



**SYDNEY WEST CENTRAL PLANNING PANEL**  
COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2016SYW062 DA
<b>DA Number</b>	DA/468/2016 (formerly Hornsby Council ref: DA/234/2016)
<b>LGA</b>	City of Parramatta (formerly Hornsby Council)
<b>Proposed Development</b>	Construction of 3 mixed use towers (19, 24 and 29 storeys) comprising 463 residential units, 1681sqm of retail floor space and 4 basement levels containing space for 529 cars, 388 bicycles, 35 motorcycles, storage, refuse and servicing; public domain upgrades including 2-way vehicular lane between towers 2 and 3, pedestrian through-site links, and public open spaces; following demolition of existing building and car park.
<b>Street Address</b>	12 - 22 Langston Place & 10 Pembroke Street, EPPING NSW 2121 (Lot 20 DP877567, Lot 5 DP249822)
<b>Applicant</b>	CBUS Property Langston Place Pty Ltd
<b>Owner</b>	CBUS Property Langston Place Pty Ltd, City of Parramatta
<b>Date of DA lodgement</b>	1 March 2016
<b>Number of Submissions</b>	94
<b>Recommendation</b>	Deferred Commencement Approval subject to conditions
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	Pursuant to Clause 3 of Schedule 4A of the <i>Environmental Planning and Assessment Act 1979</i> , the development has a capital investment value of more than \$20 million.
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"><li>• Environmental Planning and Assessment (EP&amp;A) Act 1979</li><li>• Environmental Planning and Assessment (EP&amp;A) Regulation 2000</li><li>• SEPP (Building Sustainability Index: BASIX) (BASIX SEPP) 2004</li><li>• SEPP (Infrastructure) (ISEPP) 2007</li><li>• SEPP (State and Regional Development) (SEPP SRD) 2011</li><li>• SEPP (Sydney Harbour Catchment) (SEPP Sydney Harbour) 2005</li><li>• SEPP No. 55 (Remediation) (SEPP 55)</li><li>• SEPP No. 65 (Design Quality of Residential Apartment Development) (SEPP 65) &amp; Apartment Design Guide (ADG)</li><li>• Hornsby Local Environmental Plan (HLEP) 2013</li><li>• Hornsby Development Control Plan (PDCP) 2013</li></ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"><li>• Architectural Drawings</li><li>• Landscape Plans</li><li>• Economic Analysis</li><li>• Sydney Train Referral Response</li></ul>
<b>Report prepared by</b>	Matthew Hedges, SJB Planning (NSW) Consultant Planner
<b>Report date</b>	19 <sup>th</sup> July 2017

**Summary of s79C matters** **Yes**

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

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**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

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**Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (Clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **No**

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**Conditions**

Have draft conditions been provided to the applicant for comment? **Yes**

## 1. Executive Summary

The proposal provides for the construction of a mixed use development comprising three (3) towers over four (4) levels of basement, containing 463 residential units, 1681m<sup>2</sup> of retail space (nine (9) retail tenancies), 529 car parking spaces, 388 bicycle spaces, 35 motorcycle spaces, storage, refuse storage and servicing, publicly accessible open space in the form of a plaza, and communal open space to the first floor level.

The proposed development generally follows the form for the site envisaged by Hornsby Shire Council Local Environmental Plan (HLEP) 2013, Hornsby Shire Council Development Control Plan (HDCP) 2013, and Hornsby Shire Council Epping Town Centre Public Domain Guidelines. The Applicant has submitted a request to vary the maximum height of the buildings under Clause 4.6 of HLEP 2013. The request is considered to be well founded for reasons including the relocation of the building height to the towers further away from the park (public open space) and heritage building, urban design improvements, and site constraints.

The development has been subject to review by Council's Design Excellence Advisory Panel (DEAP), City Architect, external Architectural Advisor, and is consistent with State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG), providing future occupants with a high standard of amenity and accommodation.

The amenity impacts on adjoining and nearby properties are considered to be reasonable based on the high density character of the area, and the built forms envisaged by the controls. It is considered that the proposed increase in traffic would not compromise the efficient function of the local road network.

An extension to Chambers Court is proposed as part of the development package which will provide access to the development instead of the tunnel access from Pembroke Street as envisaged by the Epping Town Centre Public Domain Guidelines. This proposed road extension will enable future orderly development of the block as envisaged by Councils Urban Design Team.

The application has been assessed relative to section 79C of the *Environmental Planning and Assessment (EP&A) Act 1979*, taking into consideration all relevant State and local planning controls. On balance, the proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework. Accordingly, approval is recommended subject to conditions.

A deferred commencement condition has been required by Sydney Trains to enable them to assess the impact of the proposed development on the adjacent rail infrastructure.

## 2. Site Description, Location, and Context

The subject site is located on the northern side of Epping Road near the Langston Place intersection, with frontage to Epping Road, Langston Place, Pembroke Street, and Chambers Court, and is legally described as Lot 20 in DP877567. Also included is a small section of the adjoining Council owned library site, legally described as Lot 5 DP249822.

12-22 Langston Place is 6899m<sup>2</sup> in size and of an irregular shape, with the main portion of the site located to the south, and a small 25m wide finger running north, parallel to Chambers Court, with frontage to both Chambers Court and Pembroke Street.

The site currently accommodates Westpac Card Services, and comprises a five (5) storey commercial office building containing 8,944m<sup>2</sup> of net lettable commercial office floor space and a detached two (2) storey car park.

East of the site is Epping Library Park, a small grassed area with picnic tables, play equipment, and Epping Library. Beyond are residential apartment buildings (Pembroke Lodge, Pembroke Place and Pembroke Gardens) accessed from Smith Street.

The site is located east of Epping Railway Station (within 100m walking distance), and south of shopping facilities and services fronting Langston Place and Oxford Street. To the west, beyond

Epping Railway Station, are further local facilities and shops, which are accessible via footbridge from the station precinct.

To the south of the site, on the opposite side of Epping Road, are further residential dwellings formed of mainly detached houses and residential flat buildings.

Heritage Item 399 is situated to the north of the site on the opposite side of Pembroke Street, and Heritage Item 392 is situated adjacent to Item 399, fronting Oxford Street. Item 399 is identified as St Alban's Church and Grounds and Item 392 as 10-16 Oxford Street (a row of heritage shopfronts).



Figure 1. Locality Map (subject site in red)

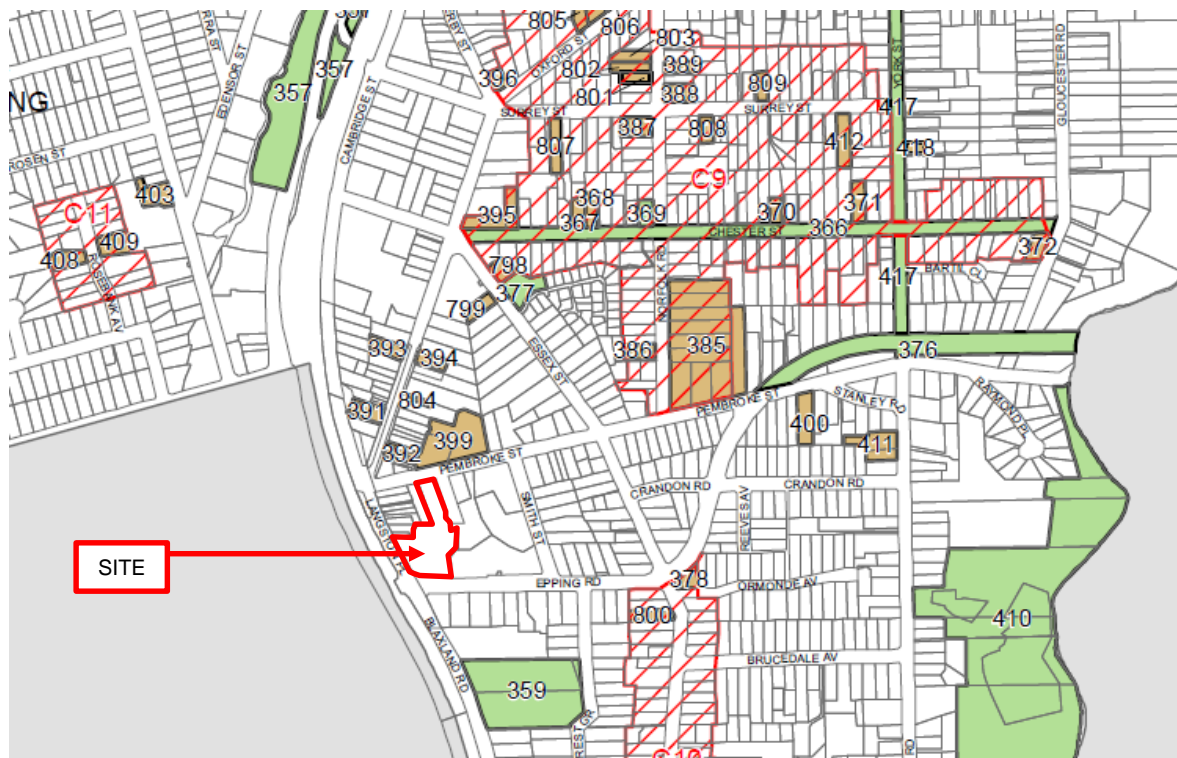


Figure 2. Heritage LEP map.



**Figure 3.** Vehicular access to the existing car park on the site from Pembroke Street



**Figure 4.** Existing built form looking north from the corner of Epping Road and Langston Place



Figure 5. Existing built form looking south from Chambers Court, adjacent to Epping Library site

The following applications are relevant to the proposal:

Site	DA	Description/Details
24-36 Langston Place	DA/237/2017	Received 22/03/2017: Demolition and construction of 22 storey shop top housing development with ground floor commercial and retail premises, 104 residential units over five (5) levels of basement carparking. The proposal is Nominated Integrated Development under the <i>Water Management Act 2000</i> . The proposal will be determined by the Sydney West Central Planning Panel.
30-42 Oxford Street	DA/585/2016	Approved 20/07/2016: Demolition of existing structures, retention of a heritage item and construction of a 17 storey mixed use development comprising ground floor retail over basement carpark and shop-top housing comprising 254 units in two (2) residential towers.
35 Oxford Street	DA/365/2016	Approved 14/07/2016: Demolition and construction of a 22 storey shop-top housing development comprising 54 residential units, one (1) retail unit and basement car parking.
20-28 Cambridge Street	DA/681/2015 (Hornsby)	Approved 24/02/2016: Demolition of existing structures and construction of two (2) x 22 storey buildings and one (1) x seven (7) storey building, each comprising ground floor retail/business tenancies totalling 966m <sup>2</sup> , and the upper levels containing a total of 501 residential units, with combined basement car parking for 519 cars.

Table 1: Applications relevant to the proposal.

### 3. The Proposal

The proposal involves the following:

- Demolition of existing structures, hard stand areas, and vegetation removal;
- Construction of three (3) mixed use towers above a single storey podium containing:
  - 463 residential apartments;
  - 1681m<sup>2</sup> of retail space arranged in nine (9) units;
  - Servicing and storage space; and
  - 1921m<sup>2</sup> communal open space (First floor level).
- Four (4) level basement containing:
  - 529 car parking spaces;
  - 35 motorcycle spaces;
  - 388 bicycle spaces;
  - Refuse storage;
  - Residential storage cages; and
  - Servicing and facilities.
- New two-way lane extending from Chambers Court into the site between Towers 2 and 3.
- Public domain improvements including planting, stormwater infrastructure and street tree planting.



**Figure 6.** Photomontage of proposal as viewed from Beecroft and Epping Road looking north east.

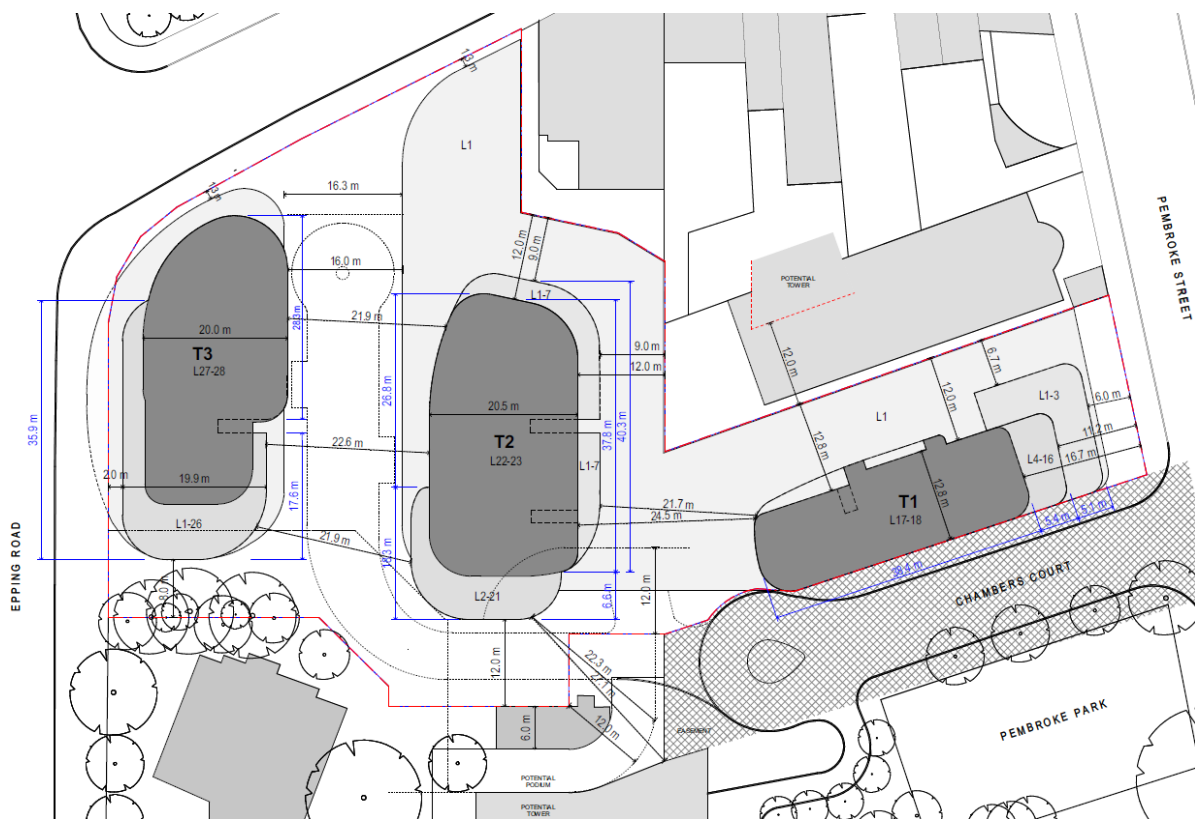


Figure 7. Site plan showing location of towers 1, 2 & 3 (T1, T2, T3) including separation distances.

The construction of the proposed development is to be undertaken in stages, the applicant has indicated that development would start in 2019, after the commercial lease on the existing building expires.

The application requires concurrence from the Roads and Maritime Authority under Schedule 3 of ISEPP 2007 as the number of residential units proposed exceeds 300 and thus constitutes traffic generating development.

The application requires concurrence from Sydney Trains under Clause 86 of ISEPP 2007 due to the proximity of the site to the rail corridor and above ground rail electricity infrastructure.

### 3.1 Summary of Amended Proposal

The DA has been amended on several occasions in response to concerns raised by Council's DEAP and Council officers.

The applicant submitted revised drawings and documentation at each stage addressing concerns including, but not limited to, the following changes:

- Increased tower setbacks from 2 Pembroke Street;
- Increased setbacks to Epping Road and introduction of landscaped area to road frontage;
- Alterations to tower designs resulting in a tapered design with a defined top, middle and base;
- Reduction of separation between buildings at ground level, creating a more intimate pedestrian link to the centre of the site;
- Increase in building height of Tower 3 to 92.85m, a variation of 28.9%, as a result of increased setbacks and building separation;
- Alterations to retail tenancies and building lobbies to create activated frontages;
- Increase in communal open space area;
- Addition of toilets for communal open space; and



- New two (2) way lane extending Chambers Court to enable street addresses for towers 2 and 3 and future road pattern envisaged by Council's Urban Design Team.
- Deletion of access points to underground tunnel formally proposed from Pembroke Street at Council's request.

Note: Since the scheme was presented to DEAP, the pedestrian plaza between Towers 2 and 3 has been removed, and Chambers Court extended to enable the provision of street addresses to these towers (at the request of Council). As such the access tunnel from Pembroke Road is no longer necessary and has also been removed.

## 4. Referrals

The following referrals were undertaken during the assessment process:

### 4.1 Sydney West Joint Regional Planning Panel Briefing (29/06/16)

Concerns were raised by the Panel members as follows:

- Loss of commercial floor space;
- Wind analysis;
- Proper analysis of vehicle access options to facilitate the provision of the town square planned in the Public Domain Guidelines; and
- An easement/access arrangement to facilitate the through site link indicated in the Public Domain Guidelines.

### 4.2 Sydney West Central Planning Panel Briefing (05/07/17)

The key issues discussed by the Panel members were as follows:

- Setbacks and interface with Epping Road is acceptable
- The configuration of the streets and access points make the space more useable and the towers are suitably located, providing good sunlight and are well designed.
- Clause 4.6 needs to demonstrate the public benefit, other public benefit is not evident, in fact the reverse applies, eg. Loss of commercial job opportunities. The existing Westpac building was approximately 6000m<sup>2</sup> of commercial space, and the new proposal contains 1681m<sup>2</sup>. The loss of those jobs is not in the interest of the Town Centre as now proposed. The Panel seeks re-examination of the configuration to see if any of that commercial space can be regained through modification of the proposed design.

### 4.3 Design Excellence Advisory Panel

Council's DEAP first considered the application at a meeting on the 23 June 2016, raising several concerns. The applicant submitted revised drawings responding to these concerns, and a second meeting was held to consider the revisions on 23 February 2017. The DEAP made the following relevant comments in relation to the project:

*"In summary, this is a key development for the future character of the emerging high density Epping Town Centre precinct. The towers are in themselves well designed, however the project continues to demonstrate a range of public domain design quality issues requiring further resolution. In the Panel's view, there must be a well reasoned balance between the desire to maximise yield and creation of a high quality public domain for the community."*

Where appropriate, conditions have been included to resolve outstanding concerns of the panel.

#### 4.4 Council's External Architectural Advisor

In addition to the scheme being referred to the DEAP, ongoing design critique has also been carried out by Jon Johannsen in the role of Architectural Advisor. Comments have been provided on each of the design iterations submitted to Council, and the scheme now proposed is broadly supported by Council's external advisor.

#### 4.5 External

Authority	Comment
Roads and Maritime Services	No objection and conditions provided.
Transport for NSW	No objection and conditions provided.
Sydney Water	No objection and conditions provided.
Sydney Trains	Concurrence and conditions provided (including deferred commencement).
Wind	Applicant's wind study satisfactory. Comfort achieved for walking and short term seating. Recommended additional screening to provide comfort for long term seating (condition included).

Table 3: External referrals

#### 4.6 Internal

Authority	Comment
Tree Management (Hornsby)	Supported subject to arborist report being submitted (report submitted) and conditions for implementation added.
Landscape (Hornsby)	Supported subject to comments being addressed, which have been dealt with by conditions.
Social and Community Services	Concerns raised about the impact the proposed development will have on the adjacent library and would like to see disruption to operations minimised. Conditions have been included to ensure disruption is minimised.
Environmental Health	Supported – Development is to be served by a private waste contractor – WMP to be updated to provide demolition and construction waste management.
Transport	Supported subject to conditions.
Engineer	Application supported subject to conditions
Urban Design	Supported subject to conditions. In particular, Urban Design support the new laneway (as it provides street address for Towers 2 and 3), the widened footpaths, and public domain treatment subject to a condition requiring refinement of the public domain design.

Table 4: Internal referrals

## 5. Environmental Planning and Assessment Act 1979

The sections of this Act which require consideration are addressed below:

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

The proposal is not considered likely to significantly impact on any threatened species, population, ecological communities or their habitats.

## 5.2 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:

Provision	Comment
Section 79(1)(a)(i) - Environmental planning instruments	Refer to section 6
Section 79C(1)(a)(ii) - Draft environmental planning instruments	Refer to section 7
Section 79C(1)(a)(iii) – Development control plans	Refer to section 8
Other Planning Controls	Refer to section 9
Other	Refer to section 10
Section 79C(1)(a)(iiia) - Planning Agreement	Refer to section 11
Section 79C(1)(a)(iv) - The Regulations	Refer to section 12
Section 79C(1)(a)(v) - Coastal zone management plan	Not applicable.
Section 79C(1)(b) - Likely impacts	Refer to section 13
Section 79C(1)(c) - Site suitability	Refer to section 14
Section 79C(1)(d) – Submissions	Refer to section 15
Section 79C(1)(e) - The public interest	Refer to section 16

Table 5: Section 79C(1)(a) considerations

## 6. Environmental Planning Instruments

### 6.1 Overview

The instruments applicable to this application comprise:

- SEPP (Building Sustainability Index: BASIX) (BASIX SEPP) 2004;
- SEPP (Infrastructure) (ISEPP) 2007;
- SEPP (State and Regional Development) (SEPP SRD)2011;
- SREP (Sydney Harbour Catchment) (SREP (Sydney Harbour)) 2005;
- SEPP No. 55 (Remediation) (SEPP 55);
- SEPP No. 65 (Design Quality of Residential Apartment Development) (SEPP 65); and
- Hornsby Local Environmental Plan (HLEP) 2013.

Compliance with these instruments is addressed below.

### 6.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The application is accompanied by a BASIX certificate that lists commitments by the applicant as to the manner in which the development will be carried out. The requirements outlined in the BASIX certificate have been satisfied in the design of the proposal. Nonetheless, a condition will be imposed to ensure such commitments are fulfilled during the construction of the development.

### 6.3 State Environmental Planning Policy (Infrastructure) 2007

The proposal is considered to constitute a 'traffic generating development' as it proposes more than 300 dwellings. The DA has been referred to Road and Maritime Services (RMS), who have not raised any concerns, subject to the recommended conditions being imposed on any consent. These conditions have been imposed in the draft conditions prepared.

### 6.4 State Environmental Planning Policy (State and Regional Development) 2011

The proposed development has a Capital Investment Value (CIV) of more than \$20 million, therefore, Part 4 of this Policy provides that the Sydney West Central Planning Panel (SWCPP) is the consent authority for this application.

## 6.5 Sydney Regional Environmental Policy (Sydney Harbour Catchment) 2005 (Deemed SEPP)

This Policy, which applies to the whole of the Parramatta Local Government Area (LGA), 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 of the development.

## 6.6 State Environmental Planning Policy No. 55 – Remediation of land

A preliminary site investigation report was submitted with the application. This report concluded that *“the potential for significant or widespread contamination is low to moderate”* and the site could be made suitable for the proposed development. Despite this, it is recommended that further detailed investigation is required to determine the extent of possible contamination identified in the Conceptual Site model.

This will be dealt with by suitable condition requiring its completion once the site is cleared.

## 6.7 State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development)

SEPP 65 applies to the development as the proposal is for a new building, is more than three (3) storeys in height, and will have more than four (4) units. SEPP 65 requires that residential flat buildings satisfactorily address nine (9) design quality principles, and consider the recommendations in the (ADG).

