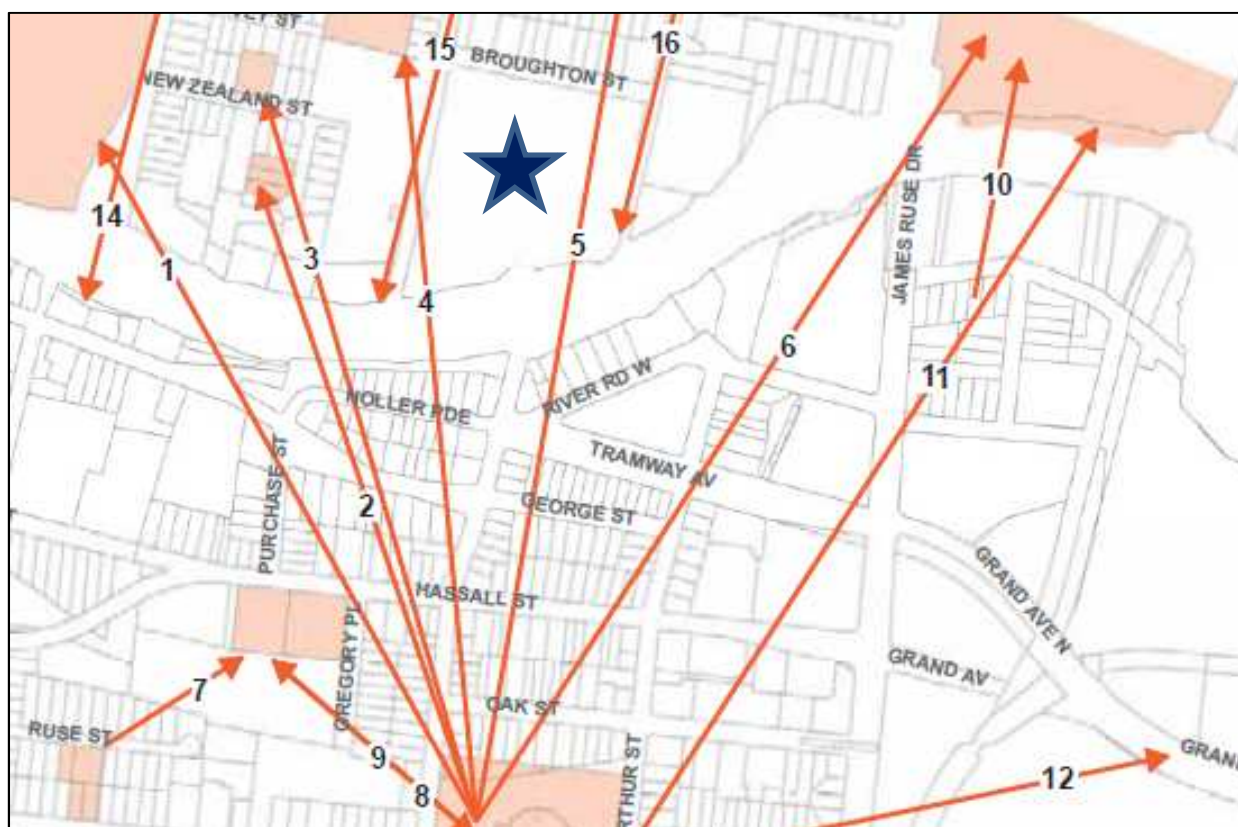


Figure 7: Extract from DCP 2011 showing historic view corridors – site marked with blue star

Those relevant to this site are noted in the table below:

Table 14: Relevant view corridors

View No.	Description	Significance
4 and 5	Views from Elizabeth Farm and Harris Park colonial precinct north to the ridgeline of hills, river basin (area bounded by Victoria Road, James Ruse Drive, Prospect and Harris Streets) to trees along river, former Newlands, trees of former Rangihou, Wavertree, Macarthur Girls High School, marked by tall tree plantings, including bunya and hoop pines, visible above surrounding suburban development.	Broadest panorama views in Parramatta, of hills to the north allowing appreciation river valley landscape setting, the siting and interrelationships between key colonial farms and remnant early houses (marked by historic tall tree plantings of Elizabeth Farm, Newlands, Wavertree, Macarthur House, Rangihou). Also modern views of key historic farm plantings from major roads.

15 and 16	Views from riverbank ridge defined by Thomas Street, North Parramatta, looking south down Stewart, Macarthur, Morton and Pemberton Streets to tall tree plantings of Hambledon Cottage, Experiment Farm, Elizabeth Farm and ridgeline of Harris Park colonial precinct.	Retain modern views of landmark tree plantings from the riverbank edge.
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Council's Heritage Advisor has provided the following conclusion:

"The site of proposed development also encroaches on the Significant View Corridor No. 4 (from Elizabeth Farm to Broughton House site). The results of my analysis indicate that the proposal was carefully designed to avoid interfering with this view corridor."

10.8 Water management

Flooding

Flooding is a key constraint with part of the site the site affected by flooding from the Parramatta River, with the extent of the 1 in 100 year ARI shown on the Figure below. Council's Development Engineer advises that overbank flooding, from deep and fast flowing waters can be expected once or twice each year.

