

AMENDED STATEMENT OF ENVIRONMENTAL EFFECTS

44-48 Oxford Street, Epping

Amended development application for a proposed mixed use development, involving:

- Demolition of all existing structures;
- Site preparation and bulk excavation works;
- Construction of 2 buildings over 4 basement levels, for shop-top housing and commercial premises, including:
 - Ground and first floor levels non-residential floor area;
 - 178 residential apartments;
 - Parking for 222 cars, 207 bicycles, 17 motorcycles; and
 - Roof top terraces and ground level communal open space with “Hidden Forest”.

For:

Pirasta Pty Ltd

Submitted to:

City of Parramatta Council

Date:

November 2017

2017.0027

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1. INTRODUCTION

This report constitutes an Amended Statement of Environmental Effects (Amended SEE) accompanying an Amended Development Application (Amended DA) for a proposed mixed use development involving:

- Demolition of all existing structures;
- Site preparation and bulk excavation works;
- Construction of 2 buildings over 4 basement levels, for shop-top housing and commercial premises, including:
 - Ground and first floor levels non-residential floor area in Building A, and ground floor non-residential floor area in Building B;
 - 178 residential apartments;
 - Parking for 222 cars, 207 bicycles, 17 motorcycles; and
 - Roof top terraces and ground level communal open space with “Hidden Forest”.

This SEE report is submitted to:

City of Parramatta Council

Address of land affected:

44-48 Oxford Street, Epping

This Amended SEE has been prepared on behalf of the applicant Pirasta Pty Ltd by Higgins Planning (HP) in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the *Environmental Planning and Assessment Regulation 2000* (EP&A Reg.).

This Amended SEE provides:

- An updated description of the amended development application and list of changes in response to the City of Parramatta Design Excellence Advisory Panel meeting minutes dated 28 July 2016;
- An assessment of the amended proposed development against the relevant environmental planning considerations under Section 79C of the EP&A Act including compliance with relevant planning instruments and controls, environmental impacts, site suitability and the public interest;
- Conclusions on the environmental planning assessment and merits of the amended proposed development on which the application can be supported by Council and granted consent.

1.1 BACKGROUND

1.1.1 Design Excellence Panel Meeting held on 28 July 2016

On 28 July 2016, the applicant and the applicant's design team met with Council's Design Excellence Advisory Panel (DEAP) to discuss the proposed redevelopment of the site, based on the drawings submitted with the original Development Application (Original DA). A copy of the DEAP meeting minutes can be found in **Appendix A**.

Following this meeting, the applicant met with Council assessment staff, who also provided feedback in relation to a number of "town planning" considerations in addition to the matters raised by the DEAP.

1.1.2 Design Excellence Panel Meeting held on 9 November 2017

On 9 November 2017, the DEAP considered amended architectural drawings as submitted to Council (copy contained in **Appendix B** of this Amended SEE). In addition, the architects from Nettleton Tribe (NT) prepared a Design Excellence Response dated 3 November 2017 to respond to each of the matters raised in the a number in the DEAP minutes, which can be found in **Appendix C**. Further, NT prepared a Design Report (refer to **Appendix D**) and a Registered Architect's Design Verification Statement under State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and Apartment Design Guide Parts 3 and 4 Assessment Report dated 3 November 2017 (refer to **Appendix E**). In addition to the amended architectural drawings prepared so too the applicant's landscape architects updated the landscape architectural design concept as contained in **Appendix G**.

The amended drawings and information contained in Appendices B, C, D, E and G, were generally well received by the DEAP with **Table 1** below providing a summary of feedback provided to the design team during the meeting:

Table 1: Summary of DEAP feedback and applicant responses

DEAP matter raised during 9 November 2017 meeting	Applicant Response
Architectural matters: <ul style="list-style-type: none"> <i>Provide 1.2m deep soil for entire hidden forest. We need to either review location of forest or increase depth of car park to accommodate. (This will require increase ramp length). We will review and advise impacts.</i> 	<p>The architectural and landscape designs have been amended to provide for 1.2 metres of deep soil for the hidden forest. Refer to Appendices C and G.</p>
<ul style="list-style-type: none"> <i>Provide more articulation to the blank walls on the southern and Northern side. Review panel breakup/texture on elevation.</i> 	<p>The matter can be addressed by the applicant, however due to the limited amount of time to provide this Amended DA package inclusive of this Amened SEE report, the applicant respectfully requests Council prepare of a reasonable draft condition for the consideration of the District Panel</p>

DEAP matter raised during 9 November 2017 meeting		Applicant Response
		to impose on any development consent issued to address this DEAP matter.
<ul style="list-style-type: none"> <i>Recommend using filler to exposed edges to precast "nawkaw", to ensure materials finished surface presents well.</i> 		<p>The matter can be addressed by the applicant, however due to the limited amount of time to provide this Amended DA package inclusive of this Amened SEE report, the applicant respectfully requests Council prepare of a reasonable draft condition for the consideration of the District Panel to impose on any development consent issued to address this DEAP matter.</p>
<ul style="list-style-type: none"> <i>Review landscaping to side of driveway and extent of battens to improve interaction with adjacent plaza.</i> 		<p>Refer to the amended landscape concept design in Appendix G.</p> <p>The matter can be addressed by the applicant, however due to the limited amount of time to provide this Amended DA package inclusive of this Amened SEE report, the applicant respectfully requests Council prepare of a reasonable draft condition for the consideration of the District Panel to impose on any development consent issued to address this DEAP matter.</p>
<ul style="list-style-type: none"> <i>Add circular column at the northwest balcony.</i> 		<p>The applicant has considered the request carefully, however cannot support this matter raised by the DEAP, as the structural design of the building would require a redesign and the inclusion of a column will block the outlook from each of the living areas.</p>
<ul style="list-style-type: none"> <i>Provide 1:20 detail sections (recommend 3) for the balcony, curtainwall and precast interface. Need to show all services are concealed from public view.</i> 		<p>Please see section detail sketch prepared by NT.</p>
<ul style="list-style-type: none"> <i>Accessible W.C and Kitchenette to be shown to the communal roof terrace.</i> 		<p>The matter can be addressed by the applicant, however due to the limited amount of time to provide this Amended DA package inclusive of this Amened SEE report, the applicant respectfully requests Council prepare of a reasonable draft condition for the consideration of the District Panel to impose on any development consent issued to address this DEAP matter.</p>

DEAP matter raised during 9 November 2017 meeting Applicant Response

<ul style="list-style-type: none"> <i>Mr Caro questioned the use of the ground floor open space for residential communal space, if this is open to the public.</i> 	<p>The applicant wishes to advise that the publicly accessible open space inclusive of the hard paved areas and soft landscaping (and "Hidden Forest") on the ground floor level will be openly available to any member of the public but only during daylight hours and will maintained and controlled by the future for managing safety and security when completed and operational. Security measures will include the use of time operated gates and CCTV by the overall site management. Casual surveillance will also be available from the non-residential floor space which have outlooks to this area and the line of sight from Oxford Street, along with the movement of pedestrians to Building B.</p> <p>The proposal includes 2,100 square metres of communal open space, which is 54% of the site area, of which 320 square metres (or 8%) is "deep soil", which complies with the Apartment Design Guide (ADG). Refer to the assessment of the amended design against the Apartment Design Guide Parts 3 and 4 Assessment contained in Appendix E.</p>
<p>Landscape matters:</p> <ul style="list-style-type: none"> <i>DEAP seek retention of all Maleuca trees within Oxford Street.</i> 	<p>The existing trees and proposed to be retained and protected. Please refer to the amended landscape concept plans in Appendix G and the amended alignment plans in Appendix I.</p>
<ul style="list-style-type: none"> <i>Provide 1.2m deep soil for entire hidden forest.</i> 	<p>The architectural and landscape designs have been amended to provide for 1.2 metres of deep soil for the hidden forest. Refer to Appendices C and G.</p>
<ul style="list-style-type: none"> <i>The hidden forest needs to be more densely planted as per the precedent image.</i> 	<p>Please refer to the amended landscape concept plans in Appendix G.</p>
<ul style="list-style-type: none"> <i>Council noted concerns with the "Alignment drawing" and that these needed to be resolved ASAP.</i> 	<p>Please refer to the updated alignment drawing contained in Appendix I.</p>