### ***Design Quality Principles***

A design statement addressing the quality principles prescribed by SEPP 65 was prepared by the project architect, and submitted with the application. The proposal is considered to be consistent with the design principles for the reasons outlined below:

<b>Requirement</b>	<b>Council Officer Comments</b>
<i>Principle 1: Context and Neighbourhood Character</i>	<p>The proposed development is consistent with the desired future character of Epping Town Centre, responding to the Epping Town Centre Guidelines and Parramatta Council Urban Design Staff.</p> <p>The proposed development will make a positive contribution to Epping Town Centre, providing pedestrian links and retail activation. The site is in close proximity to Epping Railway Station, and provides good links to public transport and local facilities.</p>
<i>Principle 2: Built Form and Scale</i>	<p>The height of the proposed development is considered to be an acceptable approach, consistent with the desired future character of Epping Town Centre.</p> <p>The proposed development height responds to the surrounding locality, providing a transition from the lower development to the north, including St Alban’s Church, which is identified as heritage item 399 on the Heritage Register.</p> <p>The combined total average of the three (3) towers is slightly higher than a complying development, producing a development equivalent to three (3) towers slightly in excess of 72m. The applicant has demonstrated that the form as proposed is appropriate, and would not result in unacceptable amenity impacts on adjoining/nearby properties.</p>

<b>Requirement</b>	<b>Council Officer Comments</b>
<i>Principle 3: Density</i>	The proposal has a complying FSR and as such is considered to provide a density which is in keeping with the desired future character of the area.
<i>Principle 4: Sustainability</i>	<p>A BASIX Certificate and relevant reports have been submitted with the development application. The certificates require sustainable development features to be installed into the development.</p> <p>The development achieves a good level of natural light and cross ventilation, with many of the proposed units having dual aspects or diagonal cross ventilation.</p> <p>The proposed development includes suitable provision of bicycle parking for both visitors and residents (provided in secure areas), and is in a location well served by public transport.</p>
<i>Principle 5: Landscape</i>	The proposal is consistent with the objectives of HDCP 2013, and provides appropriate planting to communal open space and surrounding streets, creating an appropriate landscape setting.
<i>Principle 6: Amenity</i>	<p>The proposal is considered to achieve good amenity, contributing to the positive living environment of residents, optimising internal amenity through complying room dimensions and efficient layouts, access to sunlight, natural ventilation, visual and acoustic privacy, storage, and indoor and outdoor space.</p> <p>1921m<sup>2</sup> of communal open space is provided to Level 1 in excess of the ADG, providing a space equivalent to 27.85% of the site.</p> <p>A satisfactory wind assessment report has been provided, which concludes that wind conditions around the site are expected to be suitable for pedestrian walking activities, and pass the distress criterion under Lawson without any additional wind mitigation measures. Concealed anchor points for removable wind screening panels are to be provided to outside seating areas enabling suitable wind conditions for extended seating periods.</p>
<i>Principle 7: Safety</i>	<p>The proposal is considered to provide appropriate safety for occupants and the public for the following reasons:</p> <ul style="list-style-type: none"> <li>• Surveillance of the private and public communal open spaces from residential balconies and windows above;</li> <li>• Retail and residential lobby activation;</li> <li>• Clear sight lines through the public domain;</li> <li>• 18 hour activation strategy proposed for the extended Chambers Court through different uses; and</li> <li>• Outdoor lighting strategy in the through site link for night time.</li> </ul>
<i>Principle 8: Housing Diversity and Social Interaction</i>	<p>The design responds to the social context and needs of the local community in terms of lifestyle, affordability and access to social facilities. The proposal optimises the provision of housing to suit the local need, and provides for the future community.</p> <p>It is considered that the proposal satisfies these requirements, providing additional housing choice within the area in close proximity to public transport.</p>
<i>Principle 9: Aesthetics</i>	The composition of building elements, textures, materials and colours reflect the use, internal design, and structure of the resultant buildings. The proposed towers are considered to aesthetically respond to the environment and context, contributing in an appropriate manner to the desired future character of the area.

**Table 6:** Assessment of the proposal against the Design Quality Principles

## Design Review Panels

The application was referred to the City of Parramatta's Design Excellence Review Panel, in keeping with the requirements of Clause 28 of SEPP 65.

## Apartment Design Guide

The relevant provisions of the ADG are considered within the following assessment table:

Standard	Requirement	Proposal	Compliance
<b>Part 3</b>			
<b>3B-1:</b> <i>Orientation</i>	<p>The proposed towers adequately respond to the site constraints, presenting a development which addresses Langston Place, Pembroke Street and Chambers Court (as extended) with retail premises and residential lobbies. The pedestrian walkway of Epping Road has been activated with a display window and landscaping. Pedestrians are encouraged to traverse through the site via a desire line from Epping Road to Langston Place and Epping Railway Station.</p> <p>The three (3) towers above have been designed and orientated to the street frontages surrounding them.</p> <p>Tower 1 has been designed to provide a setback to the adjacent site at 2 Pembroke Street, and steps back at the corner of Pembroke Street and Chambers Court, providing a small plaza with its main frontage to Chambers Court and the public open space beyond.</p> <p>Tower 2 is setback within the site and addresses the extension of Chambers Court with wide footpaths, allowing ample space for pedestrian movements. It has been orientated to maximise solar access to the extended Chambers Court and Tower 3.</p> <p>Tower 3 is setback adjacent to the intersection of Epping Road and Langston Place, providing a feature to this critical nodal point.</p>		
<b>3B-2:</b> <i>Overshadowing</i>	<p>The development has been designed to provide adequate solar access to 71% of living rooms and private open space within the development, achieving two (2) hours of direct sunlight. The communal open space receives sunlight between 9:00am and 3:00pm in excess of the two (2) hours required.</p> <p>The neighbouring dwellings and private and public open spaces all receive adequate solar access in excess of two (2) hours on the winter solstice (21<sup>st</sup> June).</p>		
<b>3C:</b> <i>Public Domain Interface</i>	<p>The public domain interface is considered to positively contribute to the streetscape by providing high quality materials, distinct access to residential use foyers and retail premises, and linking Langston Place, Chambers Court, Epping Library and Epping Road.</p> <p>Planting is provided to the public spaces, including a significant landscape buffer to Epping Road, which is considered to be an acceptable approach.</p>		
<b>3D:</b> <i>Communal &amp; Public Open Space</i>	<p>Min. 25% of site area (1725m<sup>2</sup>)</p> <p>Min. 50% direct sunlight to main communal open space for minimum two (2) hours 9:00am &amp; 3:00pm, June 21<sup>st</sup> (863m<sup>2</sup>)</p>	<p>1921.21m<sup>2</sup> (27.85%) of residential communal open space is provided at the first floor of all three (3) towers.</p> <p>The first floor residential communal open space receives sunlight between 11:00 and 15:00 (4 hours).</p>	<p>Yes</p> <p>Yes</p>



Standard	Requirement	Proposal	Compliance
3H: Vehicle Access	<p>The proposal includes the extension of Chambers Court, with vehicular access to the basement parking and ground floor servicing levels via a single, dedicated access from the east of the site between Towers 1 and 2.</p> <p>Suitable traffic control measures to ensure pedestrian and vehicle conflicts are minimised, as suggested in the submitted Traffic Impact Assessment and have been conditioned.</p>		
3J: Bicycle and car parking	<p><u>Car Parking</u></p> <p>Residential:</p> <ul style="list-style-type: none"> <li>0.6 per 1 bed (85.2)</li> <li>0.9 per 2 bed (243.9)</li> <li>1.4 per 3 bed (70)</li> </ul> <p>Total: 399.1 (399)</p> <p>Visitor</p> <ul style="list-style-type: none"> <li>1 per 5 units (92.6)</li> </ul> <p>Total: 491.7 (492)</p> <p>[The site is within 300m of Epping train station. As such, RMS rates apply.]</p> <p>Retail:</p> <ul style="list-style-type: none"> <li>HDCP – 1 Per 60m<sup>2</sup> (24.2 (24))</li> </ul> <p>Total: 516</p>	<p>Residential: 453</p> <p>Visitor: 47</p> <p>Total: 500</p> <p>Retail: 25 Spaces</p> <p>Total: 525</p>	<p>Yes</p> <p><b>No</b></p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>Despite a minor non-compliance with the required residential visitor parking rate, the proposed development combined parking number exceeds the residential parking requirement set out in RMS Guide to Traffic Generating Development, and is compliant with the HDCP 2013 retail requirement.</p> <p>It is considered the proposed parking rates are acceptable, and the lack of residential visitor parking spaces will be mitigated by the proximity to Epping train station and the over provision of residential spaces.</p>			
<b>Part 4</b>			
4A: Daylight / Solar Access	<p>Min. 2hr for 70% of apartments living &amp; POS 9am &amp; 3pm mid-winter; (324)</p> <p>Max 15% apartments receiving no direct sunlight 9am &amp; 3pm mid-winter (&lt;69)</p>	<p>330 out of 463 apartments (71.27%)</p> <p>57 out of 463 apartments (12.3%)</p>	<p>Yes</p> <p>Yes</p>
<p>The proposed development complies with the solar access requirements of the ADG</p>			
4B: Natural Ventilation	<p>Min. 60% of apartments below 9 storeys naturally ventilated (&gt;98)</p>	<p>109 out of 163 apartments (66.9%)</p>	<p>Yes</p>
<p>The proposed development complies with the ADG natural ventilation requirement for the first nine (9) levels.</p>			



Standard	Requirement	Proposal	Compliance
4C: Ceiling heights	Min. 2.7m habitable	2.7m (Except as amended by proposed condition to facilitate servicing bulkhead)	Yes
	Min 2.4m non-habitable	2.4m	Yes
	Min 3.3m for mixed use	5.05m	Yes
4D: Apartment size & layout	1B – Min 50m <sup>2</sup>	1B – min. 50m <sup>2</sup> – max 69m <sup>2</sup>	Yes
	2B – Min 75m <sup>2</sup> (2 baths)	2B – min. 75m <sup>2</sup> – max 91m <sup>2</sup>	Yes
	3B – Min 95m <sup>2</sup> (2 baths)	3B – min. 95m <sup>2</sup> – max 116m <sup>2</sup>	Yes
	All rooms to have a window in an external wall with a total minimum glass area not less than 10% of the floor area of the room.	Complies	Yes
	Habitable room depths max. 2.5 x ceiling height (6.75m)	Up to 5.6m	Yes
	Max. habitable room depth from window for open plan layouts: 8m.	<b>Up to 8.2m</b>	<b>Partial</b>
	Min. internal areas:		
	Master Bed - 10m <sup>2</sup>	<b>&gt;9m<sup>2</sup></b>	<b>No</b>
	Other Bed - 9m <sup>2</sup>	<b>&gt;8.7m<sup>2</sup></b>	<b>No</b>
	Min. 3m dimension for bedrooms (excl. wardrobe space).	All bedrooms except <b>one (1) (2.9m)</b> have a minimum dimension of 3m.	<b>No</b>
Cross-through: 4m			
Min. width living/dining:			
• 1B – 3.6m	>4m	Yes	
• 2B – 4m	>4m	Yes	
• 3B – 4m	>4.2m	Yes	
The units all meet the minimum internal dimension requirements, with some minor non-compliance with the maximum room depth for a single bedroom.			
The maximum non-compliance is 0.1m, which is deemed acceptable as a variation, and will not compromise the amenity of future occupants.			
4E: Private open space & balconies	Min. area/depth:		
	1B - 8m <sup>2</sup> /2m	>7.8m <sup>2</sup> /2m	<b>Partial</b>
	2B - 10m <sup>2</sup> /2m	>7.65m <sup>2</sup> /1.8m	<b>Partial</b>
	3B - 12m <sup>2</sup> /2.4m	>12.19m <sup>2</sup> /2.4m	Yes
The proposed private open spaces are broadly consistent with the minimum area requirements. However, there are some principle balconies which are undersized and require adjustment.			
A condition requiring balconies to be altered to meet the required private open space, and for this to be demonstrated to Councils satisfaction, is proposed.			

Standard	Requirement	Proposal	Compliance
	<p>Furthermore, where there is tapering of the balconies, it is due to the overall building shape. It is considered that these balconies are of a size capable of accommodating appropriate furnishings despite the areas of substandard width, as these balconies generally have a larger area than required.</p> <p>Access to principle private open space is provided directly from living areas, and where possible, secondary access is provided from primary bedrooms.</p> <p>Balustrades are clear to promote views; however primary living rooms are setback from the balcony edge to maximise privacy.</p> <p>The separation between the private and public domain is established by stairs, level changes and paving material.</p>		
4F: Common circulation & spaces	Max. apartments –off circulation core on single level: 8-12	T1 - 6 T2 - 9 T3 – 7	Yes Yes Yes
	10 storeys or over, max. apartments sharing single lift: 40	T1 – 45.5/lift <b>T2 – 59.6/lift</b> <b>T3 – 64.3/lift</b>	Yes <b>No</b> <b>No</b>
	Corridors >12m length from lift core to be articulated.	Corridors articulated	Yes
	Whilst the lift to unit ratios of Towers 2 and 3 are oversubscribed, the extent is not considered to be sufficient to have a material adverse impact on the liveability of the units.		
4G: Storage	1B – Min 6m <sup>3</sup> (x142) 852 2B – Min 8m <sup>3</sup> (x271) 2168 3B – Min 10m <sup>3</sup> (x50) 500 Total – 3,520m <sup>3</sup>	1B – 6m <sup>3</sup> 2B – 8m <sup>3</sup> 3B – 10m <sup>3</sup>	Yes Yes Yes
	Min. 50% required in Apartment (1,011m <sup>3</sup> )	At least 50% of the storage is located within the Apartments.	Yes
	A detailed breakdown of the allocation of storage is not provided. The applicant does, however, indicate that the required storage is provided. As such, a condition is included requiring that this be detailed prior to CC.		
4H: Acoustic Privacy	The proposal has been designed so that like-use areas of the apartments are grouped to avoid acoustic disturbance where possible. Noisier areas such as kitchens and laundries are designed to be located away from bedrooms where possible.		
4J: Noise and pollution	<p>The application includes an acoustic report which recommends construction methods/materials/treatments to be used to meet the criteria for the site, given both internal and external noise sources, and the proximity to Epping Railway Station, Epping Road, and Langston Place. A condition is included requiring the implementation of the report's recommendations.</p> <p>In addition to this, it has been recommended that winter garden louvered glazing is added to the lower apartments fronting Epping Road. A condition to this effect is included, requiring details to be provided prior to commencement of the development.</p>		

Standard	Requirement	Proposal	Compliance
<i>4K: Apartment Mix</i>	<p>The development has the following bedroom mix:</p> <ul style="list-style-type: none"> <li>• 142 x 1 bedroom apartments (30.7%)</li> <li>• 271 x 2 bedroom apartments (58.5%)</li> <li>• 50 x 3 bedroom apartments (10.8%)</li> </ul> <p>These units vary in size, amenity, orientation, and outlook to provide a mix for future residents. A variety of apartments are provided across all levels of the apartment building.</p>		
<i>4M: Facades</i>	<p>The proposal provides a clear and legible distinction between the base, middle, and top, with a definitive distinction between the podium element and towers.</p> <p>The facades of the towers have defined vertical and horizontal elements, including stepped height graduation and recessed horizontal bands.</p>		
<i>4N: Roof design</i>	<p>The proposed buildings have flat roofs, which are considered to be appropriate given the proposed tower designs.</p> <p>Rooftop plant and lift overrun are suitably concealed ensuring they are not visible from the street.</p>		
<i>4O: Landscape Design</i>	<p>The application includes a landscape plan, which demonstrates that the proposed development will be adequately landscaped.</p> <p>The proposal includes landscaping at ground and first floor levels, providing high quality communal open spaces for future residents.</p> <p>The proposed landscaping will also contribute to the local canopy.</p>		
<i>4P: Planting on structures</i>	<p>The landscape drawings outline that planting on structures would have adequate soil depth to accommodate good quality planting.</p>		
<i>4Q: Universal Design</i>	<p>20% Liveable Housing Guidelines Silver Level design features (&gt;93)</p> <p>The site is considered to be appropriately barrier free and wheelchair accessible.</p> <p>An Access Report has been included as part of the DA package confirming that the proposed development is capable of meeting the requirement of SEPP 65, and Part 4Q of the ADG.</p> <p>Further design detail of specific elements will be required as the development progresses through to the construction phase to ensure compliance. A condition has been included requiring confirmation prior to CC being issued.</p>	94	Yes
<i>4S: Mixed Use</i>	<p>The proposal is considered to provide an appropriate public domain, with the proposed plaza providing increased retail opportunities at ground level. Clearly delineated entrances, landscaping, and varying materials provide a legible development linking the surrounding commercial and public spaces.</p> <p>All commercial loading and service areas are located on the ground floor, adjacent to the entrance.</p>		
<i>4T: Awnings and Signage</i>	<p>Sun and rain protection is provided by a continuous awning throughout the public domain. The soffit of the 'ribbon awning' will be used for suspended tenancy signage. No details are provided as part of this DA. A condition requiring the provision of a signage strategy prior to CC is included.</p>		
<i>4U: Energy Efficiency</i>	<p>The BASIX Certificate demonstrates the development achieves the pass mark for energy efficiency.</p>		

Standard	Requirement	Proposal	Compliance
4V: Water management	The BASIX Certificate demonstrates that the development achieves the pass mark for water conservation.		
4W: Waste management	Waste areas have been located in convenient locations in the first basement level. Waste collection will occur within the ground floor loading dock via the service and waste lifts.  A construction waste management plan has been prepared by a qualified waste consultant, adhering to council's waste controls. All residential and commercial units are to be provided with sufficient areas to store waste/recyclables, and a condition to this effect has been included.		
4X: Building maintenance	The proposed materials are considered to be sufficiently robust, minimising the use of render and other easily stained materials.		

**Table 7:** Assessment of the proposal against the ADG

## 6.8 Hornsby Local Environmental Plan 2013

The relevant objectives and requirements of HLEP 2013 have been considered in the assessment of the development application, and are contained within the following table.

Development standard	Proposal	Compliance
<b>2.3 Zoning</b>		
B2 – Local Centre	The proposal is a mixed use development comprising shop top housing and commercial premises, which are permissible with development consent in the zone.	Yes
<b>Zone Objectives</b>		
	The proposal is considered to be in keeping with the objectives of the B2 Local Centre zone for the following reasons: <ul style="list-style-type: none"> <li>The proposed development provides an appropriate mix of opportunities for a range of retail tenancies and residential accommodation.</li> <li>In the short term jobs will be created through the construction of the development and in the longer term suitably located retail tenancies.</li> <li>The addition of 463 residential apartments close to Epping Railway Station with links to major employment centres will encourage the use of public transport.</li> </ul>	Yes
<b>4.3 Height of Buildings</b>		
Control: 72m	Max Height 92.85m  Tower 1: 62.4m (13.3% under) Tower 2: 77.3m (5.7% over) Tower 3: 92.85 (28.9% over)	<b>No</b> (20.85m, 28.9% breach)

<b>4.4 Floor Space Ratio</b>		
Control: 6:1 (41,394m <sup>2</sup> ).  It should be noted that the proposal does not seek to include floor space from the Council lot.	Total GFA: 41,394m <sup>2</sup>	Yes
<b>4.6 Exceptions to Development Standards</b>		
	Variation to Building Height Standard.	Yes (see below)
<b>5.9 Preservation of trees or vegetation</b>		
	The proposal includes the removal of 30 trees (three (3) within the road reserve on Chambers Court) and retains 29 trees.  The landscaping scheme proposes the introduction of 117 additional trees of varying species to the public domain at ground level, and Level 1 communal area, and more than 4,000 other plants of varying types and species.  Overall there will be a net increase in vegetation on the site.	Yes
<b>5.10 Heritage conservation</b>		
	The separation between the site and the nearby heritage items is approximately 60m, with Tower 1 of the proposed development set back an additional 6-16m from the boundary.  The reduction in height of Tower 1 also reduces the impact on the heritage items to the north.  Given the separation between the site and the heritage item, it is considered that the impact on the significance of the items, and views both towards and from them, would be acceptable.	Yes
<b>6.2 Earthworks</b>		
	The application includes a geotechnical report which outlines measures to reduce the impacts of earthworks.  Council's engineers have recommended a condition requiring additional boreholes after demolition of the existing building which has been included.  A condition will also be included requiring non-contaminated fill be used.	Yes
<b>6.8 Design Excellence</b>		
	The proposed development has been presented to the DEAP as outlined in Section 4.  The DEAP concluded that the proposal was acceptable.	Yes

	<p>An assessment against the provisions of Clause 6.8(4) has been undertaken and the proposed development is considered:</p> <ul style="list-style-type: none"> <li>• To be of a high architectural design with appropriate materials and detailing,</li> <li>• To be of a design, which will enhance Epping town centre and the surrounding urban landscape,</li> <li>• To not impact upon any view corridors,</li> <li>• To achieve transit-oriented design principle including high levels of pedestrian and cycle access to surrounding transport nodes.</li> <li>• To meet the requirements of Hornsby DCP,</li> <li>• To be suitable for the site,</li> <li>• To provide a mix of accommodation consistent with the intentions of the zone.</li> <li>• To address impacts on the nearby heritage items.</li> <li>• To have suitable setbacks to and provide adequate amenity to the adjacent existing and future development.</li> <li>• To have a bulk, massing and modulation of buildings suitable for the site,</li> <li>• To have suitable street frontage heights,</li> <li>• To be of a sustainable design which achieves the required levels of solar access, visual and acoustic privacy, wind impact, reflectivity, water and energy efficiency, water sensitive design and does not adversely overshadow any adjacent property or open space.</li> <li>• To achieve the principles of an ecologically sustainable development.</li> <li>• To meet the requirements for pedestrian, cycle, vehicular and service access and circulation.</li> <li>• To positively impact on the surrounding public domain.</li> <li>• To achieve appropriate interfaces at ground level between the development and public domain.</li> <li>• To promote a social atmosphere using landscaping design, configuration of communal spaces and innovative treatments.</li> </ul>	
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**Table 8:** Assessment of the proposal against HLEP 2013



Hornsby Local Environmental Plan 2013

Height of Buildings Map - Sheet HOB\_011

Maximum Building Height (m)

T	8.5
K	10.5
M	12
N	14.5
O	18
P	17.5
S	23.5
T1	26.5
T2	26.5
U	32.5
V1	35.5
V2	38.5
W1	40
W2	41.5
X	48
AA	72

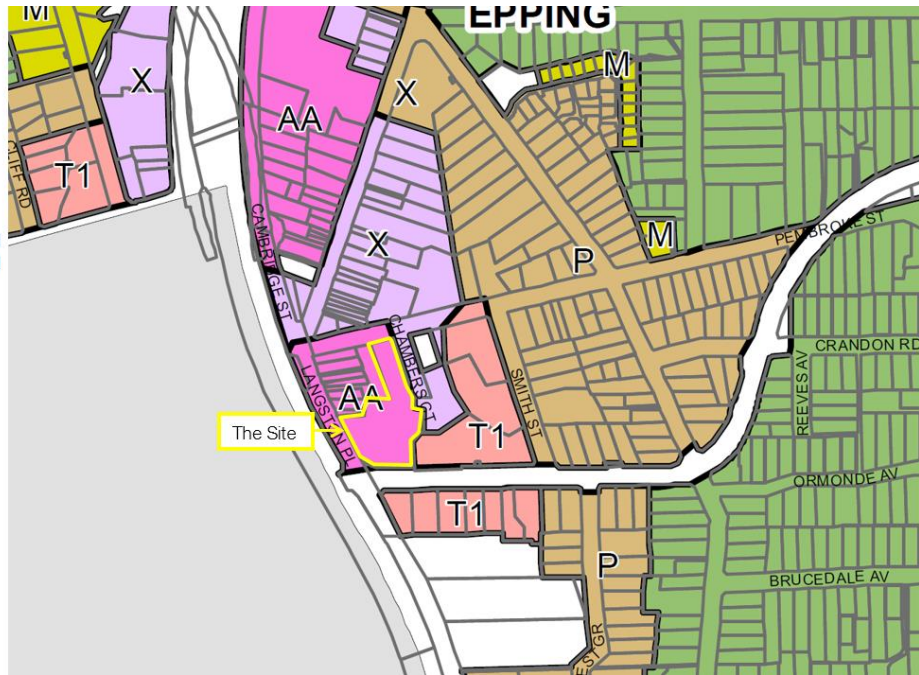


Figure 8. HLEP 2011 Height of Buildings map (subject site outlined in yellow).