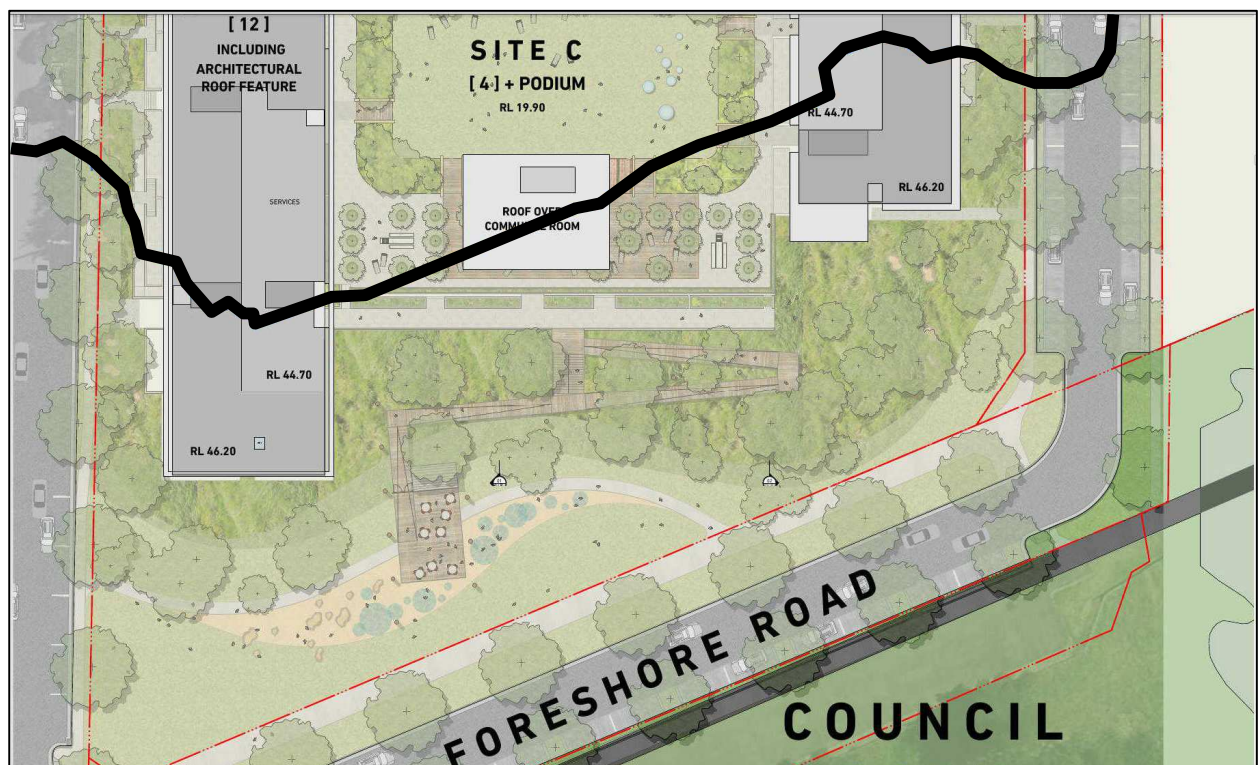


Figure 8: Site plan with 1 in 100 year ARI overlay.

The application is supported by a Flood Impact Assessment which has been assessed by Council's Senior Development Engineer. Council's conclusions are summarised below:

- In terms of site planning and design, no concerns are raised given:
 - The basement car parking floors freely drain as there are no flood bunding crests needed in the accessways;
 - The building western and eastern footprints of Site C and the podium encroach into the 1% AEP (100 ARI) flood contour. The buildings project out over this flood zone off the ground, with floors raised on columns well above the 1% flood level plus 500mm freeboard. The underfloor areas are to be enclosed with screens that allow for flood water to flow through but otherwise prevent access and use. This is a typical arrangement and is acceptable.
- In terms of risk to the foreshore open space, Council's Engineer notes:

"The 1% AEP (100 ARI) flood level is predicted to be 5.1 m AHD which produces depths at the top of the riverbank and in the public and private open space of at least 2m. This is a high hazard zone, whatever the flood water velocity. The applicant also states that the foreshore area is likely to be flooded in lesser events at least twice per year. The applicant advised that floodwaters will rise at about 830 mm per hour giving approximately 2.5 hours warning time before peak depth and velocity are reached in a 100 ARI (1% AEP) flood."

And:

"Council has required public vehicle access to the foreshore and short stay car parking for visitors to the riverbank. The foreshore road appears to provide 14 car parking spaces which are exposed to flooding. There are probably another 10 parking spaces affected by flooding in Morton Street and the 'Internal Road'."

Options to manage the risk to users of the foreshore were investigated, with appropriate warning signage considered sufficient.

Stormwater management

Some stormwater from hard stand areas on sites B and C will be collected for rainwater harvesting and reuse on site. The balance will be managed via an OSD system which connects to the drainage network of the new roads. All stormwater ultimately discharges into the river. The stormwater system includes measures to reduce potential pollution.