DEAP matter raised during 9 November 2017 meeting		Applicant Response
<ul style="list-style-type: none"> <i>The paving interface between tower A lobby and hidden forest is not ideal. Needs to be blended more seamlessly between the two.</i> 		Please refer to the amended landscape concept plans in Appendix G
<ul style="list-style-type: none"> <i>The connections between the hidden forest and the adjacent public plaza is poor. A good opportunity to create a link (could be visual or literal) between the two spaces would be a good public benefit. Needs a good design resolution.</i> 		Please refer to the amended landscape concept plans in Appendix G .
<ul style="list-style-type: none"> <i>Delete the decking to the deep soil zone at the rear and increase the amount of large trees in the deep soil zone.</i> 		The decking has been reduced and addition plantings included. Please refer to the amended landscape concept plans in Appendix G
<ul style="list-style-type: none"> <i>Questioned the timber screen. This could be better utilised to become more organic and moulded to create seating elements. They also thought the gaps between the battens could be more varied.</i> 		<p>The level of detail in eth landscape concept plan can be elaborated on with the detailed landscape drawings as part of the construction certificate stage.</p> <p>The applicant respectfully requests Council prepare a reasonable draft condition for the consideration of the District Panel to impose on any development consent issued to address this DEAP matter.</p>

The preparation of this Amended SEE for the Amended DA, has taken into consideration the feedback from Council provided from both of the above meetings, to work towards a suitable amended design, and Council's assessment staff in relating to town planning concerns, and as such this Amended SEE is accompanied by:

- A Peer Review: Statement of Environmental Effects to gain a second opinion of the significance of the heritage item listed under the Hornsby Local Environmental Plan at 48 Oxford Street, refer to **Appendix J**; and
- A second valuation of the property at 48A Oxford Street, with subsequent details in a chronology of negotiations with the Owners Corporation of the Strata Plan at 48A Oxford Street, refer to **Appendix K**.

This Amended SEE report presents details of the information in **Appendices J and K** and an assessment in Section 3.

1.2 REPORT STRUCTURE

This Amended SEE report is the applicant's response to the matters raised by the DEAP, the District Panel and Council assessment staff.

This Amended SEE is to be read in conjunction with the original Statement of Environmental Effects submitted with the DA, has been prepared to assist Council to understand the nature of the design changes, assessed only the elements of the design changes within the Amended architectural drawings included in **Appendix B**, and provide amended supporting documentation, and includes:

- Part 1 – Introduction and Background;
- Part 2 – Description of the Amended Proposed Development;
- Part 3 – Assessment against the applicable Commonwealth, State and local planning controls; and
- Part 4 – Conclusion.

1.3 APPLICANT'S CONSULTING REPORTS AND DRAWINGS

This Amended SEE report and DA is supported by a number of updated reports/investigations, amended drawings and amended assessments undertaken by the applicant's team of consulting specialists who have prepared information which forms the appendices to this Amended SEE report. **Table 2** summarises the documents referenced in each appendix and the associated responsible author:

Table 2: Specialists Documents and Appendix References

Appendix Reference	Document	Responsible Author
Appendix A	Design Excellence Panel Meeting 28 July 2016	City of Parramatta Council
Appendix B	Design Excellence Response Report	Nettleton Tribe Architects
Appendix C	Amended Architectural Drawings	Nettleton Tribe Architects
Appendix D	Architectural Design Report	Nettleton Tribe Architects
Appendix E	Registered Architect's Design Verification Statement under State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and Apartment Design Guide Parts 3 and 4 Assessment	Nettleton Tribe Architects
Appendix F	Amended Traffic Report	Varga Traffic Planning
Appendix G	Amended Concept Landscape Architectural Drawings	Taylor Brammer
Appendix H	Amended Stormwater Management Concept Design Report	Partridge Hydraulic Services
Appendix I	Amended Street Alignment Plan	Partridge Hydraulic Services
Appendix J	Peer Review: Statement of Heritage Impact Assessment Report	Weir Phillips Heritage
Appendix K	Second Valuation Report and Chronology of events associated with 48A Oxford Street	LandMark White and Sincorp
Appendix L	Amended Clause 4.6 Variation request to Clause 4.3 of the Height of Building Mapping under Hornsby Local Environmental Plan 2013	Higgins Planning
Appendix M	Amended BASIX Certificate and stamped plans	BSA

2. DESCRIPTION OF THE AMENDED DEVELOPMENT APPLICATION

2.1 OVERVIEW OF AMENDED PROPOSAL

This Amended DA for a proposed mixed use development involves:

- Demolition of all existing structures;
- Site preparation and bulk excavation works;
- Construction of 2 buildings over 4 basement levels, for shop-top housing and commercial premises, including:
 - Ground and first floor levels non-residential floor area;
 - 178 residential apartments;
 - Parking for 222 cars, 207 bicycles, 17 motorcycles; and
 - Roof top terraces and ground level communal open space with “Hidden Forest”.

The amended design as detailed in the architectural drawings is included in **Appendix C**.

2.2 SUMMARY OF PROPOSED CHANGES

Table 3 below providing a summary of the Original DA development statistics compared to the Amended DA:

Table 3: Comparison Summary of Original DA and Amended DA Development Statistics

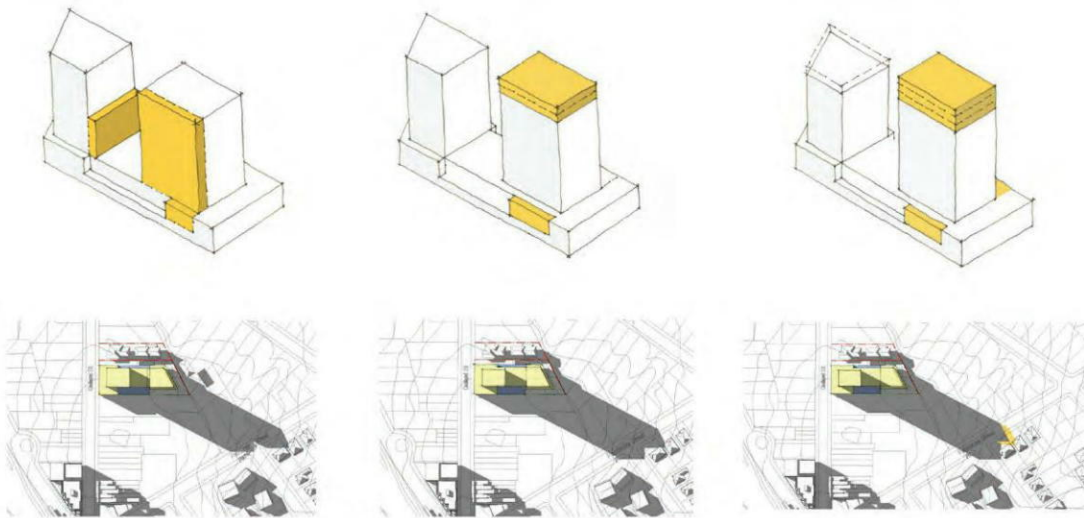
	Original DA	Amended DA
Non-residential Gross Floor Area (GFA)	1,683.3 square metres	1,601 square metres
Residential GFA	14,946.3 square metres	15,252 square metres
Total GFA	16,629.6 square metres	16,853 square metres
FSR	4.29:1	4.35:1
Studios Apartments	34 or 17 %	21 or 11.8%
1 bedroom Apartments	99 or 49%	71 or 39.9%
2 bedroom Apartments	54 or 27%	65 or 36.5%
3 bedroom Apartments	13 or 7%	21 or 11.8%
Total number of apartments	200	178

	Original DA	Amended DA
Residential car parking spaces	185	167
Visitor car parking spaces	20	18
Non-residential car parking spaces	28	37
Total car parking spaces	233	222
Motorcycle parking spaces		17
Commercial bicycle spaces	6	4
Residential bicycle spaces	40	178
Visitor bicycle spaces	20	25
Total bicycle spaces	60	207
Building A Height	57.45 metres	RL 164.205 or 62.2 metres
Building B Height	49.9 metres	RL 152.700 or 51.12 metres
Number of levels – Building A	17 plus roof terrace	18 plus roof terrace
Number of levels – Building B	15 plus roof terrace	16 plus roof terrace
Cross-ventilation	60%	66.6%
Solar Access	81%	80%
Adaptable apartments	10.5%	15%
Single Aspect / South Apartments		Less than 15%
Deep Soil	315 square metres	320 square metres
Communal Open Space	1,997 square metres	2,100 square metres

2.3 DESIGN EXCELLENCE RESPONSE AND ARCHITECTURAL DESIGN REPORTS

The design process has included inputs from the technical experts at GMU Urban Design and the inclusion of the original principles outlines in the Urban Design Report submitted with the original Statement of Environmental Effects regarding bulk, scale and massing, ADG considerations and heritage considerations. The GMU report advised in part:

The non-compliances with the height control are the result of an alternative approach to achieve a better design outcome, as demonstrated by the preferred option in the figure below. The preferred option was agreed by the design team, Council and the Design Excellence Panel's urban designers.



