

JOINT REGIONAL PLANNING PANEL
(SYDNEY WEST)

JRPP No	2016SYW100
DA Number	DA/873/2015
Local Government Area	Parramatta
Proposed Development	Subdivision of proposed Lot 4 to create two (2) Torrens title lots. The site is Heritage Listed under Schedule 5 of the PLEP 2011.
Street Address	2A Darcy Road and 158-164 Hawkesbury Road, WESTMEAD
Applicant/Owner	Applicant – C Vella Owner – Western Sydney University and Trustees of The Marist Brothers
Number of Submissions	None
Regional Development Criteria	Clause 89(1)(a) of EP and A Act – Determination of Crown Development (for Refusal).
List of All Relevant s79C(1)(a) Matters	Parramatta Development Control Plan 2011, Section 94A Plan, Infrastructure SEPP, Sydney Harbour Catchment SREP, SEPP 55, SEPP 65, Urban Renewal SEPP
Recommendation	Refusal
Report by	Denise Fernandez, Senior Development Assessment Officer

Assessment Report and Recommendation Cover Sheet

S79C ASSESSMENT REPORT

Environmental Planning & Assessment Act 1979

SUMMARY

DA No:	DA/873/2015
Property:	Lot 7 DP 1077852, Lot 8 DP 1077852 158 -164 Hawkesbury Road and 2A Darcy Road, WESTMEAD NSW 2145
Proposal:	Subdivision of proposed Lot 4 to create two (2) Torrens title lots. The site is Heritage Listed under Schedule 5 of the PLEP 2011.
Date of receipt:	2 December 2015
Applicant:	C Vella
Owner:	Western Sydney University and Trustees of The Marist Brothers
Property owned by a Council employee or Councillor:	The site is not known to be owned by a Council employee or Councillor
Political donations/gifts disclosed:	None disclosed on the application form
Submissions received:	None
Recommendation:	Refusal
Assessment Officer:	Denise Fernandez

Legislative requirements

Zoning LEP 2011	SP2 Infrastructure PLEP 2011 B4 Mixed Use PLEP 2011
Additional Legislation	N/A
Additional EPIs	Parramatta Development Control Plan 2011 BASIX SEPP, Section 94A Plan,, Infrastructure SEPP, Sydney Harbour Catchment SREP, SEPP 55, SEPP 65, Policy for the Handling of Unclear insufficient and amended development applications
Heritage Item	Yes – the site is listed as a heritage item in PLEP 2011(Item 1628 - St Vincent's and Farmhouse building). Within the grounds of Western Sydney JRPP (Sydney West Region) Business Paper – JRPP Ref: 2016SYW100

University is also a Victorian residence that is a heritage item (Item 1629). Both items are of local significance under Schedule 5 of PLEP 2011.

Heritage Conservation Area	No
Integrated development	No
Designated development	No
Crown development	Yes – the land at 158-164 Hawkesbury Road is owned by the Western Sydney University.
Delegation	JRPP

DA History

2 December 2015	DA/873/2015 was lodged with Council.
16 December 2015 to 11 January 2016	Application was advertised for a 21 day period.
10 February 2016	Sent applicant correspondence requiring additional/amended information to be submitted. The information included the provision of a reference design and floor area schedules as requested by Council's Urban Designer.
23 February 2016	Applicant provides a draft response to Council's issues raised in correspondence dated 10 February 2016.
25 February 2016	Meeting with applicant regarding the issues raised in Council's correspondence dated 10 February 2016.
9 March 2016	Upon review of the applicants draft response as well as the outcome of the discussions at the meeting of 25 February 2016, Council provided additional correspondence. The correspondence raised concerns with the treatment of the communal open space, the dividing fence, blank wall treatment, the phasing of the development and departure to the intent of the Masterplan. The applicant was requested to withdraw the application.
11 March 2016	The applicant provided a response to Council's correspondence dated 9 March 2016. The applicant stated that the height of the building envelope does not change and therefore the issues regarding the design of the internal space and treatment of the blank walls were better addressed via detailed future development applications lodged on the subdivided lots.

	The applicant advised that if Council were of a mind to recommend refusal of the application, that it be referred to the JRPP pursuant to Section 89(6) of the Act.
23 March 2016	Applicant provides additional information to support proposal including a Clause 4.6 variation statement for FSR.
6 April 2016	Meeting held with applicant regarding outstanding issues.
26 April 2016	Applicant submits further information as a result of the discussions at the meeting of 6 April 2016.
27 April 2016	The JRPP was briefed on the issues with the application.
11 May 2016	Council forwards key issues identified by the Panel regarding the proposal to the applicant. The applicant at this instance was also offered the opportunity to amend the building envelopes to better reflect the proposed subdivision.
12 May 2016	Applicant responds to the correspondence dated 11 May 2016. The applicant states in this correspondence that amendments to the Masterplan (ie. the building envelope) are not a viable option.
24 May 2016	Council provides a response to applicant's correspondence dated 12 May 2016.