Hornsby Local Environmental Plan 2013

Land Zoning Map - Sheet LZN\_011

Zone

B1	Neighbourhood Centre
B2	Local Centre
B3	Commercial Core
B4	Mixed Use
B5	Business Development
B6	Enterprise Corridor
E1	National Parks and Nature Reserves
E2	Environmental Conservation
E3	Environmental Management
E4	Environmental Living
IN1	General Industrial
IN2	Light Industrial
IN4	Working Waterfront
R2	Low Density Residential
R3	Medium Density Residential
R4	High Density Residential
RE1	Public Recreation
RE2	Private Recreation
RU1	Primary Production
RU2	Rural Landscape
RU4	Primary Production Small Lots
RUS	Village
SP2	Infrastructure
SP3	Tourist
W1	Natural Waterways
W2	Recreational Waterways

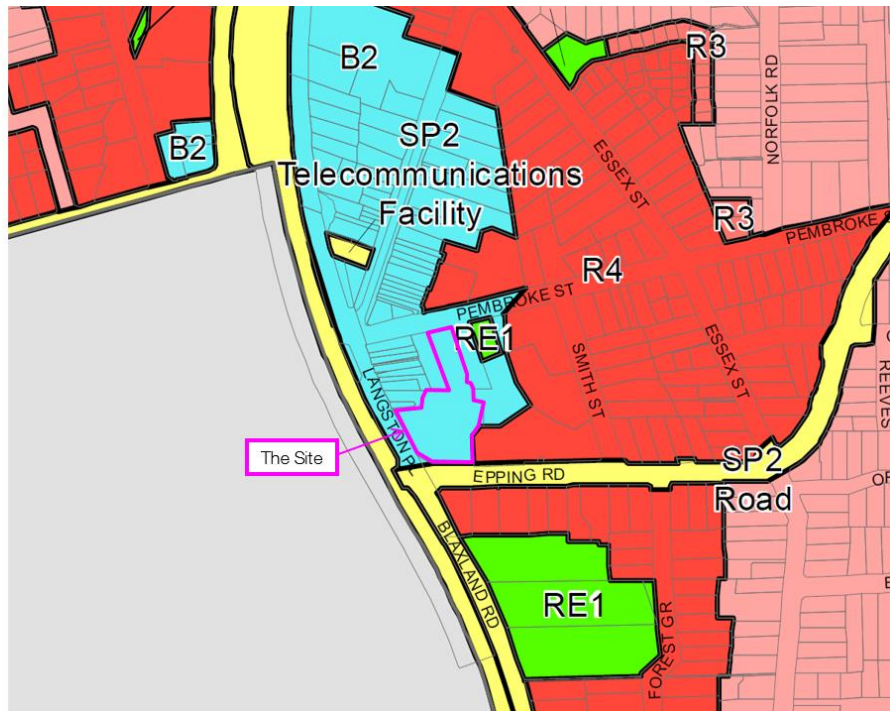


Figure 9. HLEP 2011 Zoning map (subject site outlined in pink).

### Clause 4.6 Variation Assessment

Clause 4.6 of HLEP 2013 allows Council to provide an appropriate degree of flexibility in applying certain development standards, where flexibility would achieve better outcomes.

The proposal does not comply with the Clause 4.3 'Height of Buildings' development standard, as outlined in the table above.

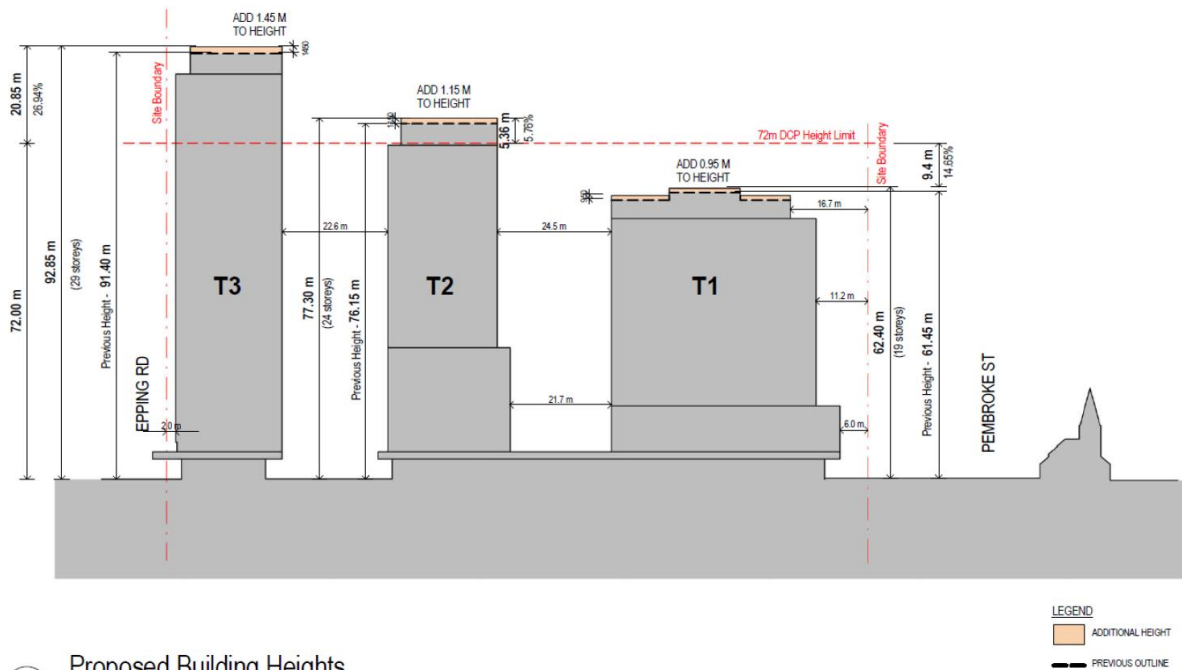
#### Clause 4.6(1) – Objectives of clause 4.6

The objectives of this clause are:

- “(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”

**Clause 4.6(2) – Operation of clause 4.6**

The operation of clause 4.6 is not limited by the terms of Clause 4.6(8) of this LEP, or otherwise by any other instrument.



1 Proposed Building Heights  
SCALE: 1:750

**Figure 10.** Revised north/south section showing breach of building height (Red line represents 72m height standard).

**Clause 4.6(3) - The Applicant’s written request**

Clause 4.6(3) requires that the applicant provide a written request seeking to justify contravention of the development standard. The request must demonstrate that:

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

The applicant has provided the following environmental planning grounds to justify the non-compliance with the development standard (relevant extracts provided). The full request is included at Appendix 1.

- The height variation provides for a superior outcome for the site and Epping Town Centre with a preferred built form arrangement that provides a more positive design response to the surrounding context;
- The height variation is not sought across the whole site, with the northern tower substantially under the 72m height standard. The average height of the three towers is generally consistent with the development standard;
- There is no tangible nexus between the proposed height variation and the FSR of the site. While the development is taller in part of the site, it is not denser than a complying height scheme. The redistribution of massing is considered to be the most logical design response for the site;



- *The SEE demonstrates that any impacts associated with the proposed development are acceptable, particularly since there are no significant solar access impacts on neighbouring properties or the public domain as a result of the height variation;*
- *A range of public benefits, including the provision of a through-site link and new vibrant retail ground plane is provided by the development;*
- *The variation does not result in unreasonable adverse amenity impacts on adjacent land;*
- *The variation does not diminish the development potential of adjacent land;*
- *The development is compliant with the FSR development standard; and*
- *Despite the additional height, the scale of development is considered appropriate in the site's key strategic location within Epping Town Centre."*

The Consent Authority has undertaken an assessment to determine whether compliance with the standard is *'unreasonable and unnecessary'* and there are *'sufficient planning ground'* as follows:

### ***Unreasonable and Unnecessary***

An assessment against the relevant case law established in the NSW Land and Environment Court has been undertaken by the Consent Authority below. These cases establish tests that determine whether a variation under Clause 4.6 of an LEP is acceptable and whether compliance with the standard is unreasonable or unnecessary.

#### Wehbe v Pittwater Council

Case law in the NSW Land & Environment Court has considered circumstances in which an exception to a development standard may be well founded. In the case of *Wehbe v Pittwater Council [2007] NSWLEC 827* the presiding Chief Judge outlined the following five (5) circumstances:

1. *The objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

#### Height of Buildings

*"(a) To permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality."*

The key constraints of the site are its irregular shape and shared boundaries. The reallocation of the building height massing from the northern proposed tower to the south is a positive response which allows the site to realise its development potential and provide suitable amenity to the existing adjacent buildings, potential future development and public open spaces adjacent to Pembroke Street and Chambers Court. The proposed development is consistent with the FSR density standard ensuring no additional density is developed on the site as a result of the height variation.

2. *The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*

The underlying objective is relevant, however in this case the relocation of height to the southern tower allows for significant public benefits and amenity improvements to the adjacent public open space, which on merit outweigh strict compliance with the height of building development standard.

3. *The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable*

The applicant does not suggest that the objectives would be thwarted if compliance was required; rather that the objectives are achieved despite the breach of the height of buildings development standard.

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*

It is considered that the standard has not been abandoned. It is considered that compliance with the standard in this case is unreasonable and unnecessary as the proposed development:

- Is consistent with the objectives of the development standard, Clause 4.3 of HLEP 2013;
  - The proposal is consistent with the FSR development standard of 6:1 as set out by Clause 4.4 of HLEP 2013;
  - The average height across the site, taking into consideration the transitioning of building height is generally consistent with 72m;
  - The proposed variation does not result in unreasonable amenity impacts on the adjacent public open space or surrounding dwellings.
  - The arrangement of the proposed towers also allows for the creation of a high quality through-site link/public domain space linking Epping Library and park with Epping Road and Langston Place.
  - An extension to Chambers Court will be created contributing to the future road network envisaged for the wider block by Council's Urban Design Team.
5. *The zoning of particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant does not challenge that the zoning is inappropriate or that the standard is unreasonable or unnecessary.

#### Four2Five Pty Ltd v Ashfield Council

The decision in the Land & Environment Court case of *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90*, suggests that 'sufficient environmental planning grounds' is more onerous than compliance with zone and standard objectives. The commissioner also established that the additional grounds had to be particular to the circumstances of the proposed development, and not merely grounds that would apply to any similar development.

In this case, the following planning grounds are considered to be sufficient to justify contravening the standards.

- The proposal will respond to the site constraints, the design of the three towers vary in their massing, location and height to provide a positive response and relationship with the adjoining properties and public open space. Further, the proposed building heights and tower forms result in the best location of the tower forms to minimise any potentially unreasonable impacts, such as overshadowing;
- The proposed development will result in a density that is compliant with the FSR standard for the site, and as such the variation will not place additional pressure on the infrastructure capacity of the locality; and

- The proposed development is consistent with the strategic significance of development envisaged for the site under the Epping Activation Precinct and subsequent HLEP 2013 and HDCP 2013 updates relating to the site.

**Clause 4.6(4) - Consent Authority Assessment of Proposed Variation**

Clause 4.6(4) outlines that 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 Secretary has been obtained.”

The matters of clause 4.6(4)a)i) have been dealt with in the preceding section. Clause 4.6(4)a)ii) and Clause 4.6(4)b) have been assessed as follows:

Public Interest

“The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out”.

The proposal is consistent with the objectives of the zone and height standard as set out in the tables below:

<b>B2 Zone Objective</b>	<b>Proposal</b>
<i>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.</i>	The proposal provides a range of commercial retail premises which will serve both the existing local community and the future residents proposed as part of the development.
<i>To encourage employment opportunities in accessible locations.</i>	The proposed development is easily accessible by public transport making the proposed retail units highly accessible to future employees.
<i>To maximise public transport patronage and encourage walking and cycling.</i>	The location of residential apartments close to public transport links which give direct access to Sydney CBD, Macquarie Park and other key employment areas will encourage public transport patronage.  The location of a range of retail facilities close to existing and future high density residential areas and public transport hubs will encourage the use of walking and cycling to these facilities.

**Table 9:** Assessment of the proposal against the B2 – Local Centre zone objectives

<b>Clause 4.3 Objective</b>	<b>Proposal</b>
<i>To permit a height of building that is appropriate for the site constrains, development potential and infrastructure capacity of the locality.</i>	The height of the buildings is considered appropriate for the site constraints and infrastructure capacity and will not give rise to any adverse impacts on the surrounding residential dwellings and public open spaces.

**Table 10:** Assessment of the proposal against the Clause 4.3 – Height of Buildings objectives

## Concurrence

'The concurrence of the Secretary has been obtained'

Assumed concurrence has been provided.

## Conclusion

In summary, it is considered that breaching the building height control would result in a better provision of the permitted floor space across the site. The applicant has provided an adequate written request demonstrating site-specific reasons that the proposal would be a better environmental outcome than a complying scheme. As such, the request to vary the height and FSR standards are supported.

In reaching this conclusion, regard has been given to the relevant Judgements of the LEC, including, *Zhang v City of Ryde Council (2016)*.

## 7. Draft Environmental Planning Instruments

There are no draft environmental planning instruments relevant to the subject application.

## 8. Development Control Plan

### 8.1 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within HDCP 2013. The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

Control	Requirement	Proposal	Compliance
<i>Site Width</i>	30m	The minimum development street frontage width is 25m to Pembroke Street.  However, the sites primary street frontage is to Langston Place and Epping Road and therefore consistent.	Yes
<i>Height</i>	22 storeys – 72m	Tower 1 – 62.4m (19 storeys)  Tower 2 – 77.3m (24 Storeys)  Tower 3 – 92.85m (29 storeys)	Yes  <b>No</b>  <b>No</b>
<i>Floor Space Ratio</i>	6:1	6:1	Yes
<i>Podium Height</i>	2-3 storeys	1 Storey (5m)	<b>No</b>
<i>Podium Use</i>	Commercial	Commercial	Yes
<i>Setback Podium Tower</i>	Podium <ul style="list-style-type: none"><li>Chambers Court 3m</li><li>Epping Road 0m</li><li>Langston Place 0m</li></ul>	Chambers Court – 4.3m  Epping Road – 3m  Langston Place –2m	Yes  <b>No</b>  <b>No</b>

	Tower		
	<ul style="list-style-type: none"> <li>Chambers Court 3m</li> </ul>	Chambers Court – 0m	<b>No</b>
	<ul style="list-style-type: none"> <li>Epping Road 6m</li> </ul>	Epping Road – 2m	<b>No</b>
	<ul style="list-style-type: none"> <li>Langston Place 6m</li> </ul>	Langston Place – 12+m	Yes
<i>Floorplates</i>	20.5m (max)	12.8m – 20.5m	Yes
<i>Basement Ramp Setback</i>	2m	2m	Yes
<i>Communal Open Space</i>	55m <sup>2</sup> (min) 6m min. dimension	1921.21m <sup>2</sup> 6m min. dimension	Yes Yes
<i>Parking</i>	Compliant with Guide to Traffic Generating Development	Compliant with Guide to Traffic Generating Development	Yes
<i>Housing Choice</i>	1br – >10% 2br – >10% 3br – >10%	1 bed – 142 (30.7%) 2 bed – 271 (58.5%) 3 bed – 50 (10.8%)	Yes
<i>Adaptable Units</i>	10% (>46)	10% (47)	Yes

**Table 11:** Assessment of the proposal against HDCP 2013

As detailed in the above table, the proposed development does not comply with a number of prescriptive requirements within HDCP 2013. The non-compliances relate to the podium height and building setbacks. The non-compliance with podium height has been supported to specifically address the integration of the proposed development with the existing retail premises fronting Langston Place. It is not considered that a precedent is set for other developments within Epping.

The non-compliant tower setback to Chambers Court has been accepted as a reasonable outcome which allows the development of the site with ADG consistent separation distances to No 2 Pembroke Street.

The non-compliance with the setbacks to Langston Place and Epping Road have been supported to enable the integration of pedestrian desire lines through the development along the new road and via the proposed access to Epping Road. The use of increased setbacks to pull pedestrians through the site away from the harsh environment of Epping Road is considered to be a desirable planning outcome.

Therefore, despite the non-compliance, it is considered that the proposed development is consistent with the Epping Town Centre Precinct Guidelines and delivers a high quality urban environment which is consistent with the desired future character of the area.

### **Epping Town Centre – Langston Place, Epping Precinct**

The strategy for the redevelopment of this precinct is to incorporate a predominantly 22 storey building accommodating residential accommodation, offices, business or retail premises, serviced by basement parking.

The proposal is consistent with this strategy by proposing a mixed use development that creates a focal point of the town centre with activated street facades.

The proposed development will be serviced from Chambers Court, which will be extended into the heart of this development to provide street addresses and activation to the proposed towers and retail premises. Whilst the Epping Town Centre Guidelines envisage a pedestrianised area free from

vehicles, it has subsequently been determined that it is not appropriate to realise this ideal for the reasons set out in section 9 Other Planning Controls.

In addition to this Council's Urban Design team have requested that all buildings should have a street address, stating:

*"The street network and street blocks are to:*

- *Relate to the proposed towers on the western side of the Langston Place; Pembroke Street, Smith Street and Epping Road street block and the 8 storey precinct on the eastern side along Smith Street.*
- *Enable connectivity and choice of movement to and from the station and the Library*
- *Provide on street car parking; and*
- *Facilitate a range of economic activities*

*The suggested street network in the first instance is for a one way street left in and out from Langston Place with parking either side to pass through the 12-22 Langston Place site and join around to Chambers Court. Ultimately from this new street will be continued to Smith Street. This would divide the overall block into 4 street blocks so that all buildings would have a street address."*

Note: it was considered inappropriate to link the proposed road network to Langston Place and Epping Road due to previous comments made by RMS.

Furthermore, the land forming the Langston Place/Chambers Court precinct is within numerous ownerships, including Council, and would involve complex legal agreement and rights of way to enable the proposed access tunnel and public open spaces to be realised, which is not realistic.

It is, however, considered that the development will still largely deliver the desired future outcome for the Epping Town Centre – East precinct (Langston Place) and is consistent with the guidance provided by Councils Urban Design Team, and is therefore acceptable.

## **9. Other Planning Controls**

### **Epping Town Centre Public Domain Guidelines**

Hornsby Shire Council adopted public domain guidelines (the Guidelines) for Epping Town Centre on the 9<sup>th</sup> December 2015 following the amendment of HLEP by the NSW State Government in 2014 to facilitate the Epping Urban Activation Precinct.

These guidelines set out a strategic direction for the areas of Epping Town Centre as designated by the Epping Urban Activation Precinct and formally part of Hornsby Council control prior to the NSW Government Council amalgamations in 2016. The guidelines set out a 40 km/h traffic calmed area to the centre of Epping, a shared way along Pembroke Street and the removal of Chambers Court. However, it has since been established that the Pembroke Street shared zone may have an unacceptable impact on the bus routes accessing Epping town centre via Pembroke Street.

Therefore, it is being proposed to retain, and include an extension to, Chambers Court to provide access and address to the proposed development. to achieve the following objectives:

Figure 10.2 of the Public Domain Guidelines sets out the objectives for the envisaged Pembroke Street Town Square and Cultural Hub. Despite the fact it is unlikely the 'town square' will now be realised the objectives set out are broadly realised by this development through:

- Providing ground floor activation to the fronting the extended Chambers Court, the existing library and par through small scale commercial uses.
- Promoting open space integration with flexible and functional spaces that have a mix of passive and active uses.
- Maximises solar access to the new public spaces which are inviting and useable.
- Ensures good visual and physical connections to Epping Railways Station and surrounding existing and proposed developments.

Whilst it is not considered feasible to realise the Pembroke Street Town Square as envisaged by the Guidelines, the proposed development will deliver a high quality urban environment which provides improved pedestrian access and allows for future integration to future development through the introduction of a legible road network allowing meaningful redevelopment of the wider precinct. Increasing the community utility of the area will be further explored with any future redevelopment of the library site.

## **10. Other**

### **Commercial Floor Space**

The Sydney West Central Planning Panel has sought to have the configuration of the development re-examined to see if commercial floor space can be increased through modification of the proposed design. An approach to potentially increase the level of commercial floor space would be to increase the podium height as anticipated at 4.6.4 Scale of the DCP where podiums of 2 to 3 storeys are preferred.

The design has from inception when originally lodged with Hornsby Council proposed only a single podium level. This approach has been maintained throughout by the applicant and was not raised as a major concern in the preliminary assessment phases prior to the adjustment of local government boundaries in 2016.

This issue has been examined at length by both Council and their external consultants determining the application. While the planning controls anticipate 2 - 3 storey commercial podiums throughout the town centre it has been concluded that the proposed development split between commercial and residential uses is acceptable in this instance for the following reasons:

- The proposal for a single level of commercial floorspace with residential above is consistent with how Hornsby Council had been assessing development (noting that the application was submitted to the former Hornsby Council prior to the Council amalgamations of 2016);
- The floor space lost is large scale commercial office space which is no longer considered to be suitable or viable for Epping Town Centre given its proximity to Macquarie Park and the Parramatta CBD. It is considered that smaller, ancillary, professional offices are more appropriate in the area to service the local population (i.e. professional services, medical, dental, etc);
- The approach of the City of Parramatta for future applications within the Epping Centre Precinct, particularly in the renewal and redevelopment of the traditional retail streets is that podiums of at least 2 storeys should be provided accommodating non-residential uses.

Notwithstanding the above, The City of Parramatta are currently reviewing the LEP and DCP controls for this area which will further clarify their approach to development within the Epping Precinct.

### **Access Road and Dedication**

The new access road will help facilitate the construction of the future road pattern desired by Council's Urban Designers, including access to the library site. The road will be constructed by the applicant. Part of the road will be retained by the applicant (the section with basement underneath it) and part will be dedicated to Council to form part of their road network.

The road traverses part of the existing library site owned by Council. The applicant will construct the road on behalf of Council and dedicate a right of way for all traffic at no cost to Council. No FSR allowance from the library site is included as part of this development.

### **Deferred Commencement**

Sydney Trains have requested that a deferred commencement condition be added requiring the applicant to submit various details for approval. The details requested relate to:

- Geotechnical drawings and report
- Survey drawing showing relationship to rail tunnel
- Construction methodology
- Cross section drawings showing relationship to rail corridor

The purpose of the deferred commencement condition is to enable Sydney Train to ensure the development will have no impact on the adjacent rail infrastructure.

## 11. Planning Agreements

A condition giving the applicant the option to enter into a Voluntary Planning Agreement (VPA) as an alternative payment of the s94 contributions has been proposed.

## 12. The Regulations

The recommendation of this report includes conditions to ensure the following provisions of the Regulation will be satisfied:

- Clause 92 - Demolition works are to satisfy AS 2601 - 1991; and
- Clause 98 - Building works are to satisfy the Building Code of Australia.

## 13. The Likely Impacts of the Development

The likely impacts of the development have been considered in this report and it is considered that the impacts are consistent with the impact that would be expected for the applicable planning framework. The impacts that arise are acceptable.

## 14. Site Suitability

The site is ideally located within the Epping Town Centre regeneration precinct, close to public transport links, services and facilities.

Suitable investigations and documentation has been provided to demonstrate that the site is suitable for the proposed development and the development is consistent with the spatial planning undertaken for the locality.

No natural hazards or site constraints exist that are likely to have a significant adverse impact on the proposed development. Accordingly, the site is considered to be suitable for the proposed development. The proposed development has been assessed in regard to its environmental consequences and having regard to this assessment, it is considered that the development is suitable in the context of the site and surrounding locality.

Subject to the conditions provided within the recommendation to this report, the site is suitable for this development.

## 15. Submissions

The application was notified and advertised in accordance with Part 1B of Hornsby DCP 2013. The initial notification ran for a 14 day period between 16 and 30 March 2016 (extended to 10 May 2016 at request of adjoining occupiers). Subsequent to receipt of revised drawings the application was re-notified for a 14 day period between 1 and 15 March 2017 and 14 March 2017 and 28 June 2017. A total of 94 submissions have been received.

The public submission issues are summarised and commented on as follows:

Issues Raised	Comment
<i>Relationship of Tower 1 to two (2) Pembroke Street.</i>	The proposed development has been setback to be generally in accordance with the ADG requirements.