The alternative approach transfers floor space from the northern side of Tower A and the lower levels of the eastern side of Tower B and places the volume on top of Tower A. This alternative scheme has the following advantages:

- *Greater separation distance between Towers A and B, which contributes to improved privacy and solar penetration for the residential units the site and on surrounding sites;*
- *A slimmer and more elegant profile for Tower A, owing to the changes in proportion of the tower form;*
- *Stronger street presence for Tower A as the height increases;*
- *More interesting urban form by having two towers of different heights;*
- *Better transition to the adjoining site to the east from Tower A;*
- *Greater area at the podium level available for communal open space;*
- *Increase amenity as the added separation for Tower A allows the provision of active habitable windows to Tower A's north eastern elevation;*

The non-compliance in height for Tower B is isolated to the provision of lift access to the roof top communal open space, which adds important amenity for future residents by providing a landscaped area, BBQ facility, seating areas and panoramic views. Therefore, the additional height is justifiable and the extent of protrusion is only minor (less than 5%).

Building on these principles and following the feedback from the city architect, Council planning staff and the DEAP, NT have redesigned the buildings. NT have prepared a point by point response to the matters raised by the DEAP which includes a comparison of the original DA design with the amended DA design in the Design Excellence Response Report dated 3 November 2017 included at **Appendix B**. This can be generally summarised as including the following amendments:

- Oxford Street podium level lowered to match the approved podium level of the building to the south;
- Introduction of additional podium façade articulation to the Oxford Street frontage to demonstrate the rhythm of articulation in the existing character;
- Extend the podium at the ground floor to provide for improvement internal amenity;
- Include new areas for “greening” on the podium level to soften its presentation along edges;
- Ground level communal open space which allows for public access, including “Hidden Forest” with deep soil zone, with inclusion of “wayfinding” elements in the landscape concept. Access to this space is activated by the inclusion of ground floor commercial premises floor spaces around its perimeter.
- Repositioning of the driveway access from the northern boundary to adjacent to the approved driveway at the southern boundary, so as the existing pedestrian crossing is not impacted;
- Commercial premises / non-residential ground floor level of Building B with line of sight view from Oxford Street;
- Minimise south facing apartments with orientation of windows and balconies away from southern façade, with use of “eye-lid” windows;
- Inclusion of additional façade articulation to north, east and western facades and setbacks;
- Separation distances between each building provide for privacy protection and to maintain 2 hours solar access to approved building to the south;
- Studios replaces along level 1 to Oxford Street with commercial premises gross floor area in Building A, and level 1 extends over the driveway access to create a continuous podium activated wall frontage to Oxford Street;
- Deletion of the “supermarket” floor space and removal of podium levels 1 and 2 between buildings A and B; and
- Retention of the existing street trees and inclusion of similar thematic plantings within the publicly accessible communal open space;
- Increasing the amount of communal open space and provision of private courtyards to the rear apartments to improve connections to private open space; and
- Provision of 66.6% naturally cross-ventilated apartment (being an increase from 35% naturally cross-ventilated in the original design.

2.3.1 Built Form, Finishes and Materials

Annotations are included on the elevation drawings in **Appendix C**, which detail the proposed finishes and materials and these are cross-referenced to the “materiality” at pages 12 and 13 of the Design Report in **Appendix D**. The design philosophy for the façade elements, their relationship to each other in the façade configuration and the distinguishing components are also detailed in the Architectural Design report. The Architectural Design Report demonstrates that the amended design will complement its context and is consistent with the desired future character envisaged in this location.

2.4 DEMOLITION OF EXISTING STRUCTURES

The demolition of existing site structures will be carried out in accordance with Australian Standard AS 2601 – 2001 The Demolition of Structures. As the project is yet to go to tender, a builder has not been appointed. Therefore, a detailed demolition and construction management plan can be included with a Construction Certificate upon a builder having been appointed to the project.

2.5 BUILDING HEIGHT AND SITE TOPOGRAPHY

The site topography has a 2 metres cross-fall towards its rear boundary from its frontage to Oxford Street.

The overall maximum RL of amended building A to the top of the lift overrun is RL164.205. This lift services the roof terrace area and provide access to the plant room. This when compared to the existing natural ground level immediately below is some 62.2 metres. Building A includes 18 levels plus a roof top terrace, with a minimum of 3.1 metres floor to floor over each residential level.

The overall maximum RL of amended building B to the top of the lift overrun is RL152.700. This lift services the roof terrace area and provide access to the plant room. This when compared to the existing natural ground level immediately below is some 51.12 metres. Building B includes 15 levels plus a roof top terrace, with a minimum of 3.1 metres floor to floor over each residential level.

It is noted that the approved buildings to the immediate south, at 30-42 Oxford Street have RLs to the top of the lift overruns for Tower A RL156.97 being a 17 level building with no roof terrace, and Tower B RL155.05 being a 19 level building with no roof terrace. These buildings have a minimum of 3.0 metres floor to floor over each residential level. Tower A has been assessed as having a maximum overall height of 53.22m in the recently approved Section 96.

An assessment against Clause 4.3 of the Hornsby Local Environmental Plan 2013 is detailed in Section 3.3.1 of this Amended SEE report.

2.6 VEGETATION AND LANDSCAPING

The existing street trees are proposed to be retained and protected. The applicant is will to accept reasonable conditions of consent for retention and protection.

2.7 LANDSCAPE CONCEPT AND PUBLIC DOMAIN IMPROVEMENTS

An amended landscape concept plans are included in **Appendix G**. As shown on the landscape plan the proposed development involves the inclusion of landscaping on the ground level as a publicly accessible private open space area with deep soil zone for the “Hidden Forest”. The applicant requests that the comments provided by the DEAP at the meeting held on 9 November 2017 be considered for imposition on any development consent granted.

The public domain areas around the subject site can be landscaped in accordance with Council’s requirements and specifications, which may form part of reasonable conditions imposed in a Notice of Determination.

2.8 STORMWATER MANAGEMENT

The amended design includes a stormwater management concept design report which demonstrates the proposal can connect to Council's system with improvements compared to the current site development with the provision of on-site detention with a gross pollutant trap, in accordance with Council's requirements.

As such, the proposed development can manage its stormwater discharge appropriately. Refer to the stormwater management concept design report at **Appendix H**.

2.9 TRAFFIC, ACCESS AND PARKING

2.9.1 Pedestrian and disabled access

Pedestrian access to the Oxford Street frontage of the site and into both Building A and Building B has been improved with the amended design. Please see the Amended Street Alignment Plan included in **Appendix I**.

2.9.2 Vehicle access

The proposal includes vehicle access to the on-site car parking via a driveway which has been relocated in the amended design to adjacent to the site's southern boundary so as the existing pedestrian crossing in Oxford Street will not be impacted. Please refer to the amended traffic report included in **Appendix F**.

2.9.3 Car parking

As described previously, the proposed development includes four basement levels of parking as shown in the architectural drawings, refer to **Appendix C**. Car parking numbers, design and layouts in each basement level, inclusive of accessible parking, motor cycle parking and bicycle parking have been provided in accordance with the rates required in the Hornsby Development Control Plan and the Australian Standard. Please refer to the amended traffic report included in **Appendix F**.

2.10 SITE MANAGEMENT

The development will be subject to a strata and stratum subdivision, which will form part of a future application. The future stratum subdivision will likely result in the residential components being separate from the non-residential component. The stratum subdivision will require a building management statement to specify responsibilities for building management and maintenance. Then the residential apartment buildings will be subject to a separate strata subdivision plan.