Council's Development Engineer has identified various opportunities to improve the stormwater system with regard Water Sensitive Urban Design (WSUD) measures for both within the sites B and C, and the public domain. That matter is addressed by conditions in the recommendation to this report.

10.9 Safety, security and crime prevention

Crime Prevention Through Environmental Design (CPTED) is a recognised model which provides that if development is appropriately designed it is anticipated to assist in minimising the incidence of crime and contribute to perceptions of increased public safety.

The application has been evaluated against the principles which underpin CPTED considerations (surveillance; access control; territorial reinforcement and space management) and is generally satisfactory.

To ensure an appropriate outcome, this report includes conditions requiring measure relating to:

- Internal and external lighting to Australian Standards;
- Install of CCTV at appropriate locations; and
- Access control.

10.10 Social and economic impacts

Positive social outcomes will result from the increase in housing supply, which includes the required number of adaptable apartments.

The application as lodged failed to meet the requirements of Council's DCP in terms of unit mix, with 3 bedroom apartments accounting for less than 1% of the total supply. The amended plans have increased the 3 bedroom units to 5% of the total. Although that is less than the minimum of 10% nominated in the DCP, it is nevertheless acceptable, being consistent with concession granted by Council.

10.11 Waste management

Construction phase

This matter will be addressed within the Construction Management Plan, the preparation of which is a condition of consent.

Operation phase

Council's Waste Management Team has reviewed the proposal and is satisfied with arrangements for waste storage and collection.

10.12 Construction Management

Construction activities will impact upon the amenity of the locality. The recommendation to the report requires the preparation of a construction management plan addressing the following matters:

- Dilapidation reports;
- Demolition and removal of hazardous materials;
- Sediment and erosion control and water quality during construction;
- Construction traffic management plan;
- Hours of works;
- Construction noise and vibration;
- Material delivery and storage;
- Safety fencing;

- Traffic and pedestrian safety; and
- Dust control.

10.13 Utility services

Both Sydney Water and Endeavour Energy have identified the need for augmentation of their respective infrastructure to meet the demand associated with stages 2 and 3 of this development. This matter is addressed by conditions.

11. Site suitability

The site is suitable for this development given:

- It is an appropriate “fit” for the locality noting the consent granted to the concept plan via DA 391/2012 and also noting the preceding analysis, which demonstrates a lack of adverse built form and operational impacts; and
- The site attributes are conducive noting natural constraints/hazards; ecological and heritage impacts are able to be properly managed.

12. Submissions

The application was notified consistent with Appendix 5 of DCP 2011 with one submission of objection received. The matters raised are summarised and addressed below:

Issue 1

The DCP height controls have been disregarded and the LEP heights have instead taken precedence. Further, the building to proposed foreshore road exceeds the LEP height limit.

Response

This site is the subject of a concept approval and this proposal is considered to be consistent with that scheme. The variation to the LEP height control has been evaluated relative to the matters for consideration in clause 4.6 of that Plan, and is able to be supported.

Issue 2

The roof feature is not consistent with the requirements of clause 5.6 of the LEP as it relates to architectural roof features. The roof element is not a decorative feature and does not improve the appearance of the buildings. An alternative to the obtrusive and unattractive roof design should be sought.

Response

The application as lodged sought to justify the exceedence of the LEP height control by relying upon clause 5.6 of the LEP (architectural roof features). Council did not agree with that

approach, and the applicant subsequently addressed the matter by way of the mechanism in clause 4.6 of the Plan (Exceptions to development standards).

Issue 3

The original approval from DA 391/2012 was for 11 floors – this proposal is 12 floors.

Response

The approved concept plans drawing show building C1 and C2 as being 12 storeys.

13. Public interest

The proposal satisfactorily addresses relevant planning controls in a manner which is sensitive to its context and setting, providing for an orderly and economic use of the land.

14. Parramatta s94A Development Contributions Plan 2008

As the cost of works for development exceeds \$200,000 a Section 94A development contribution of **1.0%** is required to be paid. A Detailed Cost Estimate was provided which provided a development cost of **\$190,410,000.00**. Such would attract payment of a contribution of \$1,904,100.00. However the terms of the VPA operate to exclude the application of clause 94A of the Act. Accordingly no contribution is required.

15. Summary and conclusion

The application has been assessed relative to section 79C of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls. On balance the proposal has demonstrated a satisfactory response to the intention and objectives of the design principles and controls contained within the Residential Flat Design Code in accordance with SEPP 65, and with local planning controls. Accordingly, approval of the development application is recommended.

RECOMMENDATION

- (a) **That** the Joint Regional Planning Panel support the variation to Clause 4.3 of the PLEP 2011 under the provisions of clause 4.6; and
- (b) **That** the Joint Regional Planning Panel as the consent authority grant consent to Development Application No. DA/164/2015 for tree removal, subdivision, new roads and construction of a mixed use development containing 496 apartments and 4 retail/commercial tenancies at Lot 1 in DP 817709 for a period of five (5) years for physical commencement to occur from the date on the Notice of Determination subject to the conditions in Attachment 1.