SITE HISTORY & BACKGROUND

The Sydney West Joint Regional Panel approved **DA/571/2014** for the demolition of 5 buildings, tree removal, bulk earthworks, and construction of roads and Torrens title subdivision of the site into 5 allotments. The approval also included building envelopes for each of the 5 subdivided lots.

DA/571/2014 is essentially a Masterplan for the entire site and the conceptual building envelopes which are a critical component in determining an appropriate subdivision layout and development form.

Under delegation, **DA/699/2014** approved the subdivision of 2A Darcy Road, Westmead into 2 lots (Lot 1 and Lot 2). Lot 2 is to be acquired by WSU to facilitate the Stage 1 works approved under DA/571/2014.

Sydney West Joint Regional Panel (JRPP)

The Sydney West Joint Regional Panel (JRPP) was briefed on 27 April 2016 regarding Council's concerns with the proposal. Council is not satisfied that the division of the building envelope results in consistency with the approved Masterplan or results in superior design outcomes. Therefore, the application cannot be supported. As the application is made by a Crown Authority (Western Sydney University), Council does not have delegation to

determine the application. Pursuant to Section 89(6) of the Act, the application is referred to the JRPP for support of the recommendation for refusal for the determination by the Minister.

At the JRPP briefing meeting of 27 April 2016, the following comments were made by the Panel with regards to the proposal.

- The Panel was underwhelmed with the proposal and that the subdivision of Lot 4 was not seen as conducive to satisfactory site planning.
- The Panel strongly advised that the original plan (of the 5 lot subdivision as approved under DA/571/2014) should be adhered to.
- The Panel is of the opinion that the proposal has not justified the departures.
- The original subdivision plan (for 5 lots) was a well-conceived Masterplan. The proposed subdivision will result in development with 2 access points, divided open space and blank walls.
- The Panel noted that the intent of the Masterplan may not be realised if the subdivision were to be approved.
- Further, the Panel also expressed concerns that there appears to be no plans for student accommodation.

It is noted that the above comments were forwarded to the applicant on 11 May 2016. The applicant has provided a response directing Council to proceed with providing the Panel with a report with Council's conclusions as the applicant will not be amending the proposal.

SITE & SURROUNDS

The Western Sydney University (WSU) site is bounded by Darcy Road to the north, Hawkesbury Road to the east and a rail corridor to the south. The site has an overall area of approximately 3.672 hectares.

The site is:

- Located directly opposite of Westmead Hospital to the north of the site.
- Located adjacent to a railway corridor to the south with Westmead Station located approximately 150 metres south-east of the site.
- Adjacent to Parramatta Marist High to the west.
- Approximately 400 metres north-west of Parramatta Park.
- Lot 4 is located to the north-west of the WSU site.

The site is currently under construction in accordance with the approved works under DA/517/2014.



Figure 1: Aerial photograph of the site in context.

Westmead Precinct

The WSU site is located within the Westmead Precinct. This precinct is identified as being of strategic value as it provides a regionally significant health and educational hub. Westmead also provides a strong residential element to support this primary function. Any redevelopment within the Westmead Precinct should provide additional opportunities for residential, retail, business, hospital, education and community facility development which is to be integrated with the existing public transport network.



Figure 2: Westmead Precinct

THE MASTERPLAN

The Masterplan envisages a mixed use character that compliments the medical and research facilities of the precinct. Each of the subdivided lots was approved with particular land uses which include:

- Lot 1 – education. This lot also included the heritage items.
- Lot 2 - commercial, retail, health and serviced apartments
- Lot 3 - commercial
- Lot 4 - residential
- Lot 5 - residential

The building envelopes approved have been designed to reflect the land uses for each subdivided lot. Lot 2 is designed with a plaza and an open piazza to Darcy Road to accommodate a commercial / retail space to service this precinct. Similarly, Lot 3 is located and designed to facilitate additional commercial uses given its proximity to the hospital

opposite Darcy Street. Lot 5 is situated adjacent to the railway corridor to allow for higher density residential development with open landscaped areas whilst respecting the heritage items and curtilage that is located on Lot 1.

The Masterplan also approved generous landscaping and extensive public domain works by providing footpaths (shared and pedestrian), street trees and public reserves to allow retention of significant vegetation and passive recreation. The Masterplan also created internal road networks to provide access to the subdivided lots.



Figure 3: The Masterplan approved under DA/571/2014

Lot 4 under the Masterplan

Under DA/571/2014, Lot 4 was approved with a U-shaped building envelope with the following dimensions:

- Site Area = 6588m²
- Indicative Land use = Residential

- Gross Floor Area = 28,825m² (4.37:1)
- Height = Min. 6 storeys and max 12 storeys.

The design rationale behind the U-shaped building envelope is as follows:

- The provision of appropriate address (ie. limit development interface) at the boundary with the Marist Brothers school to the west.
- A central common open space area with ample landscaping. The provision of a central courtyard area also ensures that the northern and southern arm of the U-shaped building is able to achieve building separation under the Apartment Design Guidelines (ADG).
- The 6 storey development height of the northern arm of the U-shaped building provides a transition of scale whilst improving solar access to the southern arm of the building and the common courtyard area.
- The eastern portion of the U-shaped building envelope is proposed at 12 storeys to define the street edge.
- A landscape buffer is provided along the western boundary to ameliorate amenity impacts to the adjacent school.
- The bulk of the development is located on the eastern and southern portions of Lot 4 where it is suitably located adjacent to the public reserves, Lot 5 and the plaza on Lot 2.
- The Masterplan and intended design outcomes for Lot 4 are considered to be the benchmark for considering any impacts of the current proposal.