2.10.1 Security and access control

The proposed development will be fitted with access controls including secure doors with key access at pedestrian and disabled access points, and vehicle car lift driveway roller door and bin access points. It should be noted that the ground level Hidden Forest and associated communal open space area will be available to members of the public during the hours of operation associated with the commercial premises with outlooks onto this space. The specific usage of the commercial premises spaces on the ground floor level of Buildings A and B are not known at this time.

3. ENVIRONMENTAL ASSESSMENT

3.1 COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT

The application does not trigger a controlled action under the Commonwealth Environment Protection and Biodiversity Conservation Act (EPBC Act).

3.2 NSW ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (EP&A ACT)

The following section of this SEE report provides an assessment against the relevant provisions of the EP&A Act:

3.2.1 Section 23G of the EP&A Act - Joint Regional Planning Panels

Pursuant to Section 23G of the EP&A Act, the Minister by Order as published, constituted the Joint Regional Planning Panels (JRPP)/District Panels to determine any DA with a Capital Investment Value (CIV) greater than \$20 million on land within the local government area of City of Parramatta Council. The proposed development involves works with a value greater than \$20 million. Refer to the QS report submitted with the original DA. Therefore the proposal has a CIV of greater than \$20 million, and does trigger the determining authority as the JRPP/District Panel, rather than Council as the determining authority.

3.2.2 Sections 23I and 23J of the EP&A Act – local planning panels

Recent changes to the EP&A Act in late September 2017, require independent hearing and assessment panels (IHAPs) to become mandatory for Councils in the Greater Sydney Region and for Wollongong City Council from 1 March 2018 and the “make up” of panel members on these IHAPs to follow the new legislative requirements. The purpose of these IHAPs will be to determine a DA of the following types and criteria:

- Development applications with a value of over \$5 million (but less than \$30 million, as these will be determined by regional planning panels)
- Development applications for which the applicant or owner is the council, a councillor, a member of the councillor’s family, a member of council staff, or a state or federal member of parliament
- Development applications that receive 10 or more objections from difference households
- Development applications accompanied by a voluntary planning agreement
- Development applications seeking to depart by more than 10% from a development standard
- Applications for development that is associated with a higher risk of corruption:
 - Residential flat buildings assessed under SEPP 65;

- Demolition of heritage items;
- Licensed premises of public entertainment and sex industry premises;
- Designated development, as set out in the EP&A Regs; and
- Modification applications that meet the above criteria.

The District Panel threshold discussed at 3.2.1 above, will also be raised to \$30 million, which will make no difference to the determining authority under Section 23G of the EP&A Act as discussed above.

3.2.3 Section 79B of the EP&A Act - Concurrence

Pursuant to Section 79B of the EP&A Act, a number of concurrences are triggered under *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP). The proposed development does not trigger a concurrence. The proposed development requires a referral under the provisions of the Infrastructure SEPP to Ausgrid and the RMS, which are addressed at 3.3.2 of this report.

3.2.4 Section 79C of the EP&A Act - Evaluation

This section of the SEE provides an assessment of the relevant environmental planning issues associated with the proposed development in accordance with Section 79C(1) of the EP&A Act, which states:

“79C(1) Matters for consideration – general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

(i) any environmental planning instrument, and

(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and

(iii) any development control plan, and

(iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),

that apply to the land to which the development application relates,

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) the suitability of the site for the development,*
- (d) any submissions made in accordance with this Act or the regulations,*
- (e) the public interest.”*

3.3 SECTION 79C(1)(A)(I) – ENVIRONMENTAL PLANNING INSTRUMENTS

The following environmental planning instruments have been considered in the assessment and preparation of this application:

- *Hornsby Local Environmental Plan 2013 (HLEP);*
- *State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55);*
- *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65);*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX);*
- *State Environmental Planning Policy (Infrastructure) 2007; and*

3.3.1 Hornsby Local Environmental Plan 2013

The main environmental planning instrument applying to the amended DA is the Hornsby Local Environmental Plan 2013 (HLEP). The following sections undertake an assessment of the proposal against the relevant provisions of the HLEP.

3.3.1.1 Clause 2.1 – Land use zones

The subject site on which the proposed building is to be located is zoned B2 Local Centre under the HLEP Land Zoning Map. This is unchanged compared to the original Statement of Environmental Effects (Original SEE) report.

3.3.1.2 Land use table

The **Land use table** of the HLEP 2013 states as follows in relation to the B2 Local Centre zone:

Zone B2 Local Centre

1 Objectives of zone

- *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.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*

2 Permitted without consent

Environmental protection works

3 Permitted with consent

Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Group homes; Hostels; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Service stations; Shop top housing; Tourist and visitor accommodation; Water reticulation systems; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home businesses; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Research stations; Residential accommodation; Resource recovery facilities; Rural industries; Sewage treatment plants; Sex services premises; Storage premises; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures; Water supply systems; Wharf or boating facilities; Wholesale supplies

The proposed building could be described as ground floor level “commercial premises”, given the definitions in the Dictionary of the HLEP, where the design of the building includes a ground floor level which is only capable of being used for a non-residential purpose such as a “retail premises” or “business premises” both being types of development under the “commercial premises” definition, and the levels of the building above the ground floor level of Buildings A and B are proposed to be used for dwellings in the form of a “shop top housing” (which is also permitted within the zone).

The design includes 3 apartments on the ground floor level of Building B. As detailed in the original SEE report, the provisions of Clause 5.3 of the HLEP “Development Near Zone Boundaries” can continue to be applied to the amended design, as the building is located within 20m of the zone boundary to the immediate east of the site, which is zoned R4 High Density Residential in which apartment buildings are permitted. The location of these apartments is unchanged in the amended design. Therefore, there is no need to undertake any new assessment work in this Amended SEE as the information contained within the original SEE report is unchanged in relation to permissibility and the application of Clause 5.3 of the HLEP. The amended DA is considered to remain consistent with the zone objectives of both the B2 and R4 zones.

3.3.1.3 Clause 4.3 Height of buildings

Clause 4.3 of the HLEP applies to buildings proposed in the B2 Local Centre zone where the Height of Building mapping. The provisions of Clause 4.3 apply and the designation for the portion of subject site under the height of building map is X = 48 metres.

As discussed previously, the overall maximum height of amended building A to the top of the lift overrun is 62.2 metres when compared to the existing natural ground level immediately below. This lift services the roof terrace area and provide access to the plant room. Building A includes 18 levels plus a roof top terrace, with a minimum of 3.1 metres floor to floor over each residential level.

As discussed previously, the overall maximum height of amended building B to the top of the lift overrun is 51.12 metres when compared to the existing natural ground level immediately below. This lift services the roof terrace area and provide access to the plant room. Building B includes 18 levels plus a roof top terrace, with a minimum of 3.1 metres floor to floor over each residential level.

Therefore, a variation to the HLEP Height of Buildings mapping control has been prepared under the provisions of Clause 4.6 of the HLEP, and it is requested on this basis the HLEP height of buildings control be varied in the circumstances of this case.

The formal Clause 4.6 request at **Appendix L** to vary the height of buildings map standard for the amended DA, demonstrates that in the circumstances of this case the strict application of the standard is unreasonable and unnecessary and will not result in a departure from the standard which is not in the public benefit, but rather is consistent with the stated and intended outcomes and objectives sought by the HLEP for the development of land such as the subject site.

3.3.1.4 Clause 4.4 Floor space ratio

Clause 4.4 of the HLEP applies to buildings proposed in the B2 Local Centre zone and the designation for the site under the Floor Space Ratio (FSR) mapping is $Y = 4.5:1$.

The proposal includes both non-residential gross floor area and residential gross floor area which equates to a FSR of 4.35:1, which complies with the maximum permitted under Clause 4.4 of the HLEP.

3.3.1.5 Clause 4.6 Exceptions to development standards

Clause 4.6 of the HLEP applies to buildings proposed in the B2 Local Centre zone, which states:

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

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

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Director-General has been obtained.*
- (5) *In deciding whether to grant concurrence, the Director-General must consider:*
 - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
 - (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

Note. *When this Plan was made it did not include all of these zones.*
- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*
 - (a) *a development standard for complying development,*
 - (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated, and*
 - (c) *clause 5.4.*

The amended DA is accompanied by an amended Clause 4.6 variation request.

The amended design seeks a variation to Clause 4.3 Height of buildings under the HLEP via Clause 4.6 of the HLEP. Justifications for this variation are outlined in the letter included at **Appendix L** of this report.