<i>Relationship of development to adjacent residential development.</i>	The proposed development has been setback to be generally in accordance with the ADG requirements maintaining residential amenity and development potential.
<i>Solar access to adjacent residential development.</i>	The solar access requirements of the ADG allowing two (2) hours direct sunlight on the winter solstice has been met by the proposed development.
<i>Overshadowing of Forest Park.</i>	Forest Park will receive 4 hours of sunlight between the hours of 9am and 1pm on the winter solstice. This is considered to be a sufficient amount of solar access
<i>Concerns over excavation undermining adjacent structures and destabilising existing buildings.</i>	Conditions have been proposed requiring the applicant to ensure adjacent buildings are not undermined or destabilised and requiring remediation works at their own cost should such events happen, including dilapidation reports being provided prior to excavation occurring.
<i>Noise during construction.</i>	Restrictions have been placed on the working hours and noise emissions by condition.
<i>Traffic generation and use of Chambers Court/impact on library and public space users.</i>	Councils Urban Design Officers and Transport Officers have determined that the proposed use and extension of Chambers Court proposed by the development is acceptable and will not give rise to any undue impacts.
<i>Building Height of the proposed towers is in excess of the permissible building height.</i>	It has been determined that the proposed building height variation is acceptable given the provision of publicly accessible space and reduction in impact on the surrounding existing developments and public open space.
<i>Buildings do not comply with the required setbacks.</i>	Generally consistent ADG setbacks have been applied to adjacent buildings and dwellings. Non-compliant setbacks to Epping Road have been deemed acceptable as proposed.
<i>Lack of public amenity or benefit through useable open space.</i>	The proposed development is of a high-quality design which delivers good amenity space for residents and a quality urban environment at street level.
<i>No additional green open space.</i>	<p>The proposed development provides the required private open space at first floor level which includes extensive planting and introduction of trees and a quality urban environment at ground level with a high level of street tree planting.</p> <p>The height of Tower 1 has been minimised to optimise solar access to the Library Park.</p> <p>The proposal will provide significantly more public accessible space than currently exists on the site.</p>

<i>No effort has been made to integrate the development with future developments.</i>	Consideration of the impacts of the proposed development on the existing surrounding development and potential future development has been undertaken as part of the development assessment. The Applicant has suitably demonstrated that the surrounding sites are developable or can be suitably amalgamated.
<i>Insufficient parking has been provided.</i>	The proposed parking rates are as required by RMS guidance.
<i>Wind tunnel will be created.</i>	The proposed development has undergone wind modelling and is considered to provide acceptable rates for walking and long term stationary periods where required.
<i>Affordable housing should be provided.</i>	The application has not been submitted pursuant to State Environmental Planning Policy (Affordable Rental Housing) (ARH SEPP) 2009, nor is there a current policy requiring the provision of affordable housing.
<i>Provision of inadequate retail and commercial usage.</i>	The proposed development split between commercial and residential uses is considered consistent with the intentions of the Department of Planning when the strategic planning of the Epping Precinct was undertaken.
<i>Impact of the proposed development at 24-36 Langston Place.</i>	ADG separation distances have been provided to the adjacent future development to the north of the site at 24-36 Langston Place. It is considered that this provision of these ADG separation distances is acceptable and will allow for future solar access.
<i>Loss of mature trees and lack of deep root planting.</i>	The proposal results in a net increase in trees and vegetation on the site and whilst it does not comply with the ADG guidance on deep soil area it is considered that in this specific case the departure is justified.
<i>Lack of community infrastructure provided.</i>	Development contributions will be secured in line with Council's development contributions policy. The proposal also provides a new public road and significant public domain.
<i>The development is premature and should not be approved until City of Parramatta review of controls of Epping Town Centre have been undertaken reflecting the Greater Sydney Commissions development vision and planning for the area into the future.</i>	The development corresponds with the current adopted planning controls and the Epping Town Centre Public Domain Guidelines.
<i>Air pollution will increase as a result of traffic congestion.</i>	The proposed traffic generation has been assessed by Councils Traffic Engineers and is considered to be acceptable.

**Table 11:** Summary of public submissions to the proposal

## 16. Public Interest

Subject to implementation of conditions of consent outlined in the recommendation below, no circumstances have been identified to indicate this proposal would be contrary to the public interest.

## 17. Disclosure of Political Donations and Gifts

No disclosures of any political donations or gifts have been declared by the applicant or any organisation/persons that have made submissions in respect to the proposed development.

## 18. Hornsby Section 94 Development Contributions Plan

Contributions would normally be collected through a S94 payment contribution and have been calculated in the table below. In this case a condition has been proposed giving the applicant the option to pay the contributions in the normal way or through a Voluntary Planning Agreement.

Contribution Type	Amount
Local Roads	\$ 171,972.55
Local Open Space and Recreation	\$ 4,748,544.44
Local Community Facilities	\$ 1,825,488.64
Plan Preparation and Administration	\$ 11,384.61
<b>Total</b>	<b>\$ 6,757,390.24</b>

## 19. Summary and Conclusion

The application has been assessed relative to section 79C of the *EP&A Act 1979*, taking into consideration all relevant State and local planning controls. On balance, the proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework. Accordingly, approval of the development application is recommended.

The proposed development is appropriately located within an area earmarked for high density, residential redevelopment, however some variations (as detailed above) in relation to SEPP 65, ADG, HLEP 2013 and HDCCP 2013 are sought.

Having regard to the assessment of the proposal from a merit perspective, the assessment has identified that the development has been responsibly designed, and provides acceptable levels of amenity for future residents. It is considered that the proposal successfully minimises adverse impacts on the amenity of neighbouring properties. Hence the development, irrespective of the departures noted above, is consistent with the intentions of the relevant planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land.

For these reasons, it is considered that the proposal is satisfactory having regard to the matters of consideration under Section 79C of the *EP&A Act 1979*.

## 20. Recommendation

- A. **That** the Sydney West Central Planning Panel approve variations to the building height standard in Clause 4.4 of HELP 2013, being satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the proposed development will be in the public interest as it is consistent with the objectives of the particular standards and the objectives for development within the zone and the site specific reasons discussed; and
- B. **That** the Sydney West Central Planning Panel, as the consent authority, grant **Deferred Commencement Consent** to Development Application No. DA/468/2016 for construction of 3 mixed use towers (19, 24 and 29 storeys) comprising 463 residential units, 1681sqm of retail floor space and 4 basement levels containing space for 529 cars, 388 bicycles, 35 motorcycles, storage, refuse and servicing; public domain upgrades including 2-way vehicular lane between

towers 2 and 3, pedestrian through-site links, and public open spaces; following demolition of existing building and car park at 12 - 22 Langston Place & 10 Pembroke Street, EPPING NSW 2121 (Lot 20 DP877567, Lot 5 DP249822) for a period of five (5) years from the date on the Notice of Determination, subject to the conditions under Schedule A of Appendix 2.

**APPENDIX 1 – APPLICANT’S CLAUSE 4.6 REQUEST**

# EXECUTIVE SUMMARY

- This request seeks to provide to provide justification to vary the maximum building height development standard prescribed for the subject site under Clause 4.4 of the Manly LEP 2013.
- The proposed variation reflects a unique opportunity to provide a taller, but more slender and positive design response to this prominent Epping Town Centre site, without creating any additional floor space or increased density on the site.
- The proposed building height and massing arrangement for the site has been the subject of extensive design option testing, ongoing discussions with Council officers and continuous peer review/advisory services from an independent urban design expert in light of the site's town centre shaping potential.
- One of the challenges with a large, irregularly shaped site with a multiplicity of street interfaces is providing a highly contextual built form outcome which responds positively to the various individual themes along the site edges. There is also the challenge with creating a language to the taller tower configurations and forms which will define this significant site in Epping Town Centre.
- The maximum height and density development standards applicable to the site provide the unique opportunity for 3 mixed-use towers which run along the north-south axis of the site. However, during the preliminary design phase the outcome that this created was less than desirable for a few key reasons. Firstly, the 'complying' option created a degree of uniformity to the tower form, and secondly the relationship of a 72m tower (particularly at the northern end of the site) wasn't considered the appropriate scale adjacent to the Council's future community epicentre of Epping Town Centre at the junction of Pembroke Street and the public open space adjacent to Chambers Court.
- In response, a range of alternative design options were examined by the project architect, to test more appropriate outcomes in light of the surrounding context. All these options maintained the maximum FSR of 6:1 applicable to the site. Following a high degree of critique by GMU Design, a 'preferred' option was developed which provided the most resolved response to a range of factors.
- The scheme provides a stepped tower form with building height at the southern end exceeding the height standard, but much lower height under the standard at the northern site. The proposal has sought to redistribute the massing in a manner which responds to the surrounding context, with no unreasonable impacts on surrounding properties.
- In addition, the proposed development offers a range of public benefits to the surrounding precinct, principally at the ground plane, by 'freeing up' important space in and around the buildings. This includes the provision of new roads which provide connectivity and porosity through the site, and creating highly decorative and landscape spaces in and around the existing Pembroke Park and Epping Library site. These initiatives enable the orderly development of sites in the immediate vicinity of the site, which is an important objective of Parramatta City Council.
- Therefore, while a complying building height could have been provided, in accordance with the underlying test of Clause 4.6 of HLEP 2013, a better urban outcome can be achieved with some variation to the height standard in part of the site.
- Council's ongoing advice and feedback has indicated a level of support for the proposed variation, on the basis that the variation does not give rise to any unreasonable environmental impacts, and that a better outcome can be achieved under the circumstances. As discussed through the DA documentation, the proposal is capable of providing a taller form without creating any unreasonable impacts.
- In summary, the proposed variation creates a better urban outcome than a complying scheme under the circumstances, remains consistent with the objectives of the height standard and satisfies the other general requirements of Clause 4.6. On this basis we trust that the variation can be supported by both Council and the Sydney Planning Panel.

# 1 OVERVIEW

Clause 4.6 of HLEP 2013 allows Council to grant consent to a development application notwithstanding a breach of development standards relating to a site. The variation can be exercised where a written request is made by the applicant justifying the contravention of the standards. Clause 4.6(3) of the HLEP 2013 outlines the requirements of a variation, which must demonstrate:

- (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.*

Under Clause 4.6(4)(a) of the HLEP 2013, consent for a development that contravenes a development standard must not be granted unless, in addition to the issues in Subclause 4.6(3), the consent authority is satisfied that:

- (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.*

In response to the above, the proposal demonstrates that compliance with the height standard is unreasonable and unnecessary under the circumstances; has sufficient grounds to justify the variation; is consistent with the objectives of the development standard; and is in the public interest.

The submission to vary the development standard has been prepared with regard to the following considerations:

- Clause 4.6 of SLEP 2012;
- The considerations for assessing development standards set out by Preston CJ in *Wehbe v Pittwater Council* [2007] NSWLEC 827;
- 'Varying development standards: A Guide', published by the Department of Planning and Infrastructure in August 2011.

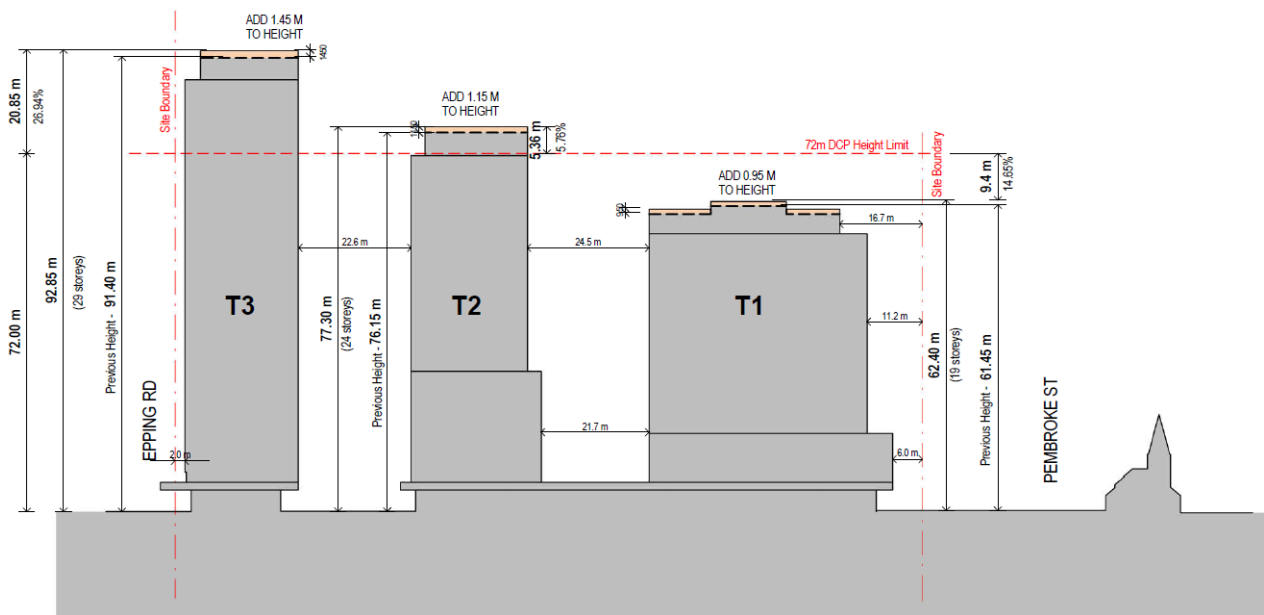
# 2 PROPOSED HEIGHT VARIATION

Clause 4.3 of HLEP 2013 specifies a maximum building height standard of 72m for the subject site.

The proposal provides for three mixed-use towers which are seeking approval for the following building heights:

- Tower 1 – 19 storeys (62.4m) (14.6% under the 72m height standard)
- Tower 2 – 24 storeys (77.3m) – (5.7% over the 72m height standard)
- Tower 3 – 29 storeys (92.85m) – (26.9% over the 72m height standard)

The proposed DA amendments, and height variations are shown visually in the figure below.



**LEGEND**  
 ADDITIONAL HEIGHT  
 PREVIOUS OUTLINE

1 Proposed Building Heights  
 SCALE: 1 : 750

# 3 PRINCIPLES OF EXCEPTIONS TO DEVELOPMENT STANDARDS

Several key Land and Environment Court (NSW LEC) planning principles and judgements have refined the manner in which variations to development standards are required to be approached. The key findings and directions of each of these matters is outlined below.

## 3.1.1 Winten v North Sydney Council

The decision of Justice Lloyd in *Winten v North Sydney Council* established the basis on which the former Department of Planning and Infrastructure’s Guidelines for varying development standards was formulated. Initially this applied to State Environmental Planning Policy – Development Standards (SEPP 1) and was subsequently updated to address clause 4.6 of the *Standard Instrument templates*.

These principles for assessment and determination of applications to vary development standards are relevant and include:

- Is the planning control in question a development standard;
- What is the underlying object or purpose of the standard;
- 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 EP&A Act;
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case;
- Is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case; and



- Is the objection well founded?

### **3.1.2 *Wehbe V Pittwater [2007] NSW LEC 827***

The decision of Justice Preston in *Wehbe V Pittwater [2007] NSW LEC 827* expanded on the findings in *Winten v North Sydney Council* and established the five (5) part test to determine whether compliance with a development standard is unreasonable or unnecessary considering the following questions:

- Would the proposal, despite numerical non-compliance be consistent with the relevant environmental or planning objectives;
- Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard is unnecessary;
- Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable;
- Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable; or
- Is the “zoning of particular land” unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land. Consequently compliance with that development standard is unnecessary and unreasonable.

### **3.1.3 *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC***

More recently in the matter of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*, initially heard by Commissioner Pearson, upheld on appeal by Justice Pain, it was found that an application under clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe V Pittwater [2007] NSW LEC 827* and demonstrate the following:

- Compliance with the particular requirements of clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP; and
- That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity);
- That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs.

## **4 CONSIDERATION OF NSW LAND AND ENVIRONMENT CASE LAW**

The following section addresses the local provisions of clause 4.6 of HLEP 2013 together with principles of *Winten v North Sydney Council* as expanded by the five (5) part test established by *Wehbe V Pittwater [2007] NSW LEC 827* and refined by the judgement of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*.

### **4.1 IS THE PLANNING CONTROL IN QUESTION A DEVELOPMENT STANDARD?**

Yes. The planning control in question is clause 4.3 of the HLEP 2013. Clause 4.3 nominates a maximum Height of Buildings of 72m for the site. The planning control as a numerical control is a development standard capable of being varied under the provisions of clause 4.6 of the HLEP 2013.

## 4.2 WHAT IS THE UNDERLYING OBJECTIVE OF THE STANDARD?

The objectives for Height of Buildings development standard provided at subclause 4.3(1) of HLEP 2013 state the following:

- (1) *The objectives of this clause are as follows:*
- (a) *to permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.*

The proposed development is considered consistent with the relevant objectives of the control for the reasons outlined in **Table 1**.

TABLE 1 – CONSISTENCY OF THE PROPOSED DEVELOPMENT WITH THE HEIGHT OF BUILDINGS OBJECTIVES

Height of Building Objectives	Assessment
<i>To permit a height of buildings that is appropriate for the site constraints...</i>	<ul style="list-style-type: none"> <li>• The key site constraints relevant to the subject site include its irregular shape, shared boundaries with adjoining properties, and potential future uses of the surrounding sites.</li> <li>▪ In response to these site constraints, the design of the three towers vary in their massing, location and height to provide a positive response and relationship with these adjoining properties. Further, the proposed building heights and tower forms result in the best location of the tower forms to minimise any potentially unreasonable impacts, such as overshadowing, privacy residential amenity.</li> <li>▪ Specifically, in response to the site constraints the proposal provides for a taller southern tower which reduces considerably in scale towers to the north adjacent to Chambers Court and Pembroke Street which contains the library civic space and heritage buildings on the northern side of Pembroke Street.</li> </ul>
<i>To permit a height of buildings that is appropriate for ... development potential</i>	<ul style="list-style-type: none"> <li>▪ The site is one of the largest sites in single ownership in Epping Town Centre. While the LEP provides for reduced building heights to the south and west of the site, the site itself does not have any variation in height controls, but rather a blanket 72m.</li> <li>▪ While the development potential of the site can be achieved by a complying building height, the result is a monotonous tower form which does little to respond positively to the site's sensitive interfaces. This is particularly the case at the northern end of the site, which is narrow and in response the proposal provides a building height well below the 72m building height.</li> <li>▪ By providing stepped tower forms, the proposed development has sought to redistribute massing and floorspace from the most sensitive interfaces while</li> </ul>

Height of Building Objectives	Assessment
	maintaining a compliant FSR of 6:1. Therefore, there is not increased density, just a smarter massing arrangement to create a better and more contextual urban outcome.
<i>To permit a height of buildings that is appropriate for ... infrastructure capacity of the locality.</i>	<ul style="list-style-type: none"> <li>▪ The proposed development will result in a density that is compliant with the FSR standard on the site, and as such the variation will not place additional pressure on the infrastructure capacity of the locality.</li> <li>▪ The proposal is ideally situated close public transport, but also to key roads in Epping, including Epping Road, and Beecroft Road, and other local roads including Langston place, Pembroke Street, and Oxford Street. The Traffic Impact Assessment appended to the SEE which was lodged as part of this DA indicates the proposed development will not have an unreasonable impact on the surrounding road network.</li> <li>▪ Potential traffic generation is reduced with the close proximity of the site to Epping railway station (2 minute walk) and key bus services and arriving along Epping Road and Beecroft Road which are capable of accommodating the proposed density. Additionally, key services are located within walking distance from the subject site along Rawson Street and Oxford Street.</li> </ul>

The development despite the non-compliance with the development standard is consistent with the objectives of the control.

### **4.3 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 EP&A ACT**

The proposed development is considered consistent with the relevant aims of the HELP 2013 for the reasons outlined in the below table.

TABLE 2 – CONSISTENCY OF THE PROPOSED DEVELOPMENT WITH THE HELP 2013 AIMS

help 2013 OBJECTIVES	Assessment
<p><i>(a) to facilitate development that creates:</i></p> <p><i>(i) progressive town centres, thriving rural areas and abundant recreation spaces connected by</i></p>	<ul style="list-style-type: none"> <li>▪ The proposed development will greatly contribute to the Epping Town Centre and future Pembroke Street public domain area by providing an attractive, active, mixed use space open to the public with a building</li> </ul>

help 2013 OBJECTIVES	Assessment
<i>efficient infrastructure and transport systems, and</i>	configuration that is sympathetic to the human scale of surrounding key pedestrian areas.
<i>(ii) a well-planned area with managed growth to provide for the needs of future generations and people enriched by diversity of cultures, the beauty of the environment and a strong economy,</i>	<ul style="list-style-type: none"> <li>▪ The proposed height variation provides for a massing arrangement which creates a highly functional, vibrant ground plane which connects four key roads in Epping Town Centre via a through-site link. The retail floor space has been designed in a manner to create a range of tenancy sizes and composition that create a rich diversity of culture through food and specialty shops which is aimed at bring residents of Epping together.</li> </ul>
<i>(b) to guide the orderly and sustainable development of Hornsby, balancing its economic, environmental and social needs,</i>	<ul style="list-style-type: none"> <li>▪ The proposed development is considered orderly given its highly thought-out and strategic placement of buildings, active and habitable edges, and enhanced pedestrian connectivity.</li> </ul>
<i>(c) to permit a mix of housing types that provide for the future housing needs of the community near employment centres, transport nodes and services,</i>	<ul style="list-style-type: none"> <li>▪ The proposed provides a mix of 1, 2 and 3 bedroom units including adaptable units and units that meet the Universal Design Silver Star Standards as required under the Apartment Design Guide. These dwellings are provided within the Epping Town Centre and within a 2 minute walk of Epping Train Station and bus routes.</li> </ul>
<i>(d) to permit business and industrial development that meets the needs of the community near housing, transport and services, and is consistent with and reinforces the role of centres within the subregional commercial centres hierarchy</i>	<ul style="list-style-type: none"> <li>▪ The ground floor tenancies will provide opportunities for business and retail to service the needs of not only the proposed development but also the Epping community.</li> </ul>

The objects set down in section 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979* are as follows:

- “(a) to encourage
- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural area, forest, mineral, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.*
  - (ii) *the promotion and co-ordination of the orderly and economic use and development of land...*”

The development is consistent with the objects of the Act, as follows:

- The proposed development is consistent with the strategic significance of development envisaged for the site under the Epping Urban Activation Precinct and subsequent HELP 2013 and Hornsby DCP updates relating to the site.
- The variation in height achieves a better urban design outcome for the Pembroke Street public domain area identified in Epping Town Centre Public Domain Guidelines and as such is considered to render a

preferred outcome for the locality and community than a compliant scheme which would not be consistent with these guidelines.

- The site is located within an established urban environment and is zoned for the intended use. The redevelopment of the site for higher density residential uses contributes in consistent with State, Regional and Local planning policy.
- The overshadowing effects of the proposed development have been modelled against a compliant scheme. This concludes that the fast moving shadows of the proposed towers will not result in unreasonable overshadowing impacts on adjoining land or public open space.
- The delivery of new housing and jobs within an established urban environment located near public transport options without significant or unreasonable environmental impact is considered to be both orderly and economic use of urban land.

#### **4.4 IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE**

Compliance with the development standard is considered unreasonable and unnecessary in the circumstance of the application based on the following:

- The proposal is consistent with the objectives of the development standard as provided in Clause 4.3 of the HLEP 2013. Refer to discussion in section above.
- The proposed variation is the result of substantial design option work and a deliberate strategy to create a stronger urban design outcome to the Pembroke Street precinct.
- At 6:1 the proposal is fully compliant with the FSR development standard that applies to the site. Therefore, the height variation does not seek to provide any additional density or gross floor area, but simply seeks to redistribute this floorspace in a more appropriate manner.
- The site is centrally located in the 'Langston Place, Epping Precinct' in the Hornsby DCP and as such is indicated as a key site in the Epping Town Centre. The unique parameters of the site with its four street frontages and centrality place emphasis on the importance of success of the site in its context. The proposed building configuration is considered to be the best possible design outcome for the site. The tallest tower will address the Epping Road and Langston Place street corner by providing a strong 'gateway' form. The stepping down of towers from this corner to the Chambers Crescent and Pembroke Street corner delivers appropriate massing configurations given the future role of this public domain area.
- Any potential impacts of the development including the height variation have been documented and detailed in the submitted Statement of Environmental Effects. It is our view that strict compliance with the maximum building height standard of 72m in this instance would not result in the best outcome for the site and surrounding properties. The proposal does not contravene the environmental planning objectives of the height control, nor does it result in unreasonable impacts of surrounding properties.

Taking into account the above, the particular circumstances of this application warrant a variation of the development standard to facilitate a superior outcome than that which would result from a compliant scheme. As such it is considered that a complying development is neither reasonable or necessary in circumstances of the case.

#### **4.5 IS THE DEVELOPMENT STANDARD A PERFORMANCE BASED CONTROL?**

No. The development standard is not a performance based control.

## **4.6 ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD? GIVE DETAILS.**

Yes, there are sufficient environmental planning grounds to justify the contravening development. These include:

- The height variation provides for a superior outcome for the site and Epping Town Centre with a preferred built form arrangement that provides a more positive design response to the surrounding context.
- The height variation is not sought across the whole of the site, with the northern tower substantially under the 72m height standard.
- There is no tangible nexus between the proposed height variation and the FSR of the site. While the development is taller in part of the site, it is not denser than a complying height scheme. The redistribution of massing is considered to be the most logical design response for the site.
- The SEE demonstrates that any impacts associated with the proposed development are acceptable, particularly since there are no significant solar access impacts on neighbouring properties or the public domain as a result of the height variation.
- A range of public benefits, including the provision of new roads, a through-site link and new vibrant retail ground plane is provided by the development.
- The variation does not result in unreasonable adverse amenity impacts on adjacent land.
- The variation does not diminish the development potential of adjacent land (and actually enables a tower form that moves away from the property boundaries to provide appropriate breathing space between surrounding properties in accordance with the ADG).
- The development is compliant with the FSR development standard.
- Despite the additional height, the scale of development is considered appropriate in the site's key strategic location within the Epping Town Centre.