THE PROPOSAL

The application seeks consent for:

- Subdivision of proposed Lot 4 into 2 allotments creating the following dimensions:
 - Lot 401 – frontage to the internal road of 22.45m (with a 7.055 metre splay) and a secondary frontage of 86.68 metres and a site area of 3010m².
 - Lot 402– frontage to the internal road of 35.53 metres and a site area of 3578m².
- As a result of the subdivision, the following changes to the building envelope are proposed:

Lot 401

- Indicative GFA = 17,500m²
- FSR = 5.8:1
- Height = Min. 8 storeys and Max.12 storeys

Lot 402

- Indicative GFA = 11,325m²
- FSR = 3.17:1
- Height = Min. 6 storeys and Max.12 storeys

No construction work is proposed under the subject application.

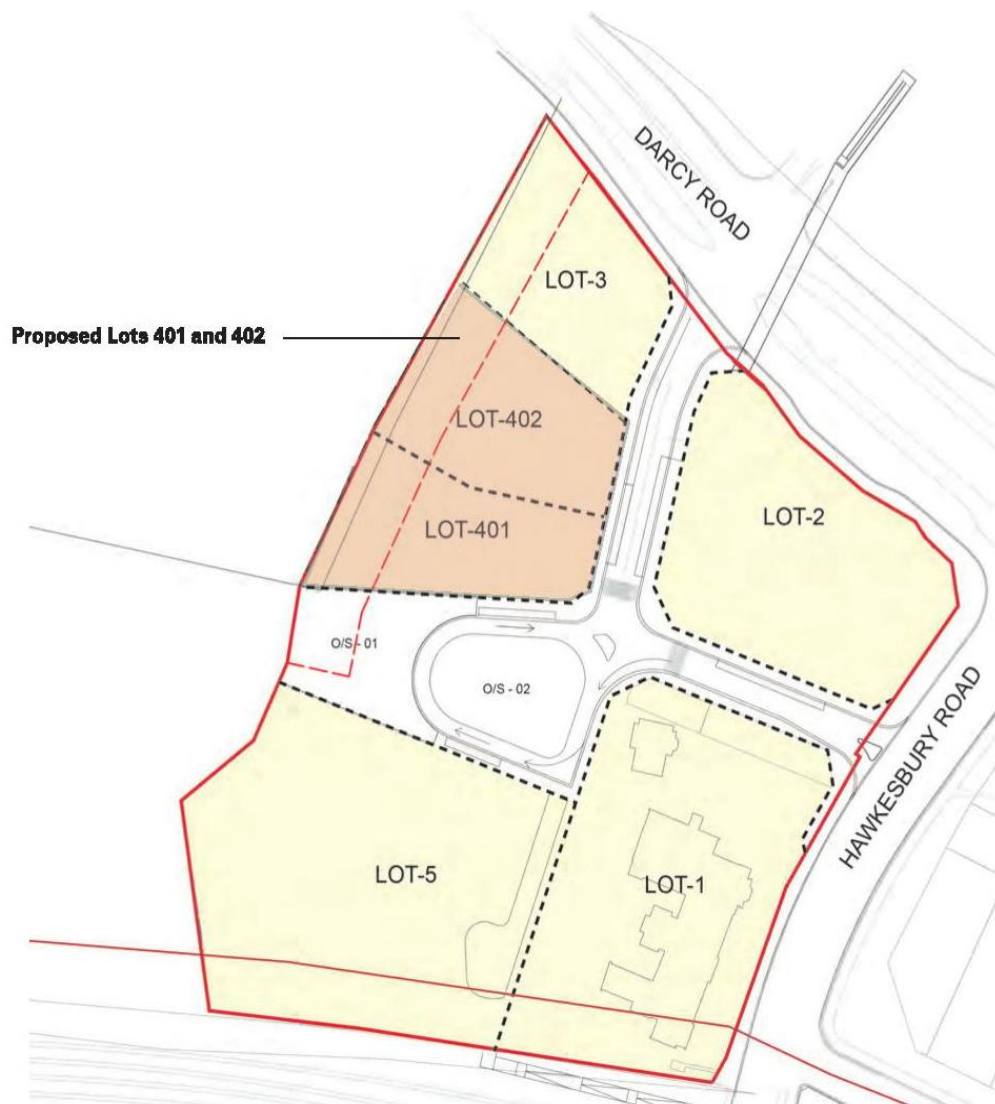


Figure 4: Proposed subdivision of Lot 4 (Lot 401 and 402)

PERMISSIBILITY

The site is zoned B4 Mixed Use. The indicative land use approved under DA/571/2014 for Lot 4 is residential. The indicative use and subdivision of proposed Lot 4 is permissible under PLEP 2011.