3.3.1.6 Clause 5.6 Architectural Roof Features

The provisions of Clause 5.6 apply to the proposal:

5.6 Architectural Roof features –

(1) The objectives of this clause are as follows:

- (a) to ensure that architectural roof features to which this clause applies are decorative elements only,*
- (b) to ensure that the majority of the roof features are contained within the prescribed building heights.*

(2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.

(3) Development consent must not be granted to any such development unless the consent authority is satisfied that:

(a) the architectural roof feature:

- (i) comprises a decorative element on the uppermost portion of a building, and*
- (ii) is not an advertising structure, and*
- (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and*
- (iv) will cause minimal overshadowing, and*

(b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof

The proposal seeks to provide access to the roof top terrace areas on each building, which has been suitably designed and finished to allow for access to the roof top communal open spaces consistent with Clause 5.6.

3.3.1.7 Clause 5.9 Preservation of trees or vegetation

The provisions of Clause 5.9 of the HLEP have been considered in the preparation of this Amended DA:

5.9 Preservation of trees or vegetation

(1) The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.

(2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.

Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.

(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:

(a) development consent, or

(b) a permit granted by the Council.

(4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.

(5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.

(6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.

(7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:

(a) that is or forms part of a heritage item or that is within a heritage conservation area, or

(b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance,

unless the Council is satisfied that the proposed activity:

(c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and

(d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

Note. As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.

(8) This clause does not apply to or in respect of:

(a) the clearing of native vegetation:

(i) that is authorised by a development consent or property vegetation plan under the Native Vegetation Act 2003, or

(ii) that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or

(b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the Native Vegetation Act 2003) that is authorised by a development consent under the provisions of the Native Vegetation Conservation Act 1997 as continued in force by that clause, or

(c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the Forestry Act 1916, or

(d) action required or authorised to be done by or under the Electricity Supply Act 1995, the Roads Act 1993 or the Surveying and Spatial Information Act 2002, or

(e) plants declared to be noxious weeds under the Noxious Weeds Act 1993.

Note. Permissibility may be a matter that is determined by or under any of these Acts.

The existing street trees in Oxford Street are proposed to be retained in this Amended DA. The applicant is prepared to accept conditions for the retention and protection of these trees. As such, the proposed development is consistent with the provisions of Clause 5.9 of the HLEP.

3.3.1.8 Clause 5.10 Heritage conservation

The subject site is identified as including a heritage item under the HLEP at 48 Oxford Street. As such, the amended DA is the subject of the heritage provisions of Clause 5.10 of the HLEP, which states:

5.10 Heritage conservation

Note. *Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.*

(1) Objectives

The objectives of this clause are as follows:

(a) to conserve the environmental heritage of Ashfield,

(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,

(c) to conserve archaeological sites,

(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

(2) Requirement for consent

Development consent is required for any of the following:

(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):

- (i) a heritage item,*
- (ii) an Aboriginal object,*
- (iii) a building, work, relic or tree within a heritage conservation area,*

(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,

(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,

(d) disturbing or excavating an Aboriginal place of heritage significance,

(e) erecting a building on land:

- (i) on which a heritage item is located or that is within a heritage conservation area, or*
- (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*

(f) subdividing land:

- (i) on which a heritage item is located or that is within a heritage conservation area, or*
- (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.*

(3) When consent not required

However, development consent under this clause is not required if:

(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:

- (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and*
- (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or*

(b) the development is in a cemetery or burial ground and the proposed development:

- (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and*
- (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or*

(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or

(d) the development is exempt development.

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or*
- (b) on land that is within a heritage conservation area, or*
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),*

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) Heritage conservation management plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) Archaeological sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies):

- (a) notify the Heritage Council of its intention to grant consent, and*
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.*

(8) Aboriginal places of heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and*
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.*

(9) Demolition of nominated State heritage items

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:

- (a) notify the Heritage Council about the application, and*
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.*

(10) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and*
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.*

The original SEE report included a Statement of Heritage Impact assessment prepared by NBRS and Partners. The DEAP, District Panel and Council staff have raised concerns with the proposal seeking to demolish this heritage item based on the Statement of Heritage Impact assessment. As such, this Amended SEE includes a Peer Review Statement of Heritage Impact (SHI) and is included at **Appendix J**. The main objective of this report was to determine if the assessment previously provided to Council remains relevant and can be supported. The peer review has advised:

As indicated in Section 5.0 above, the proposed development would entail the demolition of a heritage item at No. 48 Oxford Street, Epping. The demolition of a heritage item which is statutorily protected is a delicate matter, and should only be permitted if the approval authority is satisfied that the place no longer has the potential to display the significance which has led to its listing, whether such significance is tangible or intangible.

The following sections of this report responds to the conclusions reached in the Statement of Heritage Impact prepared for the proposal by NBRS + Partners in 2016 and is based on the site investigations in Sections 2.0 and 3.0 of this report.

...

7.2 Response

Weir Phillips Heritage concurs with the conclusions made in the NBRS + Partners report for the demolition of No. 48 Oxford Street, Epping is an acceptable outcome. Our response is based on two aspects of the site in its present state: its setting with the wider context and its extant fabric.

7.2.1 Setting

The NBRS + Partners Report identifies No. 48 Oxford Street Epping is remnant example of late Victorian suburban development in the proximity to Epping Railway Station. The report recognises the Epping Town Centre has evolved since the construction of the former dwelling and that the town centre is continuing to evolve into a higher density development area.

Weir Phillips Heritage agrees that the retention of a low rise dwelling in a high rise commercial context is not a good heritage outcome and would further diminish any understanding of the original suburban setting. Retaining the former dwelling in this context would appear awkward and out of scale.

Weir Phillips Heritage also agrees that the existing setback of 14m from Oxford Street, further isolates the former dwelling from the surrounding streetscape which are mostly set to the boundary line. The setback makes integrating the item into the urban design context problematic as the consistency of the streetscape will be interrupted by a gap, with the only view corridors towards the former dwelling will be from directly in front of it.

7.2.1 Extant Fabric

The NBRS + Partners Report outlined a number of alterations and additions undertaken to the former dwelling as a conserved and adapted house, which has been largely reconstructed with replica materials. The images and analysis of the setting contained in Section 3.0 show signs of internal and external modification which date from the mid- twentieth century to the present day.

Weir Phillips Heritage agrees that the external modifications which form the basis of the site's listing on as a heritage item on the Hornsby LEP 2013, have altered the site to an extent where the original character of the late Victorian era former dwelling almost lost. Although the site continues to contain some aesthetically pleasing elements, both internally and externally the majority of these elements are reproductions and do present type of historic or research potential. The former dwelling has had its level of integrity severely reduced. The changes to the street presentation, in particular the front and side veranda, and reproduction roof tiling diminishes significance.

Given the demonstrably diminished significance of the property as a result of extensive modifications over time, Weir Phillips Heritage can support that the site as a whole is no longer of any meaningful heritage significance.

...

For these reasons, Weir Phillips Heritage is satisfied that the Statement of Heritage Impact produced by NBRS + Partners, which has made largely the same findings as those outlined in this report, has adequately assessed the potential heritage impact that would result of the proposed development. Weir Phillips Heritage can therefore support the proposed development and the resultant demolition of the heritage item at No. 48 Oxford Street, Epping.

As such, the application is considered to be satisfactory in relation to Clause 5.10 of the HLEP, in that it will not result in an unacceptable impact on the heritage significance of 48 Oxford Street, and the demolition of this item as part of the amended DA as proposed can be supported.

3.3.1.9 Clause 6.8 Design Excellence

The provisions of Clause 6.8 of the HELP applies to the amended DA as the height of buildings A and B exceed 29.6m.

The assessment undertaken as part of the original SEE report remains relevant to the amended DA design.

3.3.2 State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) aims to provide for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing. It assists the NSW Government, local councils and the communities they support by simplifying the process for providing infrastructure in areas such as education, hospitals, roads, railways, water and electricity. The ISEPP was created to support greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency.

3.3.2.1 Clause 45 Electricity Transmission Considerations

Clause 45 has been considered by the applicant in the preparation of this DA, which states:

45 Determination of development applications—other development

(1) This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following:

(a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,

(b) development carried out:

(i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or

(ii) immediately adjacent to an electricity substation, or

(iii) within 5m of an exposed overhead electricity power line,

(c) installation of a swimming pool any part of which is:

(i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or

(ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,

(d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.