## **4.7 IS THE OBJECTION WELL FOUNDED?**

The objection is considered well founded given the motivation of the variation is to create a preferable urban design outcome for the site and surrounding area.

The proposed exception to the Height of Building development standard will not result in a higher density compared to a compliant scheme. This is demonstrated through the compliant FSR. As such, the variation will not result in a more dense development, or intensification to what is envisaged under the planning controls.

The proposed development does not result in any unreasonable or significant adverse environmental (social, economic or biophysical) impacts. In particular the variation does not diminish the redevelopment potential or amenity of any adjoining land.

Compliance in this circumstance would result in a less ideal outcome, with an inappropriate lack of transition in scale towards Pembroke Street, unsympathetic to the vision of this locality.

It is our view that to force compliance in the circumstance would be antipathetic to the inherent flexibility provided by clause 4.6, thereby hindering the attainment of its objectives.

## **4.8 WOULD NON-COMPLIANCE RAISE ANY MATTER OF SIGNIFICANCE FOR STATE OR REGIONAL PLANNING?**

The non-compliance will not raise any matter of State or Regional Significance.

## **4.9 IS THERE A PUBLIC BENEFIT OF MAINTAINING THE PLANNING CONTROL STANDARD?**

The driver of the variation is supporting the public interest. Accordingly there can be no quantifiable or perceived public benefit in maintaining the standard.

# **5 CONCLUSION**

Taking into account the significance of the site, its context, and the vision for the locality, strict compliance with the numerical standard in this instance is both unreasonable and unnecessary owing to the following key points:

- The proposed variation enables a development which provides a much more resolved and enhanced urban design outcome for the Pembroke Street precinct through a stepped building arrangement than a complying scheme.
- There is no additional density (beyond the maximum FSR) sought with the proposed height variation. The proposal simply seeks to redistribute massing in a more logical manner.
- The proposed variation is consistent with the objectives of the building height standard.
- The proposed variation enables a form of development that provides a range of public benefits, including new roads, pedestrian through-site linkages, high levels of retail activation at the ground plane and a range of landscape and public domain embellishments of a significant value.

Based on the reasons outlined, it is concluded the request is well founded and the particular circumstances of the case warrant flexibility in the application of the development standard.

## APPENDIX 2 - DRAFT CONDITIONS OF CONSENT

The application be determined by the granting of a “deferred commencement” consent under Section 80(3) of the *Environmental Planning and Assessment Act 1979*. Upon strict compliance with all conditions appearing in Schedule 1, and with the issue of confirmation to that effect in writing from Council, the “deferred commencement” consent shall revert to development consent, inclusive of all conditions appearing in Schedule 2, pursuant to Section 80(1) of the Act:

### SCHEDULE 1

- 1) The Applicant shall prepare and provide to Sydney Trains for approval/certification the following items:
  - a) Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducting on the site closest to the rail corridor.
  - b) Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.
  - c) Cross sectional drawings showing the rail corridor, proposed basement excavation and structural design of sub ground support adjacent to the rail tunnel. All measurements are to be verified by a Registered Surveyor.
  - d) Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains easement and tunnel location.
  - e) If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.

Any conditions issued as part of Sydney Trains approval/certification of the above documents will also form part of the consent conditions that the Applicant is required to comply with.

**Reason:** To comply with the requirements of Sydney Trains and State Environmental Planning Policy (Infrastructure) 2007.

The applicant must provide to the Council appropriate documentary evidence sufficient to enable it to be satisfied of the matters in the above conditions within **24 months**.

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

### SCHEDULE 2

#### General Matters

##### 1. *Approved Plans and Supporting Documentation*

The development must be carried out in accordance with the plans and documentation listed below, and endorsed with Council’s stamp, except where amended by Council and/or other conditions of this consent:

##### Architectural Plans

Plan No.	Issue	Plan Title	Drawn by	Dated
DA0003	J	Context Plan – Temporary Access Solution	Architectus	26/06/2017
DA0010	G	Existing Site Plan	Architectus	03/02/2017
DA0011	H	Demolition Plan	Architectus	05/06/2017
DA0013	G	Site Analysis	Architectus	03/02/2017
DA0020	F	Proposed Building Separation Setbacks	Architectus	05/06/2017



<b>Plan No.</b>	<b>Issue</b>	<b>Plan Title</b>	<b>Drawn by</b>	<b>Dated</b>
DA1000	P	Basement 4 Plan	Architectus	05/06/2017
DA1001	P	Basement 3 Plan	Architectus	05/06/2017
DA1002	Q	Basement 2 Plan	Architectus	05/06/2017
DA1003	T	Basement 1 Plan	Architectus	26/06/2017
DA1004	CC	Ground Floor Plan/Site Plan	Architectus	05/06/2017
DA1005	Q	Level 1 Floor Plan	Architectus	05/06/2017
DA1006	P	Levels 2-3 Floor Plan	Architectus	05/06/2017
DA1007	F	Level 4 Floor Plan	Architectus	05/06/2017
DA1008	F	Level 5-7 Floor Plan	Architectus	05/06/2017
DA1009	K	Level 8 Floor Plan	Architectus	05/06/2017
DA1010	O	Level 9 Floor Plan	Architectus	05/06/2017
DA1011	O	Level 10 Floor Plan	Architectus	05/06/2017
DA0012	O	Level 11-15 Floor Plan	Architectus	05/06/2017
DA1013	K	Level 16 Floor Plan	Architectus	05/06/2017
DA1014	O	Level 17 Floor Plan	Architectus	05/06/2017
DA1015	O	Level 18 Floor Plan	Architectus	05/06/2017
DA1016	O	Level 19 Floor Plan	Architectus	05/06/2017
DA1017	O	Level 20-21 Floor Plan	Architectus	05/06/2017
DA1018	O	Level 22 Floor Plan	Architectus	05/06/2017
DA1019	O	Level 23 Floor Plan	Architectus	05/06/2017
DA1020	N	Level 24 Floor Plan	Architectus	05/06/2017
DA1021	L	Level 25-26 Floor Plan	Architectus	05/06/2017
DA1022	E	Level 27 Floor Plan	Architectus	05/06/2017
DA1023	E	Level 28 Floor Plan	Architectus	05/06/2017
DA1024	J	Roof Plan	Architectus	05/06/2017
DA1110	N	Tower 1 Level 1	Architectus	05/06/2017
DA1111	P	Tower 1 Levels 2-3	Architectus	05/06/2017
DA1112	Q	Tower 1 Level 4	Architectus	05/06/2017
DA1113	Q	Tower 1 Levels 5-16	Architectus	05/06/2017
DA1114	L	Tower 1 Level 17	Architectus	05/06/2017
DA1115	L	Tower 1 Level 18	Architectus	05/06/2017
DA1116	F	Tower 1 Roof Plan	Architectus	05/06/2017
DA1120	I	Tower 2 Level 1	Architectus	05/06/2017
DA1121	L	Tower 2 Levels 2-7 – Low Rise	Architectus	05/06/2017
DA1122	H	Tower 2 Levels 8 – Waistband	Architectus	05/06/2017
DA1123	H	Tower 2 Levels 9-15. 17-21 – high Rise	Architectus	05/06/2017
DA1124	I	Tower 2 Level 16 – Waistband	Architectus	05/06/2017
DA1125	H	Tower 2 Level 22	Architectus	05/06/2017
DA1126	H	Tower 2 Level 23 – Penthouse	Architectus	05/06/2017
DA1127	C	Tower 2 Roof Plan	Architectus	05/06/2017
DA1130	I	Tower 2 Level 1	Architectus	05/06/2017
DA1131	I	Tower 2 Levels 2-9 – Typical	Architectus	05/06/2017
DA1132	I	Tower 3 Level 10 – Waistband	Architectus	05/06/2017
DA1133	I	Tower 3 Level 11-17 – Typical	Architectus	05/06/2017
DA1134	I	Tower 3 Level 18 Waistband	Architectus	05/06/2017
DA1135	I	Tower 3 19-26 – Typical	Architectus	05/06/2017

Plan No.	Issue	Plan Title	Drawn by	Dated
DA1136	I	Tower 3 Level 27 (Roof Garden – Penthouse)	Architectus	05/06/2017
DA1137	I	Tower 3 Level 28 (Plant – Penthouse)	Architectus	05/06/2017
DA1138	D	Tower 3 Roof Plan	Architectus	05/06/2017
DA2000	I	North Elevation – Tower 1	Architectus	05/06/2017
DA2001	I	East Elevation	Architectus	05/06/2017
DA2002	I	South Elevation	Architectus	05/06/2017
DA2003	I	West Elevation	Architectus	05/06/2017
DA2004	H	North Link Elevation	Architectus	05/06/2017
DA2005	I	South Link Elevation	Architectus	05/06/2017
DA2006	G	East Context Elevation	Architectus	05/06/2017
DA2007	G	West Context Elevation	Architectus	05/06/2017
DA2100	K	Section A-A	Architectus	05/06/2017
DA2101	I	Section B-B	Architectus	05/06/2017
DA2102	H	Section C-C	Architectus	05/06/2017
DA2103	I	Section D-D	Architectus	05/06/2017
DA2104	H	Section E-E	Architectus	05/06/2017
DA7000	E	Epping Road & Langston Place Street View	Architectus	05/06/2017
DA7001	E	Epping Road & Smith Street District View	Architectus	05/06/2017
DA7003	C	Aerial View From East with Future Context	Architectus	05/06/2017
DA7004	E	Langston Place Street View	Architectus	05/06/2017
DA7005	E	Beecroft & Epping Road Morning District View	Architectus	05/06/2017
DA7007	E	Langston Place Plaza View 1	Architectus	05/06/2017
DA7010	E	Chamber Court Street View	Architectus	05/06/2017
DA7011	E	Pembroke Plaza View	Architectus	05/06/2017
DA7012	E	Beecroft Road District View	Architectus	05/06/2017
DA8000	C	Material Palette	Architectus	05/06/2017
SK1811	A	ROW Plan	Architectus	26/06/2017

#### Landscape Plans

Plan No.	Issue	Plan/Document Title	Prepared by	Dated
103	H	Programme + Activation	Arcadia Landscape Architecture	May 2017
104	H	Ground Level	Arcadia Landscape Architecture	May 2017
105	H	Entry Forecourt	Arcadia Landscape Architecture	May 2017
106	H	Shareway	Arcadia Landscape Architecture	May 2017
107	H	Epping Road	Arcadia Landscape Architecture	May 2017
108	H	Epping Road	Arcadia Landscape Architecture	May 2017
109	H	East Interface	Arcadia Landscape Architecture	May 2017

110	H	East Interface	Arcadia Landscape Architecture	May 2017
111	H	Southeast Interface	Arcadia Landscape Architecture	May 2017
112	H	Pembroke Street	Arcadia Landscape Architecture	May 2017
113	H	Pembroke Street	Arcadia Landscape Architecture	May 2017
114	H	Chambers Court	Arcadia Landscape Architecture	May 2017
115	H	Level one Podium	Arcadia Landscape Architecture	May 2017
116	H	Communal Rooftop Courtyard	Arcadia Landscape Architecture	May 2017
117	H	Rooftop Courtyard	Arcadia Landscape Architecture	May 2017
118	H	Soil Strategy	Arcadia Landscape Architecture	May 2017
119	H	Indicative Lighting Strategy	Arcadia Landscape Architecture	May 2017
120	H	Indicative Materials Palette	Arcadia Landscape Architecture	May 2017
121	H	Proposed Planting Palette	Arcadia Landscape Architecture	May 2017
122	H	Planting Schedule	Arcadia Landscape Architecture	May 2017
200	G	Landscape Masterplan - Ground Level	Arcadia Landscape Architecture	May 2017
201	G	Detailed Plan – Ground Level	Arcadia Landscape Architecture	May 2017
202	G	Detailed Plan – Ground Level	Arcadia Landscape Architecture	May 2017
203	G	Detailed Plan – Ground Level	Arcadia Landscape Architecture	May 2017
204	G	Detailed Plan – Ground Level	Arcadia Landscape Architecture	May 2017
205	G	Detailed Plan – Ground Level	Arcadia Landscape Architecture	May 2017
210	G	Detailed Plan – Level One	Arcadia Landscape Architecture	May 2017
211	G	Detailed Plan – Level One	Arcadia Landscape Architecture	May 2017
212	G	Detailed Plan – Level One	Arcadia Landscape Architecture	May 2017
213	G	Detailed Plan – Level One	Arcadia Landscape Architecture	May 2017
220	G	Landscape Details	Arcadia Landscape Architecture	May 2017
230	G	Landscape Specification	Arcadia Landscape Architecture	May 2017

## Accompanying Reports

Documents	Prepared By	Dated
Statement of Environmental Effects	Urbis	29/05/2017
Design Review Accessibility Compliance Statement	Mckenzie Group	26/05/2017
Arboricultural Impact Appraisal and Method Statement (Rev B)	Naturally Trees	29/05/2017
Building Code of Australia Report (Rev F)	Mckenzie Group	23/05/2017
BASIX Cert: 662637M	Efficient Living	25/05/2017
Building Services Design Brief	Norman Disney & Young	02/12/2016
DA Report (Rev 7)	WSP/Parsons Brinckerhoff	04/07/2017
DA Report Civil Engineering (Rev 7)	WSP/Parsons Brinckerhoff	06/07/2017
Fire Safety Strategy (Rev B)	Core Engineering Group	25/05/2017
Traffic Impact Assessment (Rev B)	GTA Consultants	29/05/2017
Waste Management Plan (Rev K)	Elephants Foot	29/05/2017
Environmental wind speed measurements	MEL Consultants	03/02/2017
Addendum to Environmental wind speed measurements.	MEL Consultants	30/03/2017
DA Noise Impact Assessment (Rev 1)	Acoustic Logic	19/02/2016

**Note:** In the event of any inconsistency between the architectural plans, landscape plans, stormwater disposal plans or photomontages, the architectural plans shall prevail to the extent of the inconsistency.

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

### 2. *Parking Spaces*

- a) Parking spaces are to be provided in accordance with the approved plans referenced in condition 1 and with AS 2890.1, AS2890.2 and AS 2890.6.
- b) Column locations are to comply with clearance requirements of AS2890.1
- c) 300mm clearance is to be provided between the parking spaces and any structure that restricts access like boom gates and storage units.
- d) A 1m extension is required for the blind aisle on Basement 1, and for the spaces positioned adjacent to the access gates.
- e) The after hours roller shutter is to be positioned to avoid conflict with parking spaces.
- f) Details are to be illustrated on plans submitted with the construction certificate.

**Reason:** To comply with Council's parking requirements and the Australian Standards.

### 3. *Allocation of Car Wash Bays*

- a) Car wash bay spaces must not at any time be allocated, sold, or leased to an individual owner/occupier, and must be strictly retained as common property by the owners corporation.

**Reason:** To protect the local amenity.

#### **4. Accessible Car parking**

- a) Accessible car parking spaces must be provided as part of the total car parking requirements.
- b) These spaces, and access to these spaces, must comply with AS2890.6: 'Parking facilities', 'Off-street parking for people with disabilities', AS1428.1: 'Design for access and mobility', 'General requirements for access - New building work' 2001 and 2009, and AS1428.4: 'Design for access and mobility', 'Tactile ground surface indicators for orientation of people with vision impairment', 'Means to assist the orientation of people with vision impairment - Tactile ground surface indicators' 1992 and 2009.
- c) Details are to accompany each application for a Construction Certificate to the satisfaction of the Certifying Authority.

**Reason:** To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with Federal legislation.

#### **5. Bicycle Racks**

- a) The dimensions and layout of the bicycle storage/racks are to comply with AS 2890.3 - 2015.
- b) Details are to be illustrated on plans submitted with the construction certificate.

**Reason:** To comply with Council's parking requirements.

#### **6. Vision Splays**

- a) A splay extending 2m from the driveway edge along the front facade, and 2.5m from the facade along the driveway, in accordance with Figure 3.3 of AS2890.1 shall be provided to give clear sight lines of pedestrians from vehicles exiting the site.
- b) This shall not be compromised by the landscaping, signage, fences, walls, or display materials. Any such materials may only be permitted if they are less than, or equal to, 900mm height above the driveway level.
- c) Details are to be illustrated on plans submitted with the construction certificate.

**Reason:** To comply with Australian Standards and ensure pedestrian safety.

#### **7. Footpath Occupation**

- a) Occupation of any part of the footpath or road at or above (carrying out work, storage of building materials and the like) during construction of the development shall require a Road Occupancy Permit from Council.
- b) The applicant is to be required to submit an application for a Road Occupancy Permit through Council's Traffic and Transport Services, prior to carrying out the construction/restoration works.

**Reason:** To ensure proper management of Council assets.

#### **8. Oversize Vehicles**

- a) Oversize vehicles using local roads require Council's approval.
- b) 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 the City of Parramatta LGA.

**Reason:** To ensure maintenance of Council's assets.

## 9. **Building Work in Compliance with BCA**

- a) All building work must be carried out in accordance with the current provisions of the Building Code of Australia (National Construction Code).

**Reason:** To comply with the *Environmental Planning & Assessment Act 1979*, as amended and the Environmental Planning & Assessment Regulation 2000.

## 10. **Construction Certificate**

- a) Prior to commencement of any construction works associated with the approved development (including excavation if applicable), it is mandatory to obtain a Construction Certificate.
- b) Plans, specifications and relevant documentation accompanying the Construction Certificate must include any requirements imposed by conditions of this Development Consent.

**Reason:** To ensure compliance with legislative requirements.

## 11. **No Encroachment on Council and/or Adjoining Property**

- a) With the exception of the approved public domain works including new road, the development must be constructed within the confines of the property boundary.
- b) No portion of the proposed structure, including footings/slabs, or gates and doors during opening and closing operations, must encroach upon Council's footpath area or the boundaries of the adjacent properties.

**Reason:** To ensure no injury is caused to persons and the building is erected in accordance with the approval granted within the boundaries of the site.

## 12. **Demolition of Buildings**

- a) Approval is granted for the demolition of all buildings and structures currently on the property, subject to compliance with the following:
  - i) 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.
  - ii) The developer is to notify owners and occupiers of premises on either side, opposite, and at the rear of the development site five (5) working days prior to demolition commencing. Such notification is to be 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.
  - iii) Five (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 Council's inspection and works must also not commence prior to the commencement date nominated in the written notice.
  - iv) On the first day of demolition, work is not to commence until Parramatta City Council has inspected the site. Should the building to be demolished be found to be wholly or partly clad with asbestos cement, approval to commence demolition will not be given until Council is satisfied that all measures are in place so as to comply with Work Cover's document "Your Guide to Working with Asbestos", and demolition works must at all times comply with its requirements.

- v) 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 and visible position on the site, to the satisfaction of Council's officers. 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
- vi) 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.
- vii) 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.
- viii) Demolition works involving the removal and disposal of asbestos cement in excess of 10m<sup>2</sup>, must only be undertaken by contractors who hold a current WorkCover "Demolition Licence", and a current WorkCover "Class 2 (Restricted) Asbestos Licence".
- ix) 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.
- x) 1.8m high protective fencing is to be installed to prevent public access to the site.
- xi) A pedestrian and Traffic Management Plan must be submitted to the satisfaction of Council prior to commencement of demolition and/or excavation. It must include details of the:
  - 1) Proposed ingress and egress of vehicles to and from the construction site;
  - 2) Proposed protection of pedestrians adjacent to the site;
  - 3) Proposed pedestrian management whilst vehicles are entering and leaving the site.
- xii) 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).
- xiii) Before demolition works begin, adequate toilet facilities are to be provided.
- xiv) After completion, the applicant must notify Parramatta City Council within seven (7) days to assess the site and ensure compliance with AS2601-2001 – Demolition of Structures.
- xv) Within 14 days of completion of demolition, the applicant must submit to Council:
  - 1) An asbestos clearance certificate issued by a suitably qualified person if asbestos was removed from the site; and
  - 2) 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. In reviewing such documentation Council will require the provision of original.
  - 3) Payment of fees in accordance with Council's current schedule of fees and charges for inspection by Parramatta Council of the demolition site prior to commencement of any demolition works and after the completion of the demolition works.

**Reason:** To protect the amenity of the area.

### **13. Home Warranty Insurance for Residential Flat Buildings over \$20,000**

- a) Residential building work, within the meaning of the Home Building Act 1989, must not be carried out unless the Certifying Authority for the development to which the work relates fulfils the following:
  - i) In the case of work to be done by a licensee under the *Home Building Act 1989*; has been informed in writing of the licensee's name and contractor licence number;

and is satisfied that the licensee has complied with the requirements of Part 6 of the *Home Building Act 1989*, or

- ii) In the case of work to be done by any other person; has been informed in writing of the person's name and owner-builder permit number; or has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of the *Home Building Act 1989*, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

**Note:** A certificate issued by an approved insurer under Part 6 of the *Home Building Act 1989* that states that a person is the holder of an insurance policy issued for the purpose of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

**Reason:** To comply with the *Home Building Act 1989*.

#### **14. Waste Data Maintained**

- a) 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.
- b) These records must be retained and made available to Council on request.

**Reason:** To confirm waste minimisation objectives under Parramatta Development Control Plan 2011 are met.

#### **15. Sydney Trains - Bus Stops**

- a) The Applicant must consult the Deputy Project Director, Metro Product and Integration, Sydney Metro Project Office, Transport for NSW ("Sydney Metro"), about the impact of the proposed works on the implementation and operation of the temporary bus stops on Langston Place and Pembroke Street, Epping, identified in the Epping to Chatswood Railway Temporary Transport Plan ("Temporary Bus Stops").

**Note:** The Epping to Chatswood Railway Temporary Transport Plan, which has planning consent under Part 5 of the *Environmental Planning and Assessment Act 1979*, contains information about the public transport arrangements while the Epping to Chatswood Railway is temporarily closed from late 2018 for approximately six (6) to seven (7) months, in order to convert the line to Sydney Metro Northwest operations. During this time, rail replacement bus services will operate to continue public transport connections for customers travelling to destinations on the ECR corridor. Further information about the Temporary Transport Plan is available at:

[http://nwrail.transport.nsw.gov.au/NorthWestRailLink/media/NWRUPDF/ECRL/Temporary-Transport-Plan-Complete-Report-with-Appendices 1.pdf](http://nwrail.transport.nsw.gov.au/NorthWestRailLink/media/NWRUPDF/ECRL/Temporary-Transport-Plan-Complete-Report-with-Appendices%201.pdf).

<http://nwrail.transport.nsw.gov.au/NorthWestRailLink/media/NWRL/PDF/ECRL/Epping-to-Chatswood-Railway-Conversion-to-Rapid-Transit-Determination-Report-Accessible-Version.pdf>

**Reason:** To comply with the requirements of Transport for NSW and SEPP (Infrastructure) 2007.

#### **16. Bus Stops – Management Plan**

- a) The Applicant must comply with the Temporary Bus Stop Traffic and Pedestrian Management Plan.

**Reason:** To comply with the requirements of Transport for NSW and SEPP (Infrastructure) 2007.



**17. Bus Stops - Operation**

- a) During the establishment, operation, and removal of the Temporary Bus Stops, no Works Zones are to be located on Langston Place and Pembroke Street within 20m of Temporary Bus Stops.

**Reason:** To comply with the requirements of Transport for NSW and SEPP (Infrastructure) 2007.

**18. Bus Stop – Concrete Pump Lines**

- a) During the establishment, operation and removal of the Temporary Bus Stops, no concrete pump lines or pedestrian ramps are to be located in or within 20m of Temporary Bus Stops.

**Reason:** To comply with the requirements of Transport for NSW and SEPP (Infrastructure) 2007.

**19. Bus Stop – Additional Information**

- a) 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.