Zone Objectives

The proposed subdivision is considered contrary to the B4 Mixed Use zone objectives as the subdivision will compromise the conceptual building layouts approved under the Masterplan. The applicant has not demonstrated how the integrity of the Masterplan approved under DA/571/2014 can be maintained by the proposed subdivision. The proposal in this instance is unlikely to provide future development that will encourage nor contribute to an active, vibrant and sustainable neighbourhood within this important strategic precinct.

REFERRALS

Development Engineer

No objections are raised.

It is noted that whilst Council's Development Engineer did not object to the proposal on stormwater grounds, a separate concern was raised with regards to access to the individual basement for potential development on the subdivided lots. In this regard, insufficient information has been received that permits Council to undertake an assessment of the likely impacts of an additional access point. In particular, Council's Development Engineer has stated that an additional access point along the loop road may lead to an increase in both traffic and pedestrian activity.

Traffic

No objections are raised.

Landscape

No objections, subject to conditions of consent.

Whilst not objections are raised by Council's Landscape Officer, concern is raised that the subdivision of Lot 4 will lead to less landscaping and deep soil opportunities as an additional basement will be required upon the development of either lot.

Heritage

No objections are raised. The following comments were provided.

The lots subject to this proposal are in the vicinity of heritage items (located on Lot 1). Given the separation between sites, and given the siting across the road, it is deemed that the significance of the items will not be impacted by the proposed subdivision and changes to lots 401 and 402 alone.

Based on the above, I have no objections to this proposal from a heritage perspective.

Roads and Maritime Services (RMS)

No objections are raised.

Urban Design

Council's Urban Designers have reviewed the proposal and do not support the proposed subdivision. The following comments were provided.

Date of Comment	Comment
8 February 2016	<p>The potential built form implications of the proposed LOT 401 & 402 subdivision appear to be as follows:</p> <ul style="list-style-type: none">• The approved FSR allowance for the subject site does not appear to be applied over each of the new subdivided areas. Instead, the individual lot FSRs reach up to 5.81:1 for proposed LOT 401 and

	<p>3.17:1 for the new LOT 402. This seems to be due to the total floor area for the site from the Stage 1 DA being redistributed over the 2 new subdivided portions. This implies that yield redistribution from future development over the subject site areas is desired and a potentially taller building than anticipated might be likely over proposed lot 401 given the higher FSR.</p> <ul style="list-style-type: none"> • As a percentage of site area, more floor space is being yielded over a reduced area when we look at proposed LOT 401, while the overall yield is decreased for LOT 402. As such, it is queried whether the approved building envelopes and the corresponding heights shown are still calibrated with the new FSR distributions. It seems likely amendments to the approved building envelopes will be needed to accommodate the proposed FSR and land area splits. While the proponents have provided some sketches and diagrams within the UD report, more details are required to be satisfied the envelopes are not changing. • It is my view that at a detailed design / DA stage the future building footprints may not necessarily reflect the approved, joined, U shape pattern as most appropriate form. The resultant arrangement of open space could also become uncertain if building types and footprints change. The type of development and uses being considered on the future lots will also play a part in the form and massing of the envelopes. • Building envelope models and a reference design at 1:500 scale with efficiencies clearly stated should be provided for the proposed FSR over each of the new sites to demonstrate what types of envelopes (and uses) to expect at building DA stage. Our standard advice regarding reference design is generally as follows: <p>The reference design should addressing the following:</p> <ul style="list-style-type: none"> ○ future uses ○ public domain/ internal street network, through site links ○ vehicular access points and connections on plan, ○ street walls and setbacks and heights ○ solar and visual impact. ○ above ground car parking concepts if proposed building envelopes (including any future residential towers) – options can be provided for a range of scenarios considered by the proponent. ○ preliminary architectural concepts for typical plans and section at 1:500 showing vertical circulation, hallways, no of units/ floor, balconies etc. and conformity with the ADG. <p>For area schedules informed by the concept design noted above, GFA yield calculations should assume:</p> <ul style="list-style-type: none"> • Residential GFA = 75% of the floor plate including external walls, internal voids and balconies. • Commercial GFA = 80% of the floor plate including external walls, internal voids and balconies. • Ground floor Retail/ non-residential GFA = 33% of the floor plate including external walls, internal voids and balconies.
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	<ul style="list-style-type: none"> • phasing and implementation strategy. <p>It should be noted that if a U shaped form is persistent under a two lot scenario, the envelope will effectively be split if the subdivided sites develop independently of each other. This further brings into question the design, phasing and delivery of the building/ buildings and open space in between if separate developers proceed with development at different times.</p> <p>Given the FSR departure for LOT 401, after a more detailed reference design, should it eventuate that envelopes need to be changed and increased in height, then potential overshadowing needs to be considered also and updated on plans.</p>
29 February 2016	<p>Area schedules</p> <p>As a minimum, area schedules of each portion of the approved footprint being divided might clarify whether the proposed 17500sqm of GFA sought over lot 401 could be accommodated within the approved envelopes or not. The same should be done for proposed lot 402.</p> <p>One implication of the subdivision may be that once an articulated and resolved footprint for future development is designed, the future building may require more height in places as it is unlikely to simply be an extrusion of the approved master plan footprint. The concerns in the future will predominantly be the level of amenity achieved, the impact upon the public domain, overshadowing and the qualities of the architecture. The building lengths being considered by the master plan footprints could also lead to relentless street walls of residential apartments. Creating any breaks in form as a counter would reduce the GFA achieved per floor and in turn may have implications for overall development height.</p> <p>Densities</p> <p>Please be advised density over lot 401 is reaching around 5.81:1 (17500sqm of GFA over a proposed site area of 3010sqm). Whilst there are planning considerations to this, there is a question of precedent to consider and the scale of development to expect. As a comparison the Parramatta CBD strategy considers a 6:1 FSR in areas adjoining/surrounding the CBD core.</p> <p>Phasing of development / Appropriate built form outcomes</p> <p>The 12 storey blank wall issue is unresolved and appears to be an eventuality unless the footprint over the site is revisited should Lot 401 develop first/ independently following the proposed split footprint.</p>
3 March 2016	<p>In conjunction with previous advice provided and following the meeting with the proponents last week, we additionally raise concerns about the division of the communal open space and potential appropriation of communal space, in part or in whole, as POS for future units on the ground floor as a result of the proposed</p>