(2) Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must:

(a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and

(b) take into consideration any response to the notice that is received within 21 days after the notice is given.

The applicant's architects they have advised they have liaised with a level 3 accredited energy consultant, who conducted an electrical demand assessment and indicated that the size and nature of the project requires the inclusion of a substation within the development. The design and specifications shown in the architectural drawings contained at **Appendix C** have been based on the requirements of Ausgrid.

3.3.2.2 Clause 101 – Development with frontage to classified road

Clause 101 of *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) specifies the following requirements for development with a frontage to a classified road as identified in the Roads and Maritime Services (RMS) *Schedule of Classified Roads and State & Regional Roads* ('the Schedule'). The subject site does not have a primary frontage to any identified classified road

Clause 101 of the ISEPP states as follows:

101 Development with frontage to classified road

(1) The objectives of this clause are:

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:

 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and**
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

It is noted that the subject site does not proposed any vehicular access from a classified road and therefore the proposed development satisfies subclause 2(a) above. As such, the proposed development is compliant with **Clause 101** of the ISEPP.

3.3.2.3 Clause 104 Traffic-generating development

Clause 104 of the ISEPP specifies the following requirements for development that falls within the criteria in Schedule 3, including “apartment or residential flat buildings with 75 or more dwellings” or shops/”commercial premises with a floor space area of 2,500 square metres” being a “size and capacity – site with access to a classified road or to a road that connects to a classified road (if access within 90m of connection, measured along alignment of connecting road)” as detailed in column 3 below:

Column 1	Column 2	Column 3
Purpose of Development <i>Note: The development may be the erection of new premises or the enlargement or extension of existing premises</i>	Size and capacity – site with access to any road	Size or capacity – site with access to a classified road or to a road that connects to a classified road (if access within 90m of connection, measured along alignment of connecting road)
Apartment or residential flat building	300 or more dwellings	75 or more dwellings
Commercial premises	10,000m ²	2,500m ²

Where Clause 104 states:

104 Traffic-generating development

- (1) This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:**
 - (a) new premises of the relevant size or capacity, or*
 - (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*
- (2) In this clause, "relevant size or capacity" means:**
 - (a) in relation to development on a site that has direct vehicular or pedestrian access to any road-the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or*
 - (b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection-the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.*
- (3) Before determining a development application for development to which this clause applies, the consent authority must:**
 - (a) give written notice of the application to the RTA within 7 days after the application is made, and*
 - (b) take into consideration:*
 - (i) any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*
 - (ii) the accessibility of the site concerned, including:*
 - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
 - (iii) any potential traffic safety, road congestion or parking implications of the development.*
- (4) The consent authority must give the RTA a copy of the determination of the application within 7 days after the determination is made.**

Clause 104 of the ISEPP 2007 specifies the following requirements for development that falls within the criteria in Schedule 3 of the SEPP including "shops" and "residential units":

- (3) Before determining a development application for development to which this clause applies, the consent authority must:**
 - (a) give written notice of the application to the RTA within 7 days after the application is made, and*
 - (b) take into consideration:*
 - (i) any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*
 - (ii) the accessibility of the site concerned, including:*
 - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*

(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and

(iii) any potential traffic safety, road congestion or parking implications of the development.

The proposed development seeks approval for 185 units over the ground floor non-residential floor which is some 1,606 square metres in area. Therefore, the proposed development is of a size or capacity to trigger the criteria of under Schedule 3 of the ISEPP.

Council as the consent authority may decide to notify and take into account any submission by the RMS on the DA in accordance with **Clause 104(3)** of the ISEPP.

An updated Transport, Traffic and Parking Impact Assessment prepared by Varga Traffic Consultants is included at **Appendix F**.

The proposed development will not result in an adverse impact to the efficiency of the classified roads, will not result in unsafe egress movements and will not result in unacceptable traffic and parking implications under the ISEPP. The number of car parking spaces on the site is sufficient for the proposed development in accordance with the car parking rates required by Council.

Council as the assessment authority is therefore required to notify or take into account any submission by the RMS in accordance with clause 104(3) of the ISEPP 2007. The accessibility of the site and potential traffic and parking implications of the amended design are addressed below in Section 4.9.7 of this SEE and in the Transport, Traffic, and Parking impact assessment report prepared by Varga Traffic included at **Appendix F** in satisfaction of clause 104(3)(b) of SEPP (Infrastructure) 2007.

3.3.3 State Environmental Planning Policy No 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) relates to the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed. The policy makes remediation permissible across the State, defines when consent is required, requires all remediation to comply with standards, ensures land is investigated if contamination is suspected and requires councils to be notified of all remediation proposals. The *Managing Land Contamination: Planning Guidelines* were prepared to assist councils and developers.

Clause 7 of SEPP 55 states as follows:

7 Contamination and remediation to be considered in determining development application

(1) A consent authority must not consent to the carrying out of any development on land unless:

(a) it has considered whether the land is contaminated, and

(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is:

(a) land that is within an investigation area,

(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,

(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:

(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and

(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

The information included with the original SEE report is unchanged with this Amended DA design, and consistent with SEPP 55.

3.3.4 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65) aims to improve the design quality of residential flat development in New South Wales and to provide sustainable housing in social and environmental terms that is a long-term asset to the community and presents a better built form within the streetscape.

It also aims to better provide for a range of residents, provide safety, amenity and satisfy ecologically sustainable development principles. In order to satisfy these aims the plan sets design principles in relation to context, built form and scale, density, sustainability, landscaping, amenity, safety, housing diversity and social interaction and aesthetics to improve the design quality of residential flat building in the State.

SEPP 65 applies to new residential flat buildings, the substantial redevelopment/refurbishment of existing residential flat buildings and conversion of an existing building to a residential flat building.

Clause 3 of SEPP 65 defines a residential flat building as follows:

“Residential flat building means a building that comprises or includes:

- a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and*
- b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), but does not include a Class 1a building or a Class 1b building under the Building Code of Australia.”*

The provisions of SEPP 65 apply when Clause 4 is triggered by a development, when:

4 Application of Policy

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

(a) the development consists of any of the following:

- (i) the erection of a new building,*
- (ii) the substantial redevelopment or the substantial refurbishment of an existing building,*
- (iii) the conversion of an existing building, and*

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains at least 4 or more dwellings.

(2) If particular development comprises development to which subclause (1) applies and other development, this Policy applies to the part of the development that is development to which subclause (1) applies and does not apply to the other part.

(3) To remove doubt, this Policy does not apply to a building that is a class 1a or 1b building within the meaning of the Building Code of Australia.

(4) Unless a local environmental plan states otherwise, this Policy does not apply to a boarding house or a serviced apartment to which that plan applies.

The proposed development involves a residential component which is considered to trigger the provisions of Clause 4 and therefore SEPP 65 applies to the proposal.

The proposed development involves a residential flat building for 185 dwellings. As per the definition of a ‘shop top housing’ which includes a ‘Residential Flat Building’ and the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the proposed development.

SEPP 65 requires any development application for residential flat development to be assessed against the 9 principles contained in clauses 9-18 of SEPP 65 and the matters contained in the Apartment Design Guide (ADG).

As a result of Amendment No. 3 of SEPP 65, the provisions of Clause 30 were amended to the following:

30 Standards that cannot be used as grounds to refuse development consent or modification of development consent

(1) If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:

- (a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,*
- (b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,*
- (c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.*

Note. *The Building Code of Australia specifies minimum ceiling heights for residential flat buildings.*

(2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:

- (a) the design quality principles, and*
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.*

(3) To remove doubt:

- (a) subclause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in subclause (1), including on the basis of subclause (2), and*
- (b) the design criteria specified in subclause (1) are standards to which clause 79C (2) of the Act applies.*

Note. *The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant or modify development consent.*

In response to Clause 30(1):

- (a) if the **car parking for the building will be equal to, or greater than**, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,*

The proposed design includes car parking for the residential component in accordance with Part 3J of the Apartment Design Guide (ADG), which states in part:

Objective 3J-1

Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas

Design criteria

1. For development in the following locations:

- on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or
- on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre

the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less

The car parking needs for a development must be provided off street

Design guidance

Where a car share scheme operates locally, provide car share parking spaces within the development. Car share spaces, when provided, should be on site

Where less car parking is provided in a development, council should not provide on street resident parking permits

The proposed residential component of the development seeks to provide for car parking set out in the Hornsby Development Control Plan (HDCP) for residential flat buildings, rather than the car parking requirements for residents and visitors as set out in the RMS Guide to Traffic Generating Development. Please refer to the Traffic and Parking Impact Assessment prepared by Varga Traffic at **Appendix F** for a detailed discussion on the calculation of car parking.