**20. Site Sign**

- a) A sign must be erected in a prominent position on any site involving excavation, erection, or demolition of a building, in accordance with Clause 98 A (2) of the Environmental Planning and Assessment Regulations 2000 detailing:
- i) Unauthorised entry of the work site is prohibited;
  - ii) The name of the principal contractor (or person in charge of the work site), their telephone number enabling 24 hour contact; and
  - iii) The name, address and telephone number of the Principal Certifying Authority;
  - iv) The development consent approved construction hours;
- b) The sign must be maintained during excavation, demolition and building work, and removed when the work has been completed.
- c) This condition does not apply where works are being carried.

**Reason:** Statutory requirement.

**21. Copy of development consent**

- a) A copy of this development consent, together with the stamped plans, reference documents and associated specifications, is to be held onsite during the course of any works, to be referred to by all contractors to ensure compliance with the approval and the associated conditions of consent.

**Reason:** To ensure compliance with this consent.

**22. Tree Protection**

- a) Tree protection measures are to be installed and maintained in accordance with the recommendations set out in the approved Arborist Report listed at condition 1 and under the supervision of an Australian Qualifications Framework (AQF) Level 5 Arborist in accordance with AS4970 - "Protection of Trees on Development Sites".

**Reason:** To ensure trees are protected during construction.

**23. Tree Removal**

- a) 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.

**24. Trees of 5m and Over**

- a) Trees greater than 5m in height must not be damaged, or removed from the subject property or adjoining properties unless approved by this Consent.

**Reason:** To preserve existing landscape features.

**25. Tree Root Volume**

- a) All trees planted within the subject 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.

**26. Trees on Public Property**

- a) No trees on public property (footpaths, roads, reserves, etc.) are permitted to be removed, pruned or damaged during construction, including the installation of fences, hoardings or other temporary works, unless approved in this consent.

**Reason:** Protection of existing environmental infrastructure and community assets.

**27. Storage of Materials Around Trees**

- a) 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.

**28. Services and Trees**

- a) 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).

**29. Dust Control**

- a) Dust control measures shall be implemented during all periods of earth works, demolition, excavation, and construction to minimise the dust nuisance on surrounding properties.
- b) In this regard, dust minimisation practices must be carried out in accordance with Council's Guidelines for Controlling Dust from Construction Sites and Section 126 of the *Protection of the Environment Operations Act 1997*.

**Reason:** To protect the amenity of the area.

**30. *Materials on Footpath***

- a) No building materials skip bins, concrete pumps, cranes, machinery, temporary traffic control, signs, or vehicles associated with the construction, excavation, or demolition shall be stored or placed on/in Council's footpath, nature strip, roadway, park, or reserve without the prior approval being issued by Council under section 138 of the *Roads Act 1993*.

**Reason:** To ensure pedestrian access.

**31. *Materials on Drainage Line***

- a) 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.

**32. *Hours of Work and Noise***

- a) All work (excluding demolition which has separate days and hours outlined below), including 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 of tools, machinery etc.) in connection with the proposed development, must only be carried out between the hours of 7:00am and 5:00pm on Monday to Friday inclusive, and 8:00am to 5:00pm on Saturday.
- b) No work is to be carried out on Sunday or public holidays.
- c) Demolition works are restricted to Monday to Friday between the hours of 7:00am and 5:00pm.
- d) No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays.

**Reason:** To protect the amenity of the area.

**33. *Complaints Register***

- a) The applicant must record details of all complaints received during the construction period in an up to date complaints register.
- b) The register must record, but not necessarily be limited to:
  - i) The date and time of the complaint;
  - ii) The means by which the complaint was made;
  - iii) Any personal details of the complainants that were provided, or if no details were provided, a note to that affect;
  - iv) Nature of the complaints;
  - v) Any action(s) taken by the applicant in relation to the complainant, including any follow up contact with the complainant; and
  - vi) If no action was taken by the applicant in relation to the complaint, the reason(s) why no action was taken.
- c) The complaints register must be made available to Council and/or the principal certifying authority upon request.

**Reason:** To allow the Principal Certifying Authority to ensure complaints are dealt with appropriately.

**34. *Shoring and Adequacy of Adjoining Property***

- a) 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:

- i) Protect and support the adjoining premises from possible damage from the excavation;
- ii) 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.

**35. Damage to Public Infrastructure**

- a) Any damage to Council assets that impacts on public safety during construction is to be rectified immediately to the satisfaction of Council, with all costs to be borne by the person having the benefit of the Development Consent.

**Reason:** To protect public safety.

**36. Importation of Clean Fill**

- a) Any fill material, required by this consent, imported to the site is to be virgin excavated natural material (VENM), and is to be certified as such by a suitably qualified industry professional.
- b) The certification of each delivery is to be kept on site and produced for inspection if requested.

**Reason:** To ensure the site does not become contaminated, and appropriate compaction levels can be achieved.

**37. Occupation Certificate**

- a) Occupation, or use of the building or part, is not permitted until an Occupation Certificate has been issued in accordance with Section 109H of the *Environmental Planning and Assessment Act 1979*.

**Reason:** To comply with the legislative requirements of the *Environmental Planning and Assessment Act 1979*.

**38. Separate Occupation**

- a) The specific retail use, or occupation of the premises must be the subject of further development approval for such use or occupation.

**Reason:** To ensure development consent is obtained prior to that use commencing.

**39. Signage Consent**

- a) No advertisement or signage shall be erected on, or in conjunction with the development without prior consent.

**Reason:** To comply with legislative controls.

**40. Digital Signage**

- a) No advertising or other digital displays are to be installed in or on any part of the development facing Epping Road or Langston Place be it within a shop display or otherwise.

**Reason:** To ensure road safety.

#### **41. Shopfront Appearance**

- a) Roller shutters are not to be placed over any external door or window of the premises.

**Reason:** To provide an appropriate streetscape appearance.

#### **42. Graffiti Management**

- a) The owner/manager of the site/business is responsible for the removal of all graffiti from the building/structures/signage and/or fencing within 48 hours of its application.

**Reason:** To ensure the removal of graffiti.

#### **43. Sediment Control**

- a) Works are not to result in sedimentation and/or runoff from the approved works onto the adjoining properties and/or public lands.
- b) The person having the benefit of this consent must ensure sediment is not tracked out from the development site.

**Reason:** To ensure no adverse impacts on neighbouring properties.

#### **44. Site Maintenance**

- a) Prior to commencement of works, and during construction works, the development site and any road verge immediately in front of the site must be maintained in a safe and tidy manner. In this regard the following must be undertaken:
  - i) All site boundaries are to be secured and maintained to prevent unauthorised access to the site;
  - ii) All existing buildings are to be secured and maintained to prevent unauthorised access and vandalism;
  - iii) All site boundaries are to be secured and maintained to prevent unauthorised access to the site;
  - iv) All general refuse and/or litter (inclusive of any uncollected mail/advertising material) is to be removed from the site on a fortnightly basis;
  - v) The site is to be maintained clear of weeds; and
  - vi) All grassed areas are to be mowed on a monthly basis.

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

#### **45. Special Permits**

- a) 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 within the property boundaries. The applicant, owner or builder must apply for specific permits if the following activities are required seeking approval pursuant to Section 138 of the *Roads Act 1993*:
  - i) On-street mobile plant: e.g. Cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation and the area where the operation will occur, etc. Separate permits are required for each occasion and each piece of equipment. It is the applicant's, owner's, and builder's responsibilities to take whatever steps are necessary to ensure the use of any equipment does not violate adjoining property owner's rights.
  - ii) Storage of building materials and building waste containers (skips) on Council's property.
  - iii) Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location they are to be stored.

Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded. Storage of building materials and waste containers within Council's open space areas, reserves and parks is prohibited.

- iv) Kerbside restrictions - construction zones: The applicant's attention is drawn to the possible existing kerbside restrictions adjacent to the development. Should the applicant require alteration of existing kerbside restrictions, or the provision of a work zones, the appropriate application must be made to Council and the fee paid. Applicants should note that the alternatives of such restrictions may require referral to Council's Traffic Committee. An earlier application is suggested to avoid delays in construction programs..
- b) The application is to be lodged with Council's Customer Service Centre.

**Reason:** Proper management of public land.

#### **46. *Nomination of Engineering Works Supervisor***

- a) During construction of all public areas, 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".
- b) Certification is required to be provided with the Occupation Certificate.

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

#### **47. *Access and services for people with disabilities***

- a) Access and services for people with disabilities shall be provided to the 'affected part' of the building, in accordance with the requirements of the Access to Premises Standard 2010, and the National Construction Code 2013.
- b) Detailed plans, documentation and specification must accompany each application for a Construction Certification to the satisfaction of the Certifying Authority.

**Reason:** To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards.

#### **48. *Oversize Vehicles Using Local Roads***

- a) Oversize vehicles using local roads require Council's approval.
- b) 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 maintenance of Council's assets.

#### **49. *Removal of Underground Storage Tanks***

- a) Underground tanks shall be decommissioned, and removed, in accordance with:
  - i) Australian Institute of Petroleum (AIP) Code of Practice for the Removal and Disposal of Underground Petroleum Storage Tanks (ref. AIP CP22).
  - ii) Australian Standard AS 1940: 2004 AS 1940:2004 The Storage and Handling of Flammable and Combustible Liquids.
  - iii) Work Cover NSW Code of Practice for the Storage and Handling of Dangerous Goods.
  - iv) NSW Department of Environment and Climate Change: Environmental Guidelines: Assessment, Classification and Management of Liquid and Non Liquid Wastes

**Reason:** To ensure the safe removal of underground storage tanks.

**50. Requirement for Removal of Underground Storage Tanks**

- a) Following excavation and removal of any underground storage tank, the land shall be assessed in accordance with the NSW Environment Protection Authority's Technical Note: Investigation of Service Station Sites (2014).
- b) A report on the investigation is to be supplied to Council's Environment and Public Health unit.
- c) At the completion of the investigation, a site audit statement shall be issued by an approved NSW Environment Protection Authority Auditor in accordance with the NSW Environment Protection Authority's Guidelines for the NSW Site Auditor Scheme.

**Reason:** To ensure that the land is left in a safe and healthy condition.

**51. Garbage Chutes**

- a) Any garbage chutes must be designed in accordance with the requirements of the Building Code of Australia and the Department of Environment and Climate Change Better Practice Guide for Waste Management in Multi-Unit Dwellings.
- b) Garbage chutes are not suitable for recyclable materials and must be clearly labelled to discourage improper use.

**Reason:** To ensure waste conveyance equipment is appropriately designed and managed.

**52. Maintenance of Waste Storage Areas**

- a) All waste storage areas are to be maintained in a clean and tidy condition at all times.

**Reason:** To ensure the ongoing management of waste storage areas.

**53. Waste Storage**

- a) Between collection periods, all waste/recyclable materials generated on site must be kept in enclosed bins with securely fitting lids so the contents are not able to leak or overflow.
- b) Bins must be stored in the designated waste/recycling storage room(s) or area(s) between collection periods.

**Reason:** To ensure waste is adequately stored within the premises.

**54. Putrescible Waste**

- a) All putrescible waste shall be removed from the site with sufficient frequency to avoid nuisance from pests and odours.

**Reason:** To ensure provision of adequate waste disposal arrangements.

**55. Sydney Trains – Excavation**

- a) Unless advised otherwise, the applicant shall comply with the following items:
  - i) All excavation works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.
  - ii) No rock anchors/bolts are to be installed into railcorp's property of easements.
  - iii) On completion of the basement slab works, all temporary rock anchors/bolts along the rail corridor boundary are to be destressed in accordance with the Geotechnical and Structural Reports.
  - iv) The project engineer is to conduct vibration monitoring during the course of excavation.
- b) A Construction Certificate is not to be issued until the measures detailed in this condition of consent have been incorporated into the construction drawings and specifications.

- c) Prior to the commencement of works, the Principle Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

**Reason:** To comply with the requirements of Sydney Trains and State Environmental Planning Policy (Infrastructure) 2007.

**56. Sydney Trains – Inspection**

- a) Sydney Trains and Transport for NSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been, or are being, constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.

**Reason:** To comply with the requirements of Sydney Trains and State Environmental Planning Policy (Infrastructure) 2007.

**57. Sydney Trains - Copies of Certificates**

- a) Copies of any certificates, drawing or approvals given to or issued by Sydney Trains must be submitted to Council for its records.

**Reason:** To comply with the requirements of Sydney Trains and State Environmental Planning Policy (Infrastructure) 2007.

**58. Sydney Trains – Transport for NSW**

- a) In exercising its functions in relation to any Sydney Trains conditions, Sydney Trains reserves the right to liaise with Transport for NSW and impose any requirements (as advised by TfNSW) on their behalf as if they were Sydney Trains' requirements.

**Reason:** To comply with the requirements of Sydney Trains and State Environmental Planning Policy (Infrastructure) 2007.

**59. Public Utility Relocation**

- a) The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work, and as required by the various public utility authorities and/or their agents.

**Reason:** To ensure the applicant bears all reasonable costs for the development.

**60. Road Occupancy License**

- a) A Road Occupancy License should be obtained from Transport Management Centre for any works that may impact on traffic flows on Epping Road during construction activities.

**Reason:** To ensure the proposal does not impact on the efficient operation of the transport network.

**61. Construction Zone – Epping Road**

- a) A construction zone will not be permitted on Epping Road.

**Reason:** To ensure the proposal does not impact on the efficient operation of the transport network.



**62. Landscaping Height**

- a) Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath.

**Reason:** To ensure public safety.

**63. Signpost Provision**

- a) All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.

**Reason:** To ensure the applicant bears all reasonable costs for the development.

**64. Vehicle Egress Signs**

- a) Appropriate signage must be erected at the vehicle egress points to compel all vehicles to stop before proceeding onto the public way.

**Reason:** To ensure pedestrian safety.

**65. Air-conditioning Noise Emission**

- a) Any external plant/air-conditioning system must not exceed a noise level of 5dBA above the background noise level when measured at the boundaries of the property.
- b) Any air conditioners must not emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
  - i) Before 8:00am and after 10:00pm on any Saturday, Sunday or public holiday; or
  - ii) Before 7:00am and after 10:00pm on any other day.
- c) Emit a sound pressure level when measured at a boundary of any other residential property, at a time other than those specified in (a) and (b) above which exceeds the background (LA90, 15 minute) by more than 5dB(A).
- d) The source noise level must be measured as a LAeq 15 minute.

**Reason:** To minimise noise impact of air conditioning equipment and protect amenity

**66. Retail Operation**

- a) The hours of operation of the ground floor commercial premises are restricted to 7:00am to 7:00pm daily, unless approved otherwise under a separate application.

**Reason:** To minimise the impact of the use on adjoining properties.

**67. Civil Assets Inspections**

- a) A range of inspections will be carried out by CoP officers during the construction phase.
- b) The applicant must contact Council's Civil Assets Inspector on (02) 9806 8250 for each inspection listed below in part "d)" of this condition.
- c) At least 48 hours' notice must be given for all inspections.
- d) The required inspections include the following and apply to all Council and privately certified projects.
  - i) Commencement of public domain works including tree protection measures installed and set out of tree pits;
  - ii) Subgrade inspection following excavation for footings, drainage and pavements, tree pits showing root barriers, structural soil cell, sub-surface drainage and irrigation system as required;
  - iii) Installation of required underground conduits;

- iv) Binding layer/concrete slab based completion and initial (indicative) set out of pavers street fixtures and fittings as applicable to ensure compliance with the requirements in the Public Domain Guidelines;
- v) Delivery of street trees to site. Trees shall be installed within 24hrs of delivery;
- vi) Final defects inspection after all work has been completed to view paving sealant, tactile surface indicators, service lids, nature strip/vegetation and location of fixtures and fittings.

**Reason:** To ensure the quality of public domain works complying with Council standards and requirements.

## **Construction Certificate**

### **68. Podium to Langston Place**

- a) A 1.5m podium setback is to be provided to Langston Place.
- b) Revised drawings and sections showing the required setback shall be submitted to Council for approval prior to the issue of a Construction Certificate.

Reason: To ensure required setbacks are provided.

### **69. Public Domain**

- a) Regardless of Condition 1, the public domain design on the stamped drawings is not approved as shown.
- b) Prior to the issue of any Construction Certificate for works at ground level or above, a set of Public Domain Plans, prepared by a qualified landscape architect and engineer, detailing all areas of the development site between building line and the gutter in Langston Place, Epping Road, Pembroke Street, Chambers Court and proposed new public/private road including road pavement, kerb & gutter, in-road planting (on deep soil and on basement slab under), footpath, planting beds, drainage, forecourt, and front setback areas shall be submitted to and approved by Council's Manager - Development Assessment.
- c) The provision of public domain upgrades, must be submitted to and approved by Council's Manager Development & Traffic Services.
- d) The final street stormwater design shall be submitted to and approved by Council's Engineers.
- e) The Public Domain Plans must include details of the road pavement, kerb returns, pedestrian refuge islands, kerbs & gutters, in-road planting, footpaths, planting beds, drainage, and front setback areas within the public domain and publicly accessible areas generally in accordance with the Ground Floor Plan/Site Plan prepared by Architectus (Dwg DA1004/CC) and Concept Plan – Ground Level by Arcadia Landscape Architecture (Dwg 104/H) hereby approved subject to the following additional requirements:
  - i) The latest City of Parramatta Public Domain Guidelines (PDG). The consultant must contact Council's Urban Design team for the latest design standards and material specifications before finalising the documentation;
  - ii) Must be fully coordinated across the survey, architectural, landscape, engineering, lighting, stormwater and lighting plans;
  - iii) New and reinstated (as directed by Council) kerbs and gutters, vehicle crossing points and kerb ramps must be constructed according to City of Parramatta's design standard DS series drawings.
  - iv) The new road must consist of, but not limited to:
    - 1) Road geometry designed using minimum kerb radii to achieve as close to right angle change in direction i.e. from the north-south alignment to the east-west alignment
    - 2) The road carriageway must consist of one lane each way, 3.5m maximum width each lane, with

- 3) Car parking lanes each side of the road at 2.5m min width, and four (4) spaces both sides of the road
- 4) Provide kerb blister at 'threshold' of private/public with pedestrian crossing and major street trees planted in each blister
- v) The footpath width is to be a 5m minimum each side of the road (except where restricted by site boundaries) and must include:
  - 1) 2.4m clear line of travel at building face
  - 2) 2.6m furniture zone at back of kerb
  - 3) 2m minimum awning setback from kerb, see below and PDG
- vi) Provide copse of deciduous trees planted in deep soil in plaza space between new road and Langston Place to take advantage of seasonal solar access
- vii) The Public Domain Guidelines - Epping Town Centre paving strategy, the footpath pavement must consist of granite flagstone ('Adelaide Black' or 'Austral Black' at 100x200x50mm). The paving upgrade must include the entire public domain areas from building face to building face and to kerb. The detailed paving must comply with the City of Parramatta standard paving details - DS45 (granite treatment), which must be obtained from the City of Parramatta Urban Design Team.
- viii) The section of roadway to remain private should be easily and clearly identifiable on the site (i.e. different surface materials, different colour from areas to be dedicated).
- ix) The public and private land boundary must be clearly defined by using discreet survey markers at all corners and changes in direction in pavement or planting bed edges.
- x) Details of the proposed tree planting on slab shall be included in the Public Domain CC set to clearly demonstrate the intent of stormwater treatment or passive irrigation and positive drainage to stormwater system.
- xi) The awning design, in terms of the location, height, width and thickness must be shown in plan and in a detailed cross section (no less than 1:50 scale) to demonstrate its relationship with kerb, footpath, street tree, street wall, and any overhead structures. A minimum 2m clearance shall be provided between kerb face to awning outline to ensure sufficient growth spaces for street trees. Cut outs in the awnings (to accommodate trees) should not be used.
- xii) Gates and/or any device to restrict or control public access 24/7 for the proposed through-site link between the proposed new road and Epping Road are not permitted by Council and must not be shown.
- xiii) All the public domain, site entries, through-site links, and other publicly accessible areas must comply with the DDA and AS1428 requirements. Any required accessible facilities, including ramps, hand rails, TGSIs at site entries, must be located within the site boundaries without encroaching pedestrian desire lines or clear paths of travel.
- xiv) Public seating furniture and bins required must be provided in the furniture zone of the footpath area. Proposed public furniture shall comply with the requirements in the PDG.
- xv) Standard kerb ramps are to be constructed at all logical pedestrian crossings.
- xvi) If poles for street lighting and pedestrian lighting are required, multi-function poles must be used, and all power lines to be undergrounded.

**Reason:** To set the standards for reconstruction of the public domain.

#### **70. Epping Library**

- a) Consultation shall be undertaken with Council's Manager Social and Community Services and a report produced detailing the measures to be undertaken to ensure that construction noise and traffic will not impact upon the operation of Epping Library.
- b) The report produced is to form part of the construction certificate issued and any measure contained within adhered to at all times.

**Reason:** To ensure impacts upon Epping Library are minimised.

#### **71. Voluntary Planning Agreement**

- a) The applicant shall either pay the S94 contribution of \$6,757,390.24, or enter into a Voluntary Planning Agreement (VPA) with City of Parramatta Council prior to the issue of a Construction Certificate for the payment of the s94 contributions as set out below:

<b>Contribution Type</b>	<b>Amount</b>
Local Roads	\$ 171,972.55
Local Open Space and Recreation	\$ 4,748,544.44
Local Community Facilities	\$ 1,825,488.64
Plan Preparation and Administration	\$ 11,384.61
<b>Total</b>	<b>\$ 6,757,390.24</b>

- b) All contributions will be index linked in accordance with Part 2.6 (Indexation of contributions) of Hornsby Shire Council S94 development contributions plan 2014-2024.

**Reason:** To provide for improvements to community infrastructure.

#### **72. Environmental enforcement Charge**

- a) An Environmental Enforcement Service Charge must be paid to Council prior to the issue of any Construction Certificate.
- b) The fee will be in accordance with Council's adopted 'Fees and Charges' at the time of payment.

**Note:** Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524.

**Reason:** To comply with Council's adopted Fees and Charges Document and to ensure compliance with conditions of consent.

#### **73. Infrastructure Restoration Administration Fee**

- a) An Infrastructure and Restoration Administration Fee must be paid to Council prior to the issue of any Construction Certificate.
- b) The fee will be in accordance with Council's adopted 'Fees and Charges' at the time of payment.

**Note:** Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524.

**Reason:** To comply with Council's adopted Fees and Charges Document and to ensure compliance with conditions of consent.

#### **74. Ceiling Height**

- a) Prior to the issuing of a Construction Certificate, detailed plans and sections of the habitable rooms to be reduced in height below 2.7m are to be submitted to Council for approval in writing, showing the depths of ceiling height reduction to a minimum floor to ceiling height of 2.4m.

**Reason:** to ensure adequate amenity is maintained for future occupants.

**75. Traffic Access Control**

- a) A detailed traffic access management system which utilises number plate recognition cameras and incorporates a dock access management system shall be submitted to, and approved by Council, prior to issue of a Construction Certificate.

**Reason:** To ensure safe access to parking and loading facilities.

**76. Principal Private Open Space**

- a) Where the Principal Private Open Space provided to any unit and accessed from the living room is not consistent with the requirements of State Environmental Planning Policy No. 65 (SEPP 65) - Apartment Design Guide (ADG) Criteria 1, or Objective 4E-1, it shall be revised to meet the requirements of the ADG Design Criteria 1, or Objective 4E-1, and submitted to Council for approval prior to the issue of a Construction Certificate.

**Reason:** To ensure the adequate provision of private open space.

**77. Storage Provision**

- a) Prior to the issue of the Construction Certificate, the basement storage areas will be allocated to the applicable units and approved by Council.
- b) The allocation will be such that each unit has a minimum total secure storage volume (including the storage space within each unit) as follows:
  - i) 1 bedroom units – 6m<sup>3</sup>
  - ii) 2 bedroom units – 8m<sup>3</sup>
  - iii) 3 bedroom units – 10m<sup>3</sup>

**Reason:** To ensure each unit has sufficient on-site storage capacity.

**78. Waste and Recycling Storage Facilities**

- a) Waste and recycling storage facilities are to be provided in each residential and retail unit.
- b) Details of the unit waste storage areas are to be provided to the satisfaction of the Principal Certifying Authority, prior to the issue of a Construction Certificate.