	<p>subdivision and any interim building phasing/ boundary arrangements.</p> <p>The approved Private Domain Guidelines was supported on the basis that Lot 4 would provide a generous central communal open space for residents. Any fence or boundary division created pursuant to the subdivision would further erode the master plan and private domain guideline intent to achieve a U shaped, perimeter block / courtyard building as envisaged, with an uninterrupted and shared communal open space in between.</p> <p>Along with phasing of development concerns raised earlier (namely the potential 12 storey blank wall issue, uncertainty of development timing on lot 402 and pressure on floor plate efficiencies to keep under the approved height limits as a result of GFA redistribution) we believe the proposed subdivision will create fundamental problems for future built form to stay aligned with master plan intent. As such, given these concerns, this subdivision proposal is not supportable.</p>
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Planners Comment: It is agreed that consideration of the proposed subdivision must be prefaced in a design analysis to the extent set out by Council's Urban Designers. In the absence of that analysis and or appropriateness of the design response, the current subdivision proposal cannot be supported. Further, the following points are made.

- The applicant has not demonstrated that the division of the building envelope results in consistency with the approved Masterplan or results in superior design outcomes.
- It is considered to be compromised planning practice to delay modelled and tested building envelopes until the development application stage due to the uncertainty in the resulting development form which may further erode the intent of the Masterplan and create adverse amenity impacts.
- Imposing conditions of consent for example, in an attempt to treat blank walls in the interim is not supported.
- There can be no certainty that this would be a temporary arrangement to ameliorate adverse design impacts should development on Lot 401 and Lot 402 not happen concurrently and / or an integrated design manner.
- Any development on Lot 4 will set precedence in the precinct and thus should be of greater quality architecturally as an example.
- Despite Council's advice that the applicant consider revising the building envelopes for lot 401 and 402 to better reflect the intended outcomes of the Masterplan, the applicant has not provided such information.
- For the abovementioned reasons, the application to subdivide Lot 4 into 2 allotments cannot be supported.

ENVIRONMENTAL PLANNING INSTRUMENTS

STATE ENVIRONMENTAL PLANNING POLICY 55 – REMEDIATION OF LAND

A Site Audit Assessment and Remedial Action Plan were submitted as part of DA/571/2014 as the site was identified as containing imported fill. This information was reviewed and considered as acceptable under DA/571/2014. As the proposal is only for land subdivision relating to proposed Lot 4, no further assessment under SEPP 55 is necessary.

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

The portion of the site formerly known as 2A Darcy Road is adjacent to a waterway. However, the portion of 2A Darcy Road that is part of the subject site is the north-south access handle of the site adjacent to the WSU site and is more than 100 metres from the waterway.

Under DA/699/2014, this portion of 2A Darcy Street is amalgamated with the WSU site and is not subject to this provision.

As such, the proposed subdivision will not impact on water quality and urban run-off, thus protecting riparian corridors as well as the hydrological and ecological processes. Accordingly, the development is consistent with the controls contained within the deemed SEPP.

STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

The application is not subject to clause 45 as the application only proposes subdivision works under the current application and will therefore not impact on nearby electricity infrastructure.

Clause 101 of the SEPP is not applicable to the proposal as proposed Lot 4 does not have a frontage to a classified road.

The application is not subject to clause 102 of the SEPP as the average daily traffic volume of the internal road is less than 40,000 vehicles.

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

Whilst the subject application does not propose any building works or changes to the shape of the building envelope, the proposal seeks approval to divide the U-shaped building on Lot 4 through the proposed subdivision boundary. The proposal also seeks to alter the FSR for each lot. The following assessment against some of the principles of SEPP 65 is necessary given the impact of the proposed subdivision on the building envelope envisaged under the Masterplan.