The proposed design include apartments with sizes greater than the minimum internal areas referred to in Part 4D of the ADG, which states in part:

Objective 4D-1

The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity

Design criteria

1. Apartments are required to have the following minimum internal areas:

Apartment type	Minimum internal area
Studio	35m ²
1 bedroom	50m ²
2 bedroom	70m ²
3 bedroom	90m ²

The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each

A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each

2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms

Design guidance

Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry space)

A window should be visible from any point in a habitable room

Where minimum areas or room dimensions are not met apartments need to demonstrate that they are well designed and demonstrate the usability and functionality of the space with realistically scaled furniture layouts and circulation areas. These circumstances would be assessed on their merits

The proposed design includes ceiling heights in accordance with the minimum specified in Part 4C of the ADG, of not less than 2700mm.

An Apartment Design Guide Compliance Report has been prepared by Nettleton Tribe Architects to analysis the site locality, the proposed amended design massing and scale including the future character of the completed development. The proposed development is consistent with the desired future character of the locality. Refer to the Report which can be found at **Appendix E**. This Report also assesses this Amended DA against the 9 design quality principles (Schedule 1) of the *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP65).

The objectives and design criteria of Part 3 & 4 of *Apartment Design Guide* (ADG), have been assessed and considered in the design prepared by Nettleton Tribe for the residential flat buildings component of the amended DA design as detailed in **Appendix E**.

An architectural design verification statement and assessment report under SEPP 65 principles and which also addresses the ADG has been prepared by Jeremy Bishop who is a NSW Registered Architect and principle at Nettleton Tribe which is included in **Appendix E**.

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

A BASIX assessment is required for all new dwellings proposed throughout NSW, and is a tool to measure proposed development for sustainability against the BASIX targets that are based on the NSW home benchmark average. BASIX certificates and stamped plans for the proposed dwellings as part of the residential apartments can be found with the amended architectural drawings at **Appendix M**.

3.4 SECTION 79C(1)(A)(II) ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT

There are no draft environmental planning instruments affecting the proposed development.

3.5 SECTION 79C (1) (A) (III) DEVELOPMENT CONTROL PLANS

The Hornsby *Development Control Plan 2013* (HDCP) applies to the subject land and proposed development.

With respect to the application of the HDCP, we note that an LEP is a legal document prepared by the Council and made by the State Government to regulate land use and development. A DCP provides detailed planning and design guidelines to support the planning controls in the LEP.

In 2013 the NSW Government made legislative amendments aimed at restating the strength of DCPs. The amendments have returned the DCP status to what was initially intended, being a 'flexible guideline' that would complement the development controls provided by the legally binding LEP. The amendments also provide that during the decision making process, the Council is required to as a result of Section 79C(3A)):

- Use a flexible approach in applying DCP standards,
- Not to enforce more onerous standards than those contained in the standards of the LEP.

Where Section 79C(3A) states:

...

(3) *If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:*

- (a) *subsection (2) does not apply and the discretion of the consent authority under this section and section 80 is not limited as referred to in that subsection, and*
- (b) *a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.*

Note. *The application of non-discretionary development standards to complying development is dealt with in section 85A (3) and (4).*

...

Therefore, *Environmental Planning and Assessment Amendment Act 2012*, which commenced on 1 March 2013, has clarified the purpose and status of development control plans, being to **‘provide guidance’** to proponents and Councils in achieving land use zone objectives and facilitating permissible development under an environmental planning instrument. Furthermore, to assist in the assessment of DAs, the amended legislation states that where a proposal does not comply with DCP controls, the consent authority is to be **‘flexible in applying those provisions’** and allow for **‘reasonable alternative solutions’** that achieve the objectives of those standards for dealing with that aspect of the development. It is important to recall these revisions to the status and application of DCPs in development assessment.

The assessment contained within the original SEE report remains relevant to the amended DA design in consideration of the HDCP.

The provision of 1C.2.11 have been considered carefully by the applicant in relation to “Avoiding Isolated Sites”. In this regard, the applicant has obtained a second valuation of the property at 48A Oxford Street, Epping. A copy of this second valuation is included at **Appendix K**.

Based on this second valuation, a further offer was made to the owner’s corporation of 48A Oxford Street. This offer was consistent with the second valuation report detailed in **Appendix K**. A chronology of the events associated with 48A Oxford Street is also included in **Appendix K** along with supporting Appendices. The owners of 48A Oxford Street have not provided to the applicant the basis of their counter offer (other than the submission received during the notification of the original DA which indicates it is an appraisal). The counter offer is not feasible for the applicant to accept. The offer to purchase made by the applicant still stands. However, based on negotiations to date, given that the parties cannot agree a sale price, which is agreeable to both parties, the applicant asks that the HDCP not be strictly applied in the circumstances.

3.6 SECTION 79C (1) (A) (IIIA) PLANNING AGREEMENTS

There is no Planning Agreement in force relevant to this DA.

3.7 SECTION 79C (1) (A) (IV) ANY MATTER PRESCRIBED BY THE REGULATION

Clause 92 of the *Environmental Planning and Assessment Regulation 2000* specifies that in the case of a development application for the demolition of a building, the provisions of Australian Standard AS 2601—1991: *The Demolition of Structures*, published by Standards Australia, and as in force at 1 July 1993 are a prescribed matter for the purposes of section 79C (1) (a) (iv) of the EP&A Act.

The applicant will carry out all demolition work in accordance with the Australian Standard.

3.8 SECTION 79C (1) (A) (IV) ANY COASTAL ZONE MANAGEMENT PLAN

Not applicable.

3.9 SECTION 79C (1) (B) IMPACTS OF DEVELOPMENT

Pursuant to Section 79C (B) of the Act, *‘the likely impacts of that development’* have been considered as follows:

3.9.1 Context and setting

The amended DA has been designed and assessed as being consistent with the existing and desired future character of the locality in the Epping Town Centre. The site is located in close proximity to both bus and rail public transport.

3.9.2 Proposed Height, Bulk and Scale

The proposed height of the building seeks a minor variation to the development standard under Clause 4.3 of the HLEP which applies to the site. An amended Clause 4.6 variation request is included in **Appendix L**. The proposed bulk and scale of the building has been assessed in the Design Reports in **Appendices B, D and E** as being suitable in this location, will not result in any unacceptable impacts, and consistent with the existing and future character of this precinct.

Therefore, it is considered that the height, bulk and scale of the proposed building is suitable for the site and will not result in any unacceptable adverse impacts to adjoining properties.

3.9.3 Shadow Impacts

Shadow diagrams included in the architectural drawings in **Appendix C**, have been prepared for the proposed building which indicates that the proposed development will not adversely impact on the available solar access to adjoining properties.

3.9.4 Public Domain

The application includes Amended Alignment Plans in Appendix I to show changes to the existing footpath areas along the site frontage to Oxford Street (public domain). Should Council wish to implement other specific changes to the public domain, the applicant requests specific details of those changes be discussed with the applicant including any specifications prior to the imposition of any conditions.

The proposed development will contribute to the safety of the public domain through passive surveillance from the development.

3.9.5 Heritage

Refer to the assessment under Clause 5.10 of the HELP as detailed previously in this Amended SEE report.

3.9.6 Socio-Economic Impact

The proposed development will ensure that the new development continues to provide for floor space which is employment generating at the ground level and first floor level fronting Oxford Street.

The proposed development will have a number of positive social and economic effects in the locality, including:

- meets consumer demand from the growing community for apartments;
- generates permanent employment with direct jobs on-site in the development and indirect flow-on jobs;
- generates construction employment with direct and indirect jobs; and
- provides for new and improved public domains / streetscapes as a location for social activity that contributes to building a sense of place, identity, community and social cohesion.

3.9.7 Access, traffic and parking

Vehicular access to the site is currently available from Oxford Street. The amended DA design has moved the proposed access driveway into the basement parking levels adjacent to the approved driveway on the property to the south.

An amended traffic and parking assessment report has been prepared by Varga Traffic in **Appendix F**, which demonstrates the design of the car parking levels complies and provides for the parking demand of the proposed development.