**Reason:** To ensure adequate storage for refuse.

**79. Construction Phase Soil and Water Management Plan**

- a) Prior to the issue of a Construction Certificate, a construction phase soil and water management plan must be prepared to the satisfaction of the Principal Certifying Authority.
- b) This plan must address, but is not limited to, the applicant's proposed management strategies for the following issues:
  - i) Stormwater Management:  
All stormwater incident on the construction site must be collected, and appropriately disposed of, in a manner that does not increase the flood risk for the catchment area, or degrade the quality of water being disposed of into council stormwater infrastructure.
  - ii) Construction Material Pollution Protection:  
During construction, any stockpiled materials and/or construction waste stored onsite is to be isolated from stormwater flow into Council stormwater systems and natural waterways, in order that it not become a pollutant. This is to be achieved

with the provision of continuous perimeter bunding around waste storage areas, constructed to be of sufficient height and durability to withstand site-specific stormwater conditions and construction activity for the life cycle of the construction project.

iii) Erosion and Sediment Control Measures:

Erosion and sediment control devices are to be installed prior to the commencement of any demolition, excavation, or construction works upon the site. These devices are to include, but not be limited to:

- 1) Vehicle Wheel wash, cattle grid, wheel shaker, or other appropriate device to remove sediment from vehicle wheels.
- 2) A sediment trapping fence, made of a geotechnical textile, specifically designed for such a purpose, and installed and maintained to manufacturer's specifications, placed below the disturbed area of the construction site along contours.
- 3) Vegetation is to be maintained on the development site as much as possible, and shall not be cleared from neighboring sites.
- 4) Vehicle access shall be restricted to one (1) designated point, and vehicle driveways are to be adequately covered at all times with blue metal or the like.
- 5) All devices are to be maintained throughout the entire demolition, excavation, and construction phases of the development, and for a minimum three (3) month period after the completion of the project, where necessary.

iv) Environmental Due Diligence:

In order to remain compliant with the *Protection of the Environment Operations (PoEO) Act 1997*, environmental due diligence must be demonstrated to have been exercised throughout the construction process. To this end, an external, regular, environmental management and monitoring system must be proposed to ensure the integrity of pollution control measures.

v) De-watering of the Excavation Cavity:

Any site excavation areas must be kept free of accumulated water at all times. Water that accumulates within an excavation must be removed and disposed of in a manner that does not result in: the pollution of waters, nuisance to neighbouring properties, or damage/potential damage to neighbouring land and/or property.

Calculations of expected groundwater inflow and pump-out volume must be included in the report. For water accumulated within an excavation to be approved for drainage into Council Stormwater systems, the following discharge water quality standards must be met at all times throughout the construction phase of the development:

- 1) pH 6.5-8.5.
- 2) Total Suspended Solids (TSS) 50 mg/l.
- 3) Oil and Grease 'Not visible'.
- 4) If the site is identified as containing contaminated or acid-sulfate soils, all trace contaminants must be removed from the groundwater prior to disposal.

This may be achieved through the use of a 'WETSEP' system or equivalent, to hold and treat water prior to discharge.

Full plant and equipment details, an operational and monitoring plan, and evidence of ability to achieve the required performance must be presented in the final plan.

**Reason:** To protect the environment.

**80. Swept Path**

- a) The road infrastructure in Chambers Court is to be adjusted to accommodate the swept path of the largest vehicle likely to access the site.
- b) Signage is to be provided in appropriate locations warning larger vehicles not to enter the new street.
- c) Details are to be illustrated on plans submitted with the construction certificate.

**Reason:** To ensure satisfactory access for all vehicles.

**81. Construction Traffic Management Plan**

- a) A Construction Traffic Management Plan shall be prepared to the satisfaction of the Council's Service Manager, Traffic and Transport.
- b) Details are to be submitted with the construction certificate.
- c) The following matters must be specifically addressed in the Plan:
  - i) Construction Management Plan for the Site
    - 1) A plan view of the entire site and frontage roadways indicating:
      - Access arrangements to and from the site.
      - Proposed number of trucks during the phases of development
      - Hours of proposed truck movements to and from the site.
      - Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and demolition related vehicles in the frontage roadways.
      - Turning areas within the site for demolition and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
      - The locations of proposed Work Zones in the egress frontage roadways.
      - Location of any proposed crane standing areas.
      - A dedicated unloading and loading point within the site for all demolition vehicles, plant and deliveries.
      - Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
      - The provisions of an onsite parking area for employees, tradesperson, and construction vehicles, as far as possible.
    - ii) Traffic Control Plan(s) for the site:
      - 1) All traffic control devices installed in the road reserve shall be in accordance with the Roads and Traffic Authority, NSW (RTA) publication 'Traffic Control Worksite Manual' and be designed by a person licensed to do so (minimum RTA '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.
      - 2) Approval shall be obtained from Parramatta City Council for any temporary road closures or crane use from public property.
    - iii) A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery, and machine floatage must be provided, and a copy of this route is to be made available to all contractors.
    - iv) The plan must address the following:
      - 1) 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.
      - 2) Minimising construction related traffic movements during school peak periods.
      - 3) Impacts upon the adjacent Epping Library and its users and staff. Consultation is to be undertaken with Council's Manager Social and Community Services.
    - v) Confirmation that consultation has been undertaken with Council's Manager Social and Community Services in the form of a letter on headed paper.

**Reason:** To manage construction impacts.

## **82. Basement Manoeuvring**

- a) Prior to the issue of the construction certificate, the PCA shall ascertain that any new element in the basement carpark not illustrated on the approved plans such as columns, garage doors, fire safety measures and the like, do not compromise appropriate manoeuvring and that compliance is maintained with AS 2890.1, AS2890.2, and AS 2890.6.
- b) Details are to be illustrated on plans submitted with the construction certificate.

**Reason:** To ensure appropriate vehicular manoeuvring is provided

## **83. Bus Stops**

- a) Prior to the issue of any Construction Certificate, the Applicant must prepare and submit to Sydney Metro a Temporary Bus Stop Traffic and Pedestrian Management Plan, that takes into account the impacts of the proposed development on the establishment, operation and removal of Temporary Bus Stops and the movement of public transport customers and buses to and from Temporary Bus Stops, and receive written advice that Sydney Metro is satisfied with the Temporary Bus Stop Traffic and Pedestrian Management Plan.
- b) The Temporary Bus Stop Traffic and Pedestrian Management Plan must at least address the following matters:
  - i) Traffic and public transport customer management in the vicinity of the development;
  - ii) Placement and location of temporary structures related to the development on Langston Place and Pembroke Street, Epping, in or within 20 metres of the Temporary Bus Stops;
  - iii) Timing of and reinstatement standards for footpath and road openings;
  - iv) Location and operation of crossings into the development site within 20 metres of the temporary bus stops;
  - v) Communications between sydney metro and the applicant.

**Reason:** To comply with the requirements of Transport for NSW and SEPP (Infrastructure) 2007.

## **84. Location of Plant (Residential Flat Buildings)**

- a) Prior to the issue of a Construction certificate, the Certifying Authority must be satisfied that all plant and equipment (including but not limited to air condition equipment) is located within the basement, except as explicitly shown otherwise on the approved drawings.

**Note:** Architectural plans identifying the location of all plant and equipment must be provided to the Certifying Authority.

**Reason:** To minimise impact on surrounding properties, improved visual appearance and amenity for locality.

## **85. Acoustic Report**

- a) The recommendations outlined in the acoustic report prepared by Acoustic Logic with reference number 20150902.1/1902A/R1/BW revision 1, dated 19/02/2016, shall be incorporated into the plans and documentation accompanying the Construction Certificate to the satisfaction of the Certifying Authority.

**Reason:** To ensure a suitable level of residential amenity.



**86. Road Traffic Noise and Environmental Noise (Sleep Disturbance)**

- a) To minimise the impact of noise from the adjoining major road or rail corridor on the occupants of the building it shall be acoustically designed and constructed to meet the requirements of AS3671-1989 (Acoustics – Road Traffic Noise Intrusion – Building Siting and Construction), AS 2107-2000 (Recommended design sound levels and Reverberation times in Building interiors), the NSW Environment Protection Authority's Environmental Criteria for Road Traffic Noise and the Environmental Noise Control Manual (Sleep Disturbance).
- b) A report from an appropriately qualified person that these acoustic and vibration design requirements will be met shall be provided to the satisfaction of the PCA prior to the issue of each Construction Certificate.

**Reason:** To ensure a suitable level of residential amenity not affected by excessive noise and vibration from surrounding activities.

**87. Louvered Glazing**

- a) Fully operable louvered glazing is to be provided to the outer edge of balconies on Levels 1 to 9 fronting Epping Road from the roof to 20 cm above the balcony balustrade provided.
- b) The balcony balustrade will be provided to a height of 1395mm above floor level and the louvers will start at 1415mm above floor level.
- c) The gap between the balustrade and louvered glazing is to remain open in perpetuity and shall not be blocked, covered or otherwise tampered with.
- d) Details are to be submitted to Council for approval prior to the issue of a Construction Certificate.

**Reason:** To protect the amenity of future residents.

**88. Reflectivity of External Finishes**

- a) External materials must be pre-colour coated on manufacture, having a low glare and reflectivity finish.
- b) The reflectivity index of roof finishes and glazing is to be no greater than 20% so as not to result in glare that causes any nuisance or interference to any person or place.
- c) Details must accompany the construction certificate to the satisfaction of the Certifying Authority.

**Reason:** To have a minimal impact on the neighbouring property.

**89. Energy Provider Requirements for Substations**

- a) Documentary evidence to the satisfaction of the Certifying Authority is to accompany the application for a Construction Certificate confirming satisfactory arrangements have been made with the energy provider for the provision of electricity supply to the development.
- b) If a substation is required of the energy provider, it must be located internally within a building/s.
- c) Substations are not permitted within the front setback of the site or within the street elevation of the building; unless such a location has been outlined and approved on the Council stamped Development Application plans.
- d) Substations are not permitted within Council's road reserve.

**Reason:** To ensure adequate electricity supply to the development and to ensure appropriate streetscape amenity.

**90. *Obscure Glazing for All Bathroom and WC Windows***

- a) All window openings servicing a bathroom and/or WC within each dwelling must have either frosted or obscure glazing.
- b) Details are to be provided on the plans and documentation accompanying the Construction Certificate application to the satisfaction of the Certifying Authority.

**Reason:** To ensure privacy to these rooms is adequately maintained.

**91. *Outdoor Lighting***

- a) All outdoor lighting and lighting of publicly accessible spaces must comply with the relevant provisions of AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting, and with AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting, and designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill.
- b) A detailed lighting plan demonstrating compliance with these requirements be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

**Reason:** To protect the amenity of the surrounding neighbourhood from the emission of light and to provide high quality external lighting for security without adverse effects on public amenity from excessive illumination levels.

**92. *Bicycle Storage and Parking***

- a) The bicycle storage areas must be capable of accommodating a minimum of 510 bicycles within fixed bicycle rails.
- b) The bicycle storage areas and bicycle rail must be designed to meet the requirements of AS 2890 – Off-street Car Parking Facilities (2004).
- c) Details of compliance with this standard are to accompany a Construction Certificate application to the satisfaction of the Certifying Authority.

**Reason:** To promote and provide facilities for alternative forms of transport.

**93. *Car Share Provider***

- a) The Applicant shall provide written evidence demonstrating that offers of a car space to car share providers have been made together with the outcome of the offers or a letter of commitment to the service.
- b) The written evidence is to be submitted to Council prior to the release of the construction certificate.

**Reason:** To comply with Council's parking requirements.

**94. *Visitor Parking***

- a) Each basement visitor car parking space is to be signposted.
- b) Details are to be provided with the application for each Construction Certificate.

**Reason:** To comply with Australian Standards.

**95. *SEPP 65 Verification***

- a) A SEPP 65 Design Verification, issued by a registered architect, is to be provided with the application for a Construction Certificate detailing the construction drawings and specifications are consistent with the design quality principles in State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (SEPP 65).

**Note:** Qualified designer in this condition is as per the definition in SEPP 65.

**Reason:** To comply with the requirements of SEPP 65.

**96. Security Bonds (Multi-Unit and Above)**

- a) In accordance with Section 80A(6)(a) of the *Environmental Planning and Assessment Act 1979*, security bonds will be payable to Council for the protection of the adjacent road pavement and public assets during construction works.
- b) The bond(s) is/are to be lodged with Council prior to the issue of any application/approval associated with the allotment (being a Hoarding application, Construction Certificate), and prior to any demolition works being carried out where a Construction Certificate is not required.
- c) The bond may be paid by EFTPOS, bank cheque, or be an unconditional bank guarantee.
- d) Should a bank guarantee be lodged it must:
  - i) Have no expiry date.
  - ii) Be forwarded directly from the issuing bank with a cover letter that refers to Development Consent DA/468/2016.
  - iii) Specifically reference the items and amounts being guaranteed. If a single bank guarantee is submitted for multiple items it must be itemised.
- e) Should it become necessary for Council to uplift the bank guarantee, notice in writing will be forwarded to the applicant 14 days prior to such action being taken.
- f) No bank guarantee will be accepted that has been issued directly by the applicant.
- g) Bonds shall be provided as follows:

Bond Type	Amount
Hoarding Class A	\$2,500 per street frontage
Hoarding Class B	\$5,000 per street frontage

- h) A dilapidation report is required to be prepared prior to any work or demolition commencing. This is required to be submitted to City of Parramatta with the payment of the bond/s.
- i) The dilapidation report is required to document/record any existing damage to, kerbs, footpaths, roads, nature strips, street trees, and furniture within street frontage/s bounding the site up to and including the centre of the road.

**Reason:** To safe guard the public assets of council and to ensure that these assets are repaired/maintained in a timely manner so as not to cause any disruption or possible accidents to the public.

**97. Dilapidation Report**

- a) The applicant shall engage a suitably qualified person to prepare a pre- construction dilapidation report prior to the issue of a construction.
- b) This report is to ascertain whether any structural damage to adjoining buildings exists.

**Reason:** To ensure the proposed development does not have an unacceptable impact on adjoining properties.

**98. Adaptable Dwellings for Multi-Unit and Residential Flat Buildings**

- a) The development must incorporate 47 adaptable dwellings.
- b) Plans submitted with the construction certificate must illustrate that the required adaptable dwellings have been designed in accordance with the requirements of AS 4299-1995 for a class C Adaptable House.

**Reason:** To ensure the required adaptable dwellings are appropriately designed.

**99. Adaptable Dwellings for Multi-Unit and RFB's**

- a) At least 20% of all residential units shall be designed and fit-out to achieve the 'silver level' requirements as set out in the Liveable Housing Design Guidelines Details published by Liveable Housing Australia.
- b) Details shall be submitted to the satisfaction of the certifying authority prior to the issue of the Construction Certificate for each stage.

**Reason:** To ensure study rooms are not converted to use as bedrooms.

**100. Submit Detailed Concept Development, Including Artwork**

- a) A Detailed Public Art Plan prepared by a suitably qualified and experienced public art consultant, in accordance with the 'Art in the Public Domain Guideline', shall be approved by Council prior to the issue of a Construction Certificate.
- b) The Public Art Plan is to include contextual and historical themes, and design details of each public art work, including concept drawings, scale and context, materials and finishes, timeline showing staging of the artwork, and an estimated budget, indicated on the approved plans.

**Reason:** To achieve public art that is consistent with Council's guidelines.

**101. Stormwater Disposal**

- a) All roof water and surface water is to be connected to an approved drainage system.
- b) Details are to be shown on the plans and documentation accompanying the application for a Construction Certificate.

**Reason:** To ensure satisfactory stormwater disposal.

**102. Retaining Walls**

- a) 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 600mm in height, or within 900mm of any property boundary.
- b) The provision of retaining walls along common boundary lines shall not impact on neighbouring properties. If impact upon neighbouring properties (including fences) is anticipated, then written approval from the affected neighbour shall be obtained and submitted to the certifying authority prior commencement of the works.
- c) Structural details, certified by a practicing structural engineer, shall accompany the application for a Construction Certificate for assessment and approval by the certifying authority.

**Reason:** To minimise impact on adjoining properties.

**103. Impact on Utilities**

- a) Where work is likely to disturb or impact upon a utility installation (e.g. power pole, telecommunications infrastructure, etc.), written confirmation from the affected utility provider stating that they raise no objections to the proposed works must accompany each application for a Construction Certificate to the satisfaction of the Certifying Authority.

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

#### **104. Location of Mains Services**

- a) To reduce the extent of overhead cabling, all service mains required to facilitate the development must be underground, both within the allotment boundaries and the public way.
- b) Details must be provided with the plans and documentation accompanying each application for a Construction Certificate to the satisfaction of the Certifying Authority.

**Reason:** To provide infrastructure that facilitates the future improvement of the streetscape.

#### **105. Service Ducts**

- a) Service ducts, plumbing installations, and plants servicing the development must be concealed within the building to keep external walls free from service installations.
- b) Details are to be included within the plans and documentation accompanying each Construction Certificate application to the satisfaction of the Certifying Authority.

**Reason:** To ensure the quality built form of the development.

#### **106. Collection and Discharge of Dirty Water from Car Wash Bay**

- a) All cleaning and washing of motor vehicles must be carried out in a designated area, drained to a sump, and cleansed via a coalescing plate separator prior to discharge into the sewer.
- b) Documentary evidence is required from the Trade Waste Section of the Sydney Water Corporation Ltd confirming satisfactory arrangements have been made with the Corporation with respect to the disposal of dirty water into the sewerage system, prior to the issue of the Construction Certificate.

**Reason:** To ensure satisfactory stormwater disposal.

#### **107. Exhaust Fumes**

- a) All mechanical exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1 - 1998 – 'The use of ventilation and air conditioning in buildings' – 'Fire and smoke control in multi-compartmented buildings'.
- b) Details showing compliance are to accompany an application for a Construction Certificate.

**Reason:** To preserve community health and ensure compliance with acceptable standards

#### **108. Security Roller Shutters for Basement Car Parking**

- a) Where a security roller shutter or boom gate prevents access to visitor car parking, an intercom system is required to be installed to enable visitor access to the car parking area.
- b) Details of the system and where it is to be located is to accompany an application for a Construction Certificate, to the satisfaction of the Certifying Authority.

**Reason:** To ensure visitor carparking is accessible.

#### **109. Support for Council Roads, Footpath, Drainage Reserves**

- a) Council property adjoining the construction site must be fully supported at all times during all demolition, excavation, and construction works.
- b) Details of any required shoring, propping, and anchoring devices adjoining Council property, are to be prepared by a qualified structural or geotechnical engineer.

- c) These details must accompany an application for a Construction Certificate and be to the satisfaction of the Principal Certifying Authority (PCA).
- d) A copy of these details must be forwarded to Council prior to any work being commenced.
- e) Backfilling of excavations adjoining Council property or any void remaining at the completion of the construction between the building and Council property must be fully compacted prior to the completion of works.

**Reason:** To protect Council's infrastructure.

#### **110. Work-as-Executed Plan**

- a) Works-As-Executed stormwater plans are to address the following:
  - i) The Work-As-Executed plans are prepared on the copies of the approved drainage plans issued with the Construction Certificate with the variations marked in red ink.
  - ii) The Work-As-Executed plans have been prepared by a registered surveyor, certifying the accuracy of dimensions, levels, storage volumes, etc.
  - iii) The as built On-Site Detention (OSD) storage volumes are to be presented in a tabular form (depth verses volume table).
  - iv) OSD Works-As-Executed dimensions form (refer to UPRCT Handbook).
  - v) Certificate of Hydraulic Compliance from a qualified drainage/hydraulic engineer (refer to UPRCT Handbook).
  - vi) Approved verses installed Drainage Design (OSD) Calculation Sheet.
- b) The above is to be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate, and a copy is to accompany the Occupation Certificate when lodged with Council.

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

#### **111. Landscape Maintenance – Bed and Boxes**

- a) All planting beds and boxes shall have no less than 700mm soil level, with free draining soil mixes, in accordance with AS 4419:1998 – Soils for landscaping and garden use, and incorporated with drainage layers and pipes connecting to stormwater or drain.
- b) An automatic irrigation system shall be set up for the planting beds.
- c) The public domain construction documentation must include the full performance specifications for the installation and operation of the planters, and be submitted for the approval of Council officers prior to the issue of each construction certificate.

**Reason:** To ensure the appropriate streetscape is maintained.

#### **112. Landscape Section Details**

- a) Construction and section details of all proposed on-slab planter boxes showing substrate depth, drainage, waterproofing etc., for ground floor and roof top planter boxes are to be provided with each application for a Construction Certificate.
- b) Despite the requirements of any other conditions of consent, planter boxes located over on site detention tanks and/or podium slabs are to have a minimum depth of 600mm for the planting of shrubs and/or trees, and a minimum of 300mm depth for turf/groundcovers proposed.
- c) The proposed soil depths are to be certified by the Landscape Architect to meet the requirements of the proposed species to be planted, and provided with each application for a Construction Certificate.

**Reason:** To ensure the creation of functional gardens.

### **113. Noise Impacts on Residential Buildings**

- a) Prior to the issue of a Construction Certificate, written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and Parramatta City Council, stating that appropriate design and construction materials are to be utilised within the development, to ensure compliance with the following noise criteria specified for managing the noise impact on residential buildings from rail corridors and/or busy roads:
  - i) In any bedroom in the building: 35dB(A) between 10:00pm and 7:00am.
  - ii) Anywhere else in the building (other than a garage, hallway, kitchen or bathroom: 40dB(A) at any time.

**Reason:** Compliance with relevant noise amenity criteria in ISEPP 2007.

### **114. Submission of Reports**

- a) Prior to the issue of an occupational certificate (Interim or Final), written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and City of Parramatta, stating that all works/methods/procedures/control measures approved by Council in the following reports have been completed:
  - i) Acoustic Report, dated 19 February 2017, prepared by Acoustic Logic.
  - ii) Contamination Assessment, dated December 2015, prepared by Douglas Partners.
  - iii) Air Quality Assessment, dated 15 February 2016, prepared by SLR Consulting Australia Pty Ltd.
  - iv) Fire Safety Strategy Revision B, dated 25 May 2017, prepared by Core Engineering Group.

**Reason:** To demonstrate compliance with submitted reports.

### **115. Waste Storage Rooms**

- a) Storage rooms for waste and recyclables are to be provided within the development as indicated on the approved plans, and shall be constructed to comply with all the relevant provisions of City of Parramatta Council Development Control Plan (PDCCP) 2011 including:
  - i) The size being large enough to accommodate all waste generated on the premises, with allowances for the separation of waste types;
  - ii) The floor being graded and drained to an approved drainage outlet connected to the sewer, and having a smooth, even surface, coved at all intersections with walls;
  - iii) The walls being cement rendered to a smooth, even surface and coved at all intersections;
  - iv) Cold water being provided in the room, with the outlet located in a position so that it cannot be damaged, and a hose fitted with a nozzle being connected to the outlet.
- b) Details shall be indicated on the plans submitted with each Construction Certificate application that demonstrate compliance with these requirements to the satisfaction of the Principal Certifying Authority.

**Reason:** To ensure provision of adequate waste storage arrangements.

### **116. Separation of Waste**

- a) Separate waste processing and storage facilities are to be provided for residential and commercial tenants in mixed use developments.

- b) These facilities should be designed and located so that they cannot be accessed by the public, and are accessible by a private waste contractor for collection.
- c) A caretaker is to be appointed by the managing body to be responsible for the management of all waste facilities as indicated in the Waste Management Plan.
- d) Prior to the issue of any Construction Certificate, a report including accompanying plans shall be submitted to the satisfaction of the Principal Certifying Authority that provides details of the private contractor that will be engaged to collect domestic waste from the subject site.
- e) If Council is not the principal certifying authority, a copy of this report and accompanying plans is required to be provided to Council.
- f) This report shall identify the frequency of collection and provide details of how waste products including paper, aluminium cans, bottles etc, will be recycled.
- g) Waste collection from the site shall occur in accordance with the details contained within this report.

**Reason:** To ensure appropriate waste storage facilities are provided for future occupants.

#### **117. *Appoint Waste Contractor***

- a) Prior to the issue of a construction certificate, a further report including accompanying plans shall be submitted and approved by Council that provides details of the private contractor that will be engaged to collect domestic waste from the site.
- b) This report shall identify the frequency of collection, and provide details of how waste products including paper, aluminium cans, bottles etc, will be recycled.
- c) Waste collection from the site shall occur in accordance with the details contained within this report.

**Reason:** To provide for the appropriate collection/recycling of waste from the proposal whilst minimising the impact of the development upon adjoining residents.