ADG design quality principle	Response
Context	The division of the U-shaped building envelope as a result of the subdivision would erode the intent of the masterplan approved under

	DA/571/2014. The proposed subdivision and divided building envelope would likely result in developments with blank walls either side of the internal boundary which should be avoided particularly in a non-CBD context. As such, it is considered that the proposal does not contribute to the desired quality of the area.
Built form and scale	<p>Council does not consider that sufficient information has been submitted to support the division of the building envelope nor that this would be conducive to an equal or better design outcome for future development on either site.</p> <p>Council's Urban Designers have also reviewed the proposal and do not support the proposed subdivision and division of the building envelope for such reasons. Their detailed comments are provided earlier in this report.</p>
Landscape	Whilst the form and siting of the building envelope on Lot 4 has not changed, the landscape treatment within the common open space area is compromised as a result of the subdivision. The proposal will require a boundary fence to segregate the landscaping treatment on the ground floor. The approved Private Domain Guidelines envisage that the ground floor courtyard area would be treated holistically. The proposed subdivision is contrary to this intent.
Amenity	<p>Council's Urban Designers notes that as a result of the proposed subdivision, the amenity will be compromised. In particular the potential division and appropriation of the communal open space is a poor outcome as a boundary fence will be required to separate Lot 401 from Lot 402.</p> <p>Further, Council does not believe that sufficient information has been submitted that future development on either lot will achieve adequate internal amenity, solar access and quality architecture.</p>
Social dimensions/housing affordability	Insufficient information has been received that supports a building envelope on each lot that would allow for additional housing choice within the area.
Aesthetics	<p>Phasing of the development upon approval of the subdivision envisages blank walls until such time as the adjacent lot is developed. Whilst these blank walls may be treated in the interim, it is not considered to be the best design solution for a greenfield site that is not in a CBD location.</p> <p>The practicality of the subdivision is questionable and would likely impact internal layout and amenity.</p>

Council also notes the uncertainty in the phasing of any development of both lots and therefore the landscaping treatment, which is an inappropriate response for the site. This is also a critical issue for the building envelope as timing is difficult to manage when lots will be under different ownership with likely different design responses.

It cannot be reasonably expected nor conditioned that co-ordination in timing and design will result if this subdivision were approved. It runs contrary to planning practice of consolidating lots to realise masterplanned objectives.

As evidenced by the above, the proposed subdivision pattern will impact on the conceptual U-shaped building approved on Lot 4. The applicant has advised that they are not seeking to change this building form. However, Council is of the opinion that the division of the building

envelope and therefore the subdivision of Lot 4 will result in inadequate future developments on both Lot 401 and Lot 402 and is inconsistent with the objectives of the Masterplan approved under DA/571/2014.

APARTMENT DESIGN GUIDE

Integral to SEPP 65 is the Apartment Design Guide, which sets benchmarks for the appearance, acceptable impacts and residential amenity of the development. However, as no buildings are proposed, the following assessment against the ADG's is preliminary and general in nature but aims to assess likely compatibility with the ADG's.

Separation, private open space / balconies

The divided building envelope provides a 12 metre setback to the central boundary and a 24 metre building separation to the opposite arm of the U-shaped building. Whilst this arrangement has not changed from the approval under DA/571/2014, Council does not consider that sufficient information has been received that supports quality development on either lot once subdivided and an articulated building form is realised. That is, in concept, it appears that the minimum building separation is provided. However, the documentation provided has not considered balcony locations and whether the internal floor layout is acceptable in terms of area, amenity and utility. On this basis, Council cannot support the application.

Communal open space

Under DA/571/2014, it was understood that there would be a central communal open space area on Lot 4. However, as a result of the proposed subdivision, the location, amount, access and quality of the communal open space will be compromised.

Solar access

The simplistic approach to divide the building envelope on Lot 4 is not considered to be an appropriate response to the proposed subdivision. A satisfactory design analysis has not been submitted. The uncertainty in the built form once buildings are modeled and tested may result in additional impacts to solar access to the development, adjoining sites and any communal open space.

COMPLIANCE TABLE - PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2011

Development standard	Compliance
Minimum subdivision lot size.	<p>YES</p> <ul style="list-style-type: none"> Lot 401 will result in an area of 3010m². Lot 402 will result in an area of 3578m². <p>Whilst there are no minimum lot sizes for B4 zoned sites, there is unsupportable inconsistency with the Masterplan under DA/571/2014.</p> <p>Council cannot support the subdivision of Lot 4 as an amended building envelope that achieves a</p>