Pedestrian access to the site has been designed to create an active street frontage to Oxford Street with a commercial focus.

3.9.8 Utility service infrastructure

The subject site has access to essential utility services including water, sewerage, electricity, telephone and gas with a capacity to accommodate the proposed development.

3.9.9 Air and microclimate

The proposed development is not considered likely to give rise to a change in the existing microclimate and can be managed via the imposition of reasonable conditions.

3.9.10 Noise and Vibration

An Acoustic Assessment report was submitted with the original SEE report which is unchanged with respect to the amended DA design.

The applicant is prepared to accept conditions in accordance with this acoustic assessment.

Noise and vibration may occur during the construction phase and can be managed by the restriction in the hours permitted during the construction phase.

3.9.11 Natural and Technological Hazards

The site is not subject to any known natural or technological hazards which would preclude the DA.

3.9.12 Waste Management

A Waste Management Plan (WMP) formed part of the original SEE report documentation. The WMP included measures proposed for managing waste in the demolition, construction and operational phases according to waste management principles and priorities of:

- Reduce wastes at the source;
- Reuse materials, where possible;
- Recycle wastes, where practical;
- Removal of all waste from the site; and
- Dispose of wastes appropriately and responsibly.

3.9.13 Erosion and Sedimentation

An erosion and sedimentation management plan was submitted with the original SEE report and is unchanged with the Amended DA design.

3.9.14 Safety, Security and Crime Prevention

The proposed development will employ a number of passive and active crime prevention measures as part of Crime Prevention through Environmental Design (CPTED). The proposed development has been designed for safety and security of site users and to accord with the principles of CPTED including the following:

- natural surveillance with clear sight lines and avoidance of blind corners and sightline obstructions across trafficable parts of the site and between activity areas;
- active CCTV surveillance and security services;
- access controls;
- durable building design and materials, will contribute to territorial reinforcement.

Overview

Table 4 provides a summary of the proposed development's design response against the four CPTED principles, being surveillance, access control, territorial reinforcement and space management.

Table 4: Design responses of the proposed development against the CPTED Principles

CPTED PRINCIPLE	DESIGN RESPONSE
Surveillance	Sight lines between corners and entrances of all building entries and vehicular entry and access points have been designed to minimise hiding opportunities. This has been achieved through the removal of unnecessary walls/obstructions, the use of clear glazing where possible, as well as maximising sight lines from the entrances of the proposed building to the street frontages.
Access Control	<p>The use of security shutters/swipe card access to the doors associated with entry for resident and their visitors.</p> <p>It is necessary to ensure the effective use of physical and symbolic barriers to attract, channel or restrict the movement of people to minimise opportunities to commit crime. Additionally, the design and location of the access to the building allows the opportunity for resident/visitor surveillance.</p>
Territorial Reinforcement	The design of the proposed development incorporates aspects which define and distinguish areas strictly for private use/access from the areas utilised for public and semi-public purposes. All proposed lighting has been designed accordingly. Where appropriate, the utilisation of signage, site furnishings and paving detailing to delineate between public and private spaces has been included.

CPTED PRINCIPLE	DESIGN RESPONSE
Space Management	The creation of well-kept and attractive spaces will help to attract more people, and thus reduce the likelihood of crime occurring through increased passive surveillance. The use of quality design combined with the implementation of an appropriate management, upkeep and cleaning strategies will reinforce perceptions of safety.

Design Considerations Relationship between Design and Crime

Crime Prevention: Aims to prevent crime and anti-social behaviour before it occurs.

Social prevention: Aims at addressing socio-economic causes of crime.

Situational prevention: Seeks to reduce opportunities for crime and anti-social activity through changing the environment.

Examples:

- A typical offender will assess the potential crime location before committing a crime.
- Building design or use can create an environment that is not conducive to crime.
- Building design should seek to address both actual crime and fear of crime.
- Good design should encourage an open society, open space and freedom of movement.

A fear of crime leads to reduced participation in civil society. This also leads to a self-fulfilling prophesy, that is if an area is perceived as unsafe, people retreat into homes, surveillance is reduced and crime is encouraged.

Holistic Approach

Crime Prevention for development – a holistic approach involving:

- CPTED (Crime Prevention through Environmental Design) principles;
- Engineering and physical measures. E.g. CCTV, security doors, security patrols, mirrors;
- Management strategies. E.g. Security Management Plan.

Crime Prevention through Environmental Design

Crime Prevention through Environmental Design (CPTED) aims to reduce crime and change perceptions of crime through changing the physical environment.

- CPTED increases risk for criminals by increasing chance of detection, challenge and capture;

- Increases effort required to commit crime by increasing the time, energy and resources needed to be expended;
- Removes conditions that create confusion about behaviour norms;

The CPTED Principles

There are four principles that need to be used in the assessment of development applications to minimise the opportunity for crime:

- Surveillance;
- Access Control;
- Territorial Reinforcement;
- Space Management.

Particular consideration has been given to the incorporation of these principles concerning entrances, sight lines, vehicular access and exit onto the premises, the surveillance of the publicly accessible communal open space (which will include restricting access once the commercial/retail premises are closed) with the outlook from the proposed commercial floor spaces and the sight line from Oxford Street, and from the basement car parking levels. Opportunities for technical and passive surveillance, interrelationships with parking areas, and loading dock facilities, lighting, legibility and accessibility, ownership and space management, security and safety, and minimisation of 'entrapment' opportunities.

3.9.15 ESD performance of proposed building

The proposed building will be constructed in accordance with the Building Code of Australia under the National Construction Code which requires buildings of this classification to comply with Part J energy efficiency requirements, refer to the BCA Report included with the original SEE report. The residential components of the building will include performance measures as detailed in the drawings and the updated BASIX Certificate contained at **Appendix M**.

3.9.16 Construction Impacts

A Construction Management Plan can be prepared as part of a Construction Certificate once a builder has been appointed and prior to the commencement of works to manage potential impacts of construction activities including site safety, security and access control, construction vehicles, soil and water management, waste management, noise and construction hours.

3.10 SECTION 79C(1)(C) SITE SUITABILITY

The primary consideration under Section 79C(C) is whether the proposal fits into the locality and if the site attributes are conducive to development.

The site and surrounding locality are not considered to present any significant physical, ecological, technological or social constraints on the proposal.

3.11 SECTION 79C(1)(E) THE PUBLIC INTEREST

The proposed development is considered to be in the public interest as it is generally consistent with the applicable planning controls for the site and provides for both residential and commercial floor space in a location close to existing public transport.

3.12 SECTION 91A OF THE EP&A ACT - INTEGRATED DEVELOPMENT

The provisions of Section 91 of the EP&A Act states:

91 What is "integrated development"?

(1) Integrated development is development (not being State significant development or complying development) that, in order for it to be carried out, requires development consent and one or more of the following approvals:

Under the provisions of Section 91A of the EP&A Act, where a proposed development triggers the requirements for an approval from a State Government department, agency or authority a proposal is integrated.

The site of the proposed development does not trigger any items under Section 91 of the EP&A Act.

Therefore, the DA does not trigger the need for an integrated referral.

4. SUMMARY AND CONCLUSION

This Amended SEE accompanies an amended DA design lodged with the City of Parramatta Council for a proposed mixed use development involving:

- Demolition of all existing structures;
- Site preparation and bulk excavation works;
- Construction of 2 buildings over 4 basement levels, for shop-top housing and commercial premises, including:
 - Ground and first floor levels non-residential floor area in Building A, and ground floor non-residential floor area in Building B;
 - 178 residential apartments;
 - Parking for 222 cars, 207 bicycles, 17 motorcycles; and
 - Roof top terraces and ground level communal open space with “Hidden Forest”.

This environmental planning assessment makes the following conclusions about the proposed development:

- it is consistent with the relevant planning instruments;
- it is consistent with the existing and desired future character of the locality in the Epping Town Centre;
- the variation sought to the Building Height under Clause 4.3 of the HLEP and the formal request to vary the development standard via Clause 4.6, can be supported;
- it will not have any unreasonable impact on adjacent properties, or unacceptable environmental or socio-economic impacts which cannot be mitigated by the imposition of conditions; and
- there are no environmental constraints of such significance as to preclude the proposed development.

Given the above assessment, the proposed development has environmental planning merit and is considered to be in the public interest, and therefore we request the DA be granted consent by Council.