#### **118. *De-Watering of Excavated Sites***

- a) Any site excavation areas must be kept free of accumulated water at all times.
- b) Water that accumulates within an excavation must be removed and disposed of in a manner that does not result in:
  - i) The pollution of waters,
  - ii) Nuisance to neighbouring properties, or
  - iii) Damage/potential damage to neighbouring land and/or property.
- c) A De-Watering Plan is required to be included and submitted to Council for review prior to issue of a Construction Certificate.

**Reason:** To protect against subsidence, erosion and other nuisances.

#### **119. *Sydney Trains – Endorsement***

- a) The following items are to be submitted to Sydney Trains for review and endorsement prior to the issue of a Construction Certificate:
  - i) Machinery to be used during excavation/construction.
  - ii) If required by Sydney Trains, track monitoring plan detailing the proposed method of track monitoring during excavation and construction phases.
  - iii) If required by Sydney Trains, a rail safety plan including instrumentation and the monitoring regime.
- b) The Principle Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

**Reason:** To comply with the requirements of Sydney Trains and ISEPP 2007.



**120. Sydney Trains – Liability Cover**

- a) Prior to the issue of a Construction Certificate, the Applicant must hold current public liability insurance to cover for a sum to be determined by Sydney Trains.
- b) This insurance shall not contain any exclusion in relation to works on or near the rail corridor or rail infrastructure.
- c) The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal.
- d) Prior to issuing the Construction Certificate, the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the applicant on the level of insurance required.

**Reason:** To comply with the requirements of Sydney Trains and ISEPP 2007.

**121. Sydney Trains – Bond**

- a) Prior to the issue of a Construction Certificate, the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works.
- b) The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains.
- c) Prior to issuing the Construction Certificate, the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.

**Reason:** To comply with the requirements of Sydney Trains and ISEPP 2007.

**122. Sydney Trains – Acoustics**

- a) In exercising its functions in relation to any Sydney Trains conditions, Sydney Trains reserves the right to liaise with Transport for NSW and impose any requirements (as advised by TfNSW) on their behalf as if they were Sydney Trains' requirements.

**Reason:** To comply with the requirements of Sydney Trains and ISEPP 2007.

**123. Sydney Trains – Electrolysis**

- a) Prior to the issue of a Construction Certificate, the applicant is to engage an Electrolysis Expert to prepare a report on the electrolysis risk to the development from stray currents.
- b) The Applicant must incorporate in the development all the measures recommended in the report to control that risk.
- c) A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

**Reason:** To comply with the requirements of Sydney Trains and ISEPP 2007.

**124. Sydney Trains – Lights and Signs**

- a) The design, installation, and use of lights, signs, and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor, must limit glare and reflectivity to the satisfaction of Sydney Trains.
- b) The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

**Reason:** To comply with the requirements of Sydney Trains and ISEPP 2007.

### **125. Sydney Trains – Aerial Operations**

- a) Prior to the issuing of a Construction Certificate, the Applicant is to submit to Sydney Trains a plan showing all craneage, and other aerial operations for the development, and must comply with all Sydney Trains requirements.
- b) The Principal Certifying Authority is not to issue a Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

**Reason:** To comply with the requirements of Sydney Trains and ISEPP 2007.

### **126. Sydney Trains – Construction Traffic Management**

- a) The Applicant is advised that the Epping to Chatswood Railway Line (ECRL) will temporarily close from late 2018 to early 2019 for approximately six (6) to seven (7) months when the line undergoes conversion from suburban to metro operations.
- b) During this time, rail replacement bus services will operate as part of the Temporary Transport Project (TTP) to continue public transport connections for customers.
- c) Epping will be a key interchange where customers will transfer between rail services and the TTP bus services during the temporary closure of the ECRL.
- d) The TTP bus services will utilise bus stops in Pembroke Street, Langston Place and Cambridge Street, with other local temporary changes to some existing bus services, as well as the temporary removal of car parking.
- e) The TTP buses will add up to an additional 30 buses to Epping in the busiest peak one (1) hour in addition to the regular services that already serve Epping.
- f) There is expected to be an increased pedestrian activity in the vicinity of the proposed development, with customers boarding and alighting from the replacement bus services in addition to the regular bus services.
- g) It is considered that the proposed bus stop locations may conflict with the proposed construction traffic and parking/lay-over locations for this proposed development.
- h) Figure 6.1 of the Traffic Report shows construction vehicles approaching via Langston Place and Pembroke Street directly interfacing with TTP bus movements, creating potential congestion and/or safety risks.
- i) It should also be noted that the right turn movement from Langston Place into Epping Road will be removed for general traffic.
- j) However, only during the period of TTP bus operation, a B-signal (buses only) will be provided to allow the right turn movement of buses from Langston Place into Epping Road.
- k) As it is not clear if the Traffic Report for the proposed development has considered the additional TTP buses operating in the Epping area, the Applicant shall liaise with Sydney Metro Authority and submit to Sydney Trains and Sydney Metro Authority for endorsement of a revised Construction Management Traffic Report that takes into account the proposed conversion works at Epping, the TTP bus operations, and vehicular and pedestrian traffic changes.
- l) The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Metro Authority confirming that this condition has been satisfied.

**Reason:** To ensure the proposal considers the likely impacts of the proposed changes to bus movements in the area.

## **Commencement of an Activity**

### **127. Geotechnical Investigation**

- a) Prior to the commencement of any excavation works on site, the applicant must submit for approval by the Council's Manager – Development Assessment, a geotechnical/civil engineering report which addresses (but is not limited to) the following:

- i) The type and extent of substrata formations. A minimum of four (4) representative bore hole logs which are to provide a full description of all material from the ground surface to a minimum of 1m below the finished basement floor level. The report is to include the location and description of any anomalies encountered in the profile, and the surface and depth of the bore hole logs shall be to Australian Height Datum.
- ii) Having regard to the findings of the bore hole testing, details of the appropriate method of excavation/shoring together with the proximity to adjacent property and structures can be ascertained. As a result, potential vibration caused by the method of excavation and how it will impact on nearby footings/foundations must be established together with methods to ameliorate any impact.
- iii) The proposed methods for temporary and permanent support required by the extent of excavation can be established.
- iv) The impact on groundwater levels in relation to the basement structure.
- v) The drawdown effects if any on adjacent properties (including the road reserve), resulting from the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater.
- vi) Where it is considered there is potential for the excavation to create a "dam" for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development. This design is to ensure there is no change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path of groundwater results, artificial drains such as perimeter drains and through drainage may be utilised.
- vii) The recommendations resulting from the investigations are to demonstrate the works can be satisfactorily implemented. An implementation program is to be prepared along with a suitable monitoring program (where required) including control levels for vibration, shoring support, ground level and groundwater level movements during construction.
- viii) The implementation program is to nominate suitable hold points for the various stages of the works in order verify the design intent before certification can be issued and before proceeding with subsequent stages.
- ix) The geotechnical report must be prepared by a suitably qualified consulting geotechnical/hydrogeological engineer with demonstrated experience in such investigations and reporting. It is the responsibility of the engaged geotechnical specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent properties and structures both during and after construction. The report must contain site specific geotechnical recommendations and must specify the necessary hold/inspection points by relevant professionals as appropriate. The design principles for the geotechnical report are as follows:
  - 1) No ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure.
  - 2) No changes to the ground water level are to occur as a result of the development that is sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
  - 3) No changes to the ground water level are to occur during the construction of the development that is sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
  - 4) Vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development.
  - 5) Appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these design principles.
  - 6) An adverse impact can be assumed to be crack damage which would be classified as Category 2 or greater damage according to the classification given in Table CI of AS 2870 - 1996.

- b) Certification from a qualified Geotechnical engineer that the detailed plans comply with the recommendations of the detailed geotechnical report must be provided to Council's Manager – Development Assessment prior to the release of a Construction Certificate.

**Reason:** To ensure the ongoing safety and protection of property.

#### **128. Noise Management Plan -Demolition, Excavation, and Construction**

- a) A noise management plan must be submitted to Council for approval prior to any work commencing, and complied with during any construction works.
- b) The plan must be prepared by a suitably qualified person, who possesses qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants.
- c) The plan must include, but not be limited to the following:
  - i) Confirmation of the level of community engagement that has, is and will be undertaken with the Building Managers/occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
  - ii) Confirmation of noise, vibration and dust monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties during the main stages of work at neighbouring noise sensitive
  - iii) Outline the course of action that will be taken following receipt of a complaint concerning site noise, dust and/or vibration.
  - iv) Details of any noise mitigation measures that have been outlined by an acoustic engineer or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring properties to a minimum.
  - v) What plant and equipment is to be used on the site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring properties and other less intrusive technologies available.

**Reason:** To maintain appropriate amenity to nearby occupants.

#### **129. Appointment of Principal Certifying Authority**

- a) Prior to commencement of work, the person having the benefit of the Development Consent and Construction Certificate approval must:
  - i) Appoint a Principal Certifying Authority (PCA) and notify Council in writing of the appointment (irrespective of whether Council or an accredited private certifier) within seven (7) days; and
  - ii) Notify Council in writing a minimum of 48 hours prior to work commencing of the intended date of commencement.
- b) The Principal Certifying Authority must determine and advise the person having the benefit of the Construction Certificate when inspections, certification and compliance certificates are required.

**Reason:** To comply with legislative requirements.

#### **130. Enclosure of the Site**

- a) The site must be enclosed by a 1.8m high security fence, erected wholly within the confines of the site to prevent unauthorised access.
- b) The fence must be installed to the satisfaction of the Principal Certifying Authority prior to the commencement of any work on site.

**Reason:** To ensure public safety.

### **131. Public Liability Insurance**

- a) Public risk insurance in the amount of not less than \$20 million (or such other amount as Council may require by notice) must be obtained and furnished to Council before any works authorised by this consent are conducted:
  - i) Above;
  - ii) Below; or
  - iii) On  
Any public land owned or controlled by Council.
- b) The public risk insurance must be maintained for the period during which these works are being undertaken.
- c) The public risk insurance must be satisfactory to Council, and list Council as an insured and/or interested party.
- d) A copy of the insurance policy obtained must be forwarded to Council before any of the works commence.

**Note:** Applications for hoarding permits, vehicular crossing etc. will require evidence of insurance upon lodgement of the application.

**Reason:** To ensure the community is protected from the cost of any claim for damages arising from works authorised by this consent conducted above, below or on any public land owned or controlled by Council.

### **132. Footings and Walls Near Boundaries**

- a) Prior to the commencement of work, a registered surveyor is to undertake a set out survey to identify the location of all footings, slabs, posts and walls adjacent to a boundary.
- b) This is to ensure the development when complete, will be constructed wholly within the confines of the subject allotment.
- c) This set out survey showing the location of the development relative to the boundaries of the site, is to be forwarded to the Principal Certifying Authority prior to pouring of any footings or slabs and/or the construction of any walls/posts.

**Reason:** To ensure that the building is erected in accordance with the approval granted and within the boundaries of the site.

### **133. Survey Report**

- a) A survey certificate is to be submitted to the Principal Certifying Authority at footing and/or formwork stage.
- b) The certificate must indicate the location of the building in relation to all boundaries, and must confirm the floor level is consistent with that approved under this consent prior to any further work proceeding on the building.

**Reason:** To ensure the development is being built as per the approved plans.

### **134. 'Dial Before You Dig' Service**

- a) 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 receive written confirmation from NDBYD that the proposed excavation will not conflict with any underground utility services.
- b) The person/s having the 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 ensure Council's assets are not damaged.

### **135. Erosion and Sediment Control Measures**

- a) 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.
- b) 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.

### **136. Sydney Trains**

- a) If required by Sydney Trains, prior to the commencement of works, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the applicant.
- b) These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed.
- c) The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

**Reason:** To comply with the requirements of Sydney Trains and ISEPP 2007.

### **137. Roads and Maritime – Drawings**

- a) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012-001.
- b) The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of assessment by Roads and Maritime.
- c) The Report and any enquiries should be forwarded to:

Project Engineer, External Works  
Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124

Telephone: 8849 2114  
Fax: 5549 2766

- d) If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings.
- e) The notice is to include complete details of the work.

**Reason:** To protect public assets.

### **138. Roads and Maritime – Hydraulic**

- a) Detailed design plans and hydraulic calculations of any changes to the Roads and Maritime's stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.
- b) Details should be forwarded to:

Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124

- c) A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.
- d) With regard to Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works telephone 8849 2114 or fax 8849 2766

**Reason:** To protect public assets.

## **Strata Plan**

### **139. Strata Subdivision Certificate**

- a) A separate application must be made to Council to obtain approval of the strata plan under section 37 of the Strata Schemes (Freehold Development) Act 1973.
- b) The linen plan must not be issued until a final occupation certificate has been issued.

**Reason:** To comply with the *Strata Schemes (Freehold Development) Act 1973*.  
PENSC Non-standard - Prior to issue of Occupancy/Subdivision Certificate.

### **140. Road Dedication**

- a) Prior to the issue of an Occupation Certificate, the applicant shall:
  - i) Dedicate to Council, at no cost to Council, the land marked in yellow on plan SK - 1811 Rev. A, dated 26/06/17 for the use as an unrestricted roadway. A covenant is to be placed on this lot, in favour of Council, noting that all of the lot's permissible FSR under Hornsby LEP 2012 has been utilised.
  - ii)
  - iii) Establish a public right of way on the area marked in red and purple on plan SK-1811 Rev. A, dated 26/06/2017 for use as an unrestricted road open to all traffic in perpetuity.
  - iv) Establish a public right of way on the area marked green on plan SK-1811 rev. A, dated 26/06/2017 for use as pedestrian and bicycle public highway in perpetuity.

**Reason:** To ensure that public benefits are provided in keeping with the applicant's offer.

### **141. New Road/Easements**

- a) The roadway hereby approved shall be constructed by the applicant, and all relevant dedications completed and easements registered, prior to registration of the Strata Plan.
- b) These requirements shall be fulfilled by the applicant at no cost to Council.

**Reason:** To ensure the provision of public rights of way and vehicular access prior to the occupation of development.

### **142. Provision of Telephone Services**

- a) The submission of documentary evidence from the telecommunications provider authorised under the *Telecommunications Act 1997* confirming arrangements have been made for the provision of telephone services prior to the issue of a Subdivision Certificate.

**Reason:** To ensure appropriate telephone services are provided.

### **143. Compliance with Development Consent**

- a) The subdivision certificate will not be issued until a final Occupation Certificate has been submitted to Council.

**Reason:** To ensure compliance with the *Environmental Planning and Assessment Act 1979* and conditions of consent.

## **Prior to Occupation**

### **144. Civil Engineer Supervision**

- a) 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 "Public Domain Guidelines" 2016.
- b) Certification is required to be provided with the Occupation Certificate.

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

### **145. Traffic Access Control**

- a) The traffic access management system required by Condition 69 of this determination, and approved by Council, shall be implemented and certified as working prior to the occupation of any residential or retail unit approved by this determination.

**Reason:** To ensure implementation of the traffic access management system.

### **146. Broadband Access for Major Development 100 Dwellings/Units or Greater**

- a) Prior to the issue of any Occupation Certificate, the developer is to provide evidence that satisfactory arrangements have been made with the National Broadband Network (NBN) Company where relevant, and implemented at no cost to Council for the provision of broadband access to the development.

**Note:** For more information contact NBN Co. Development Liaison Team:

Call: 1800 881 816  
Email: [newdevelopments@nbnco.com.au](mailto:newdevelopments@nbnco.com.au)  
Web: [www.nbnco.com.au/NewDevelopments](http://www.nbnco.com.au/NewDevelopments).

**Reason:** To ensure that appropriate provision has been made to accommodate broadband access to the development.

### **147. Tree Planting Above 25L Container Size**

- a) 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.
- b) Certification is to be forwarded to the Principal Certifying Authority upon completion of the planting, certifying the trees have been grown to Natspec guidelines.
- c) 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.

### **148. Schedule of Street Numbering**

- a) Prior to the issue of an Occupation Certificate, the developer must provide Council with a schedule of individual unit/street numbers as displayed within the development for identification purposes.
- b) The numbering sequence must be in accordance with the street numbering approval letter issued by Council.

**Reason:** To ensure developments are appropriately numbered.



#### **149. Street Numbering**

- a) A street number is to be placed on each tower in a readily visible location from a public place prior to the issue of an Occupation Certificate.
- b) The numbers are to have a minimum height of 75mm.

**Reason:** To ensure a visible house number is provided.

#### **150. BASIX Compliance**

- a) Under Clause 97A of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all design measures identified in the BASIX Certificate No. 662637M\_04, will be complied with prior to occupation

**Reason:** To comply with legislative requirements of Clause 97A of the Environmental Planning & Assessment Regulation 2000.

#### **151. Intercom**

- a) Prior to the issue of any Occupation certificate an intercom system must be provided in a convenient location adjacent to the visitor parking entry.

**Reason:** To ensure convenient access is available for visitors to the building.

#### **152. The Release of Bond(s)**

- a) A written application to Council's Civil Assets Team for the release of a bond must quote the following:
  - i) Council's Development Application number; and
  - ii) Site address.
- b) The bond is refundable only where Council is satisfied the public way has been adequately reinstated, and any necessary remediation/rectification works have been completed.
- c) An Occupation Certificate is not to be issued until correspondence has been issued by Council detailing the bond has been released.

**Note:** Council's Civil Assets Team will take up to 21 days from receipt of the request to provide the written advice.

**Reason:** To safe guard the public assets of council and to ensure that these assets are repaired/maintained in a timely manner.

#### **153. SEPP 65 Verification Statement - Occupation Certificate Stage**

- a) A Design Verification issued by a registered architect is to be provided with the application for a Occupation Certificate, verifying that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development (SEPP 65).

**Note:** Qualified designer in this condition is as per the definition in SEPP 65.

**Reason:** To comply with the requirements of SEPP 65.

#### **154. Adaptable dwellings**

- a) Certification must be provided prior to the issue of an occupation certificate that the required adaptable dwelling(s) have achieved a class C design in accordance with the requirements of AS 4299 -1995.

**Reason:** To ensure the requirements of DCP 2011 have been met.

**155. Post Construction Dilapidation Report**

- a) The applicant shall engage a suitably qualified person to prepare a post construction dilapidation report at the completion of the construction works.
- b) This report is to ascertain whether the construction works created any structural damage to adjoining buildings and or infrastructure.
- c) The report is to be submitted to the PCA prior to the issue of the occupation certificate.
- d) In ascertaining whether adverse structural damage has occurred to adjoining buildings/ infrastructure, the PCA must compare the post-construction dilapidation report with the pre-construction dilapidation report, and a copy of this report is to be forwarded to Council.

**Reason:** To establish any damage caused as a result of the building works.

**156. TV Antenna**

- a) A single master TV antenna not exceeding a height of 3m above the finished roof level must be installed on each tower to service the development.
- b) A connection is to be provided internally to each dwelling/unit within the development, and connections are to be operable prior to the issue of an Occupation Certificate.
- c) Details of these connections are to be annotated on the plans and documentation accompanying each Construction Certificate application to the satisfaction of the Certifying Authority.

**Reason:** To protect the visual amenity of the area.

**157. OSD Positive Covenant/Restriction**

- a) Prior to the issue of an Occupation Certificate, a Positive Covenant and Restriction on the Use of Land under Section 88E of the *Conveyancing Act 1919* must be created, burdening the owner with the requirement to maintain the onsite stormwater detention facilities on the lot.
- b) The terms of the instruments are to be generally in accordance with Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" to Council's satisfaction.
- c) Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created through via an application to the Land Titles Office using forms 13PC and 13RPA.
- d) Accompanying this form is the requirement for a plan to scale showing the relative location of the On-Site Detention facility, including its relationship to the building footprint.
- e) Registered title documents showing the covenants and restrictions must be submitted to and approved by the Principal Certifying Authority prior.

**Reason:** To ensure maintenance of onsite detention facilities.

**158. Reinstatement of Laybacks**

- a) All redundant laybacks and vehicular crossings must be reinstated to conventional kerb and gutter, foot-paving, or grassed verge in accordance with Council's Standard Plan No. DS1.
- b) The reinstatement must be completed prior to the issue of an Occupation Certificate.
- c) All costs must be borne by the applicant.

**Reason:** To provide satisfactory drainage.

### **159. Landscape Maintenance**

- a) All landscape works shall be maintained for a minimum period of two (2) years following the issue of a Final Occupation Certificate, in accordance with the approved landscape plan and conditions

**Reason:** To ensure restoration of environmental amenity.

### **160. Waste Storage Rooms**

- a) Adequate ventilation to the waste storage room shall be provided in accordance with the requirements of the Building Code of Australia.
- b) Certification that the system functions in accordance with Australian Standard AS 1668 is to be provided to the certifying authority prior to occupation of the premises.

**Reason:** To ensure appropriate waste storage facilities are provided for future occupants.

### **161. Liveable Housing**

- a) Confirmation that 20% of the proposed units comply with the Liveable Housing Guidelines Silver Level design feature is to be prepared by a suitably qualified consultant and submitted to Council prior to the issue of an Occupation Certificate.

**Reason:** To ensure that the development provides accessible dwelling options for future occupants.

### **162. Sydney Trains**

- a) If required by Sydney Trains, prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the applicant.
- b) These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed.
- c) The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

**Reason:** To comply with the requirements of Sydney Trains and ISEPP 2007.

### **163. Sydney Trains - As Built Drawings**

- a) Prior to the issue of an Occupation Certificate, the Applicant is to submit the as-built drawings to Sydney Trains, Transport for NSW and Council.
- b) The principal Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

**Reason:** To comply with the requirements of Sydney Trains and ISEPP 2007.

### **164. Certification – Civil Engineer**

- a) Certification from a qualified civil engineer is to be provided prior to the issue of the relevant Occupation Certificate that all public area civil and drainage works (including the new road) have been completed in accordance with Council's "Public Domain Guidelines" 2016.

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

**165. Certification – Fire Safety**

- a) Prior to the issue of each Occupation Certificate, a final fire safety certificate must be issued as required by Clause 153 of the Environmental Planning and Assessment Regulation 2000.

**Reason:** Protection of life and to comply with legislative requirements.

**166. Certification – Landscaping**

- a) A qualified Landscape Architect/Designer must certify that the completed works are in accordance with the approved Public Domain Plan referenced in condition 66.
- b) All landscape works for the relevant stage must be completed prior to the issue of an Occupation Certificate for that stage.

**Reason:** To ensure restoration of environmental amenity.

**167. Certification – Artwork**

- a) Final documentation including details of fabrication and installation of the art work including a maintenance schedule must be submitted and approved by Council and Artwork completed in full and installed to the satisfaction of Council prior to the issue of the final Occupation Certificate.

**Reason:** To comply with Development control requirements.

**168. Maintenance of Public Domain Works**

- a) A two-year (104 weeks) maintenance period, from the date of issue of the Occupation Certificate, is required to be carried out by the applicant for all the works constructed in the public domain.
- b) A Landscape maintenance schedule prepared by a qualified Landscape Architect shall be submitted to Council, prior to the issue of the Occupation Certificate, that specifies after Council's final approval who and how to maintain the public domain works during the 104 weeks.

**Reason:** To ensure the required public domain improvements are maintained.

**169. Outdoor Dining Areas**

- a) Separate consent shall be sought for use of any outdoor dining areas.
- b) Prior to the issue of an Occupation Certificate for a retail tenancy, the base structure/fixings for a standardized wind screening system will be installed in accordance with the Hornsby Shire Council Outdoor Dining Code, the Signage Design Guidelines and a supporting Tenancy Design Guideline. The Tenancy Design Guidelines are to ensure that a standard wind screening system is to be used for any tenancy requiring outdoor seating, to create a precinct wide design solution that maintains pedestrian thoroughfares and a homogenous appearance.
- The system provided must ensure that:
- Long term stationary wind criteria results are achieved within the outdoor seating areas;
  - Pre-installed sockets/fixings are to be non-intrusive in design and not create trip or slip hazards;
  - Apart from the fixings, the system must be demountable and able to be stored on-site, either within the tenancy or dedicated retail storage areas;
    - The design and orientation of outdoor dining areas support local economic development and commercial vitality;
    - The area contributes to the improvement (i.e. function and safety) of the streetscape;

- Pedestrians and other forms of traffic are not unduly obstructed by outdoor dining;
- Outdoor dining contributes to the amenity of adjoining or nearby properties; and
- Outdoor dining is compatible with other community uses of public space.

**Reason:** To ensure the amenity of the outdoor dining area.