	satisfactory design outcome envisaged under the Masterplan has not been submitted nor the potential impacts on the conceptual building envelopes of the Masterplan adequately tested. The proposed subdivision will not provide an equal or better development outcome for the site.
<p>Height of Buildings</p> <p>Allowable under PLEP 2011 – 31m and 40m</p> <p>Approved under DA/571/2014 - Min. 6 storeys and max 12 storeys.</p>	<p>YES</p> <p><u>Lot 401</u></p> <ul style="list-style-type: none"> - Height = Min. 8 storeys and Max.12 storeys <p><u>Lot 402</u></p> <ul style="list-style-type: none"> - Height = Min. 6 storeys and Max.12 storeys
<p>Floor Space Ratio</p> <p>Allowable under PLEP 2011 – 3.5:1 and 4:1</p> <p>Approved under DA/571/2014 - Gross Floor Area = 28,825m² (4.37:1)</p>	<p>NO</p> <p><u>Lot 401</u></p> <ul style="list-style-type: none"> - Indicative GFA = 17,500m² - FSR = 5.8:1 <p><u>Lot 402</u></p> <ul style="list-style-type: none"> - Indicative GFA = 11,325m² - FSR = 3.17:1 <p>Due to the proposed creation of smaller lots, the GFA and therefore FSR need to be recalculated. The FSR of Lot 402 remains within the approved FSR for Lot 4 under DA/571/2014 (4.37:1), but due to where the majority of the floor area is proposed to be located, the resulting FSR for Lot 401 exceeds the FSR approved under the Masterplan.</p> <p>The applicant has submitted a Clause 4.6 variation statement which is not supported. This is assessed later in this report.</p>
Heritage Conservation	<p>YES</p> <p>The WSU site is heritage listed and heritage listed items are located in approved Lot 1. No heritage items are located in approved Lot 4. Council's Heritage Adviser reviewed the proposal and raised no objections with regards to any impacts on the heritage items on Lot 1.</p>
Aboriginal Places of Heritage significance	<p>YES</p> <p>The site is identified as being of Low to Medium</p>

	<p>significance on Council's Aboriginal Heritage Sensitivity Database.</p> <p>Council's Heritage Adviser reviewed the proposal and raised no objections to the application. No physical works are proposed under this application.</p>
Acid sulphate soils	<p>YES</p> <p>The site is identified as containing class 5 Acid Sulfate Soil. However, no excavation works are proposed. As such, an Acid Sulphate Soils Management plan is not required to be prepared.</p>
Water protection	<p>YES</p> <p>The site is identified on this map. See discussion under SREP Sydney Harbour Catchment 2005.</p>

EXCEPTIONS TO DEVELOPMENT STANDARDS WITHIN LEP 2011

Objectives of Clause 4.6 of the PLEP 2011

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

The variation sought is as follows:

Maximum FSR	Proposed	Degree of variation and merit
Allowable under PLEP 2011 – 4:1 and 3.5:1	<u>Lot 401</u>	Variation against PLEP 2011 – between 39.8% (Lot 401) and 31.2% (Lot 402) departure.
Approved under DA/571/2014 (Lot 4) - Gross Floor Area = 28,825m ² (4.37:1)	<p>- Indicative GFA = 17,500m²</p> <p>- FSR = 5.8:1</p>	Variation against Masterplan for Lot 401– 24.8% departure.

The applicant has provided the following reasons to justify the departure.

Objective	Proposal
(a) to regulate density of development and generation of vehicular and pedestrian traffic	The proposed development complies with the maximum permissible site-wide GFA and does not proposed to change the GFA approved under consent 571/2015. Whilst the FSR of individual development lots exceeds the permissible maximum, the density of development is compliant and there is no additional generation of vehicular or pedestrian traffic. The variation of the Development Standard will not affect compliance with this objective.
(b) to provide a transition in built form and land use intensity within the area covered by this Plan	While the FSR of individual development lots exceeds the permissible maximum, the density of development provides a transition in built form and land use intensity for the area covered by the plan. The variation of the Development Standard will not affect compliance with this objective.
(c) to require the bulk and scale of future buildings to have regard to heritage sites and their settings	The bulk and scale of building has had regard to the heritage items and remains as previously approved. The variation of the Development Standard will not affect compliance with this objective.
(d) to reinforce and respect the existing character and scale of low density residential areas	It is noted that the closest low density residential area is some distance to the south of the site across the rail corridor. Accordingly, the proposed development will have no impact on the character of this area.

The applicant also contends that as the maximum FSR under PLEP 2011 for the site was varied under DA/571/2014, that this standard has been abandoned and should not be imposed on the proposed development.

PCC assessment of the exception under clause 4.6:

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

1. Is the planning control a development standard?

Yes, Clause 4.4 – Floor Space Ratio is a development standard.

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

The objectives of Clause 4.4 of PLEP 2011 are to regulate development density and generation of vehicular and pedestrian traffic. FSR also ensures that there is an appropriate transition in built form and land use intensity. With regards to Lot 4, Clause 4.4 – FSR assures that the development is appropriate to the adjacent school whilst setting a desirable precedent for the redevelopment in Westmead.

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

Compliance with the development standard would be inconsistent with the Act which aims to provide planning controls that will encourage a sustainable development in Section 5 of the Act. Under the approved Masterplan, it was considered acceptable to depart from the maximum FSR for the site which supported an FSR of 4.37:1.

The current application seeks to subdivide Lot 4 into 2 smaller allotments, resulting in a further departure to the PLEP standard by an additional 24.8% (ie. FSR of 5.8:1) on Lot 401. The further non-compliance to the standard in this instance cannot be justified as there is insufficient design analysis to demonstrate an up-lift in bulk and scale is appropriate. In this regard, numerical requirements cannot be treated in isolation from design concept.

Further, the Masterplan established suitable building volumes on the site based around design concepts. The applicant has not in this case demonstrated rationale to depart further from the LEP and above the Masterplan without satisfactory testing of the bulk, scale and amenity impacts through a design analysis. This would seem contrary to planning practice and Council would suggest that it would be ad hoc to consider increasing FSR without such design analysis.

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

A departure to the approved FSR under the Masterplan and a further non-compliance against the LEP is considered to be unjustifiable as the proposed FSR of 5.8:1 being sought has not been adequately modeled to demonstrate that it would produce a building of quality design and appropriate scale in the context of the Masterplanned lots 1 - 5.

It is noted that the applicant has been requested to demonstrate suitable design outcomes. However this has not been demonstrated to Council's satisfaction. As Council is not satisfied that sufficient information has been received, there is insufficient reason to support the departure and the proposed variation to the FSR is in this circumstance unreasonable.

5. Is the exception well founded?

Council is concerned that the ultimate outcome of development on these sites will be poorly designed, timed and integrated which compromises the intent of the Masterplan and will therefore not be in the public interest.

Council contends that as the subdivision would create development potential on 2 lots as opposed to across a single lot (Lot 4) it must consider the potential outcomes of the development and not defer that consideration to subsequent development applications that may be lodged for lots 401 and 402. Similarly, it is not appropriate to co-ordinate development timing and outcome through conditions of consent as a means to overcome an inherent adverse impact of the proposal.

For the reasons set out above, the Clause 4.6 exception is not well founded.

PARRAMATTA DEVELOPMENT CONTROL PLAN 2011

There are no building works proposed under the subject application. Previous discussion under SEPP 65 and ADG assesses in detail the design requirements relevant to the subdivision of Lot 4 and the building envelope. These comments remain relevant to the following controls contained in PDCP 2011.

- Frontage
- Landscape and Deep Soil

- Building form and massing
- Building façade and articulation
- Streetscape
- Visual privacy
- Parking
- Special Precinct (in particular, the controls relating to subdivision, building form and massing, built form controls and open space).

As such, Council cannot support the application. The concerns raised with regards to compliance with the abovementioned development controls under PDCP 2011 will form part of the reasons for refusal.

PUBLIC CONSULTATION

LEP 2011

In accordance with Council's notification procedures that are contained in Appendix 5 of DCP 2011 owners and occupiers of surrounding properties were given notice of the application and advertised for a 21 day period between 16 December 2015 and 11 January 2016. In response no submissions were received.

Amended Plans submitted?

No

PARRAMATTA S94A DEVELOPMENT CONTRIBUTIONS PLAN 2008

The application is recommended for refusal. As such, the payment of Section 94A Contributions is not required.

BONDS

The application is recommended for refusal and therefore does not require the payment of bonds. Further, no building works are proposed.

EP&A REGULATION 2000

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

CONCLUSION

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

Given the uncertainty that would eventuate for development on future lots 401 and 402 for the reasons set out in this report, the proposal is not in the public interest.

Refusal

After consideration of the development against Section 79C of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, the proposal *is not* suitable for the site and *is not* in the public interest. Therefore, it is recommended that the application be *refused*.

RECOMMENDATION

Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979, that the Sydney West Joint Regional Planning Panel support the recommendation for **refusal** of DA/873/2015 for the following reasons:

1. Council has not received sufficient information to allow an assessment of the proposed subdivision and building envelopes on Lot 401 and Lot 402.
2. Without a satisfactory design analysis to support the proposed subdivision and division of building envelopes, the quality of future development on Lot 401 and 402 is uncertain.
3. As insufficient information has been received, the proposal fails to satisfy the design principles of SEPP 65 namely, context, built form and scale, landscape, amenity, social dimension and aesthetics. In addition, Council's Urban Designer objects to the proposal and does not consider the subdivision to be satisfactory.
4. The applicant has failed to demonstrate that the division of the building envelope on Lot 4 will achieve the objectives and comply with the design controls pursuant to the Apartment Design Guidelines, in particular, the provision of appropriate building separation, solar access, communal open space, private open space and communal open space.
5. The FSR for Lot 401 results in departures to the approved FSR under the Masterplan and further encroaches on the maximum standard under PLEP 2011. The applicant has not in this case demonstrated rationale to depart further from the LEP and above the Masterplan without satisfactory testing the bulk, scale and amenity impacts through a design analysis. As such, the Clause 4.6 variation submitted by the applicant is unacceptable and unsupportable.
6. Due to lack of design analysis, it is not certain that the proposal on the future lots will comply with the objectives and controls within PDGP 2011 relating to minimum subdivision size, frontage, landscape and deep soil, building form and massing, building façade and articulation, streetscape, visual privacy, solar access, parking and special precincts.
7. The proposal to subdivide Lot 4 into 2 smaller allotments is inconsistent with the urban design objectives and intent of the Masterplan that were approved under DA/571/2014 and is therefore not in the public interest.
8. As the development fails to comply with SEPP 65, ADG and Clause 4.4 – FSR of PLEP 2011, the development fails to achieve the objectives of the B4 Mixed Use Zone. In particular it does not contribute to an active, vibrant and sustainable neighbourhood within the Westmead strategic precinct.

