



Addendum Assessment Report #2 to Sydney Central City Planning Panel

SCCPP reference	2016SYW0114
DA No.	DA/485/2016
Date of receipt	17 June 2016
Proposal	Demolition of all existing structures on site, (including the heritage listed residence), tree removal and construction of a mixed use development in the form of 2 towers (15 and 18 Storeys tall, respectively) over a podium and basement car parking.
Street address	44-48 Oxford Street, Epping
Property Description	Lot 1 DP 206646, Lot 2 DP 206646, Lot A DP 390454, Lot B DP 390454
Applicant	Pirasta Pty Ltd
Owner	Pirasta Pty Ltd
Submissions	50
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none">• Environmental Planning and Assessment Act 1979 (EP&A Act) and Environmental Planning and Assessment Regulation 2000.• State Environmental Planning Policy No. 55 – Remediation of Land• State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development• State Environmental Planning Policy (Sydney Harbour Catchment) 2005• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004• State Environmental Planning Policy (State and Regional Development) 2011• State Environmental Planning Policy (Infrastructure) 2007• Hornsby Local Environmental Plan 2013 (HLEP)
Recommendation	Deferred Commencement
Council Officer	Liam Frayne

1. Introduction

Given the complexity of the history of this matter, during both consideration by the City of Parramatta, and by the Sydney Central City Planning Panel, the below detailed background is provided to assist in an understanding of the history of the assessment and consideration of this matter to date:

Background of Consideration of application

City of Parramatta Consideration

The subject Development Application was lodged with the City of Parramatta on 17 June 2016. At the time of lodgement, the application proposed:

Demolition, tree removal, site preparation/excavation works, and construction of a mixed use development containing 200 dwellings with 3 storey podium and 2 towers of 15 & 17 storeys over 4 levels of basement parking containing 234 parking spaces.

Prior to lodgement, the applicant had obtained pre-lodgement advice from Hornsby Shire Council with respect to the proposal, which advised that the then proposed scheme was generally acceptable

However, the creation of the City of Parramatta Council resulted in the eastern side of the Epping Town Centre transferring from Hornsby Shire into the reconstituted City of Parramatta. It is for this reason that the application was lodged with the City of Parramatta Council.

The preliminary review of the original proposal by the City of Parramatta, including by the Design Excellence Advisory Panel and a briefing with the Joint Regional Planning Panel (now Sydney Central City Planning Panel) identified the following concerns with respect to the proposal:

- Site Isolation of 48A Oxford Street;
- That the overall scheme lacked sufficient merit with respect to the attainment of the planning objectives relating to the site to permit any justification of the demolition of the heritage item ;
- That the height variation proposed did not deliver any requisite design benefit (by way of a slimmer tower with reduced amenity impacts) and therefore was difficult to be justified on planning grounds;
- That the building had poor design quality with respect to the residential amenity of a substantial number of the proposed units – the site planning further resulting in a high number lacking appropriate solar access, outlook or well-designed pedestrian access;
- The compatibility of the proposed commercial use with the residential uses on the site;
- Issues related to the proposal to relocate the signalised pedestrian crossing in front of the site;

- Concern about the loss of the mature street trees on Oxford Street;
- Issues with respect to the car park design including the design and number of motorcycle and bicycle spaces, the conflict between the loading bay and parking and the inability of the car park to accommodate Heavy Rigid Vehicles to the loading bay; and
- Issues with respect to the waste management design.

Following liaison with Council's City Architect's Office, and Council more generally, the applicant submitted amended plans to the City of Parramatta on 30 October 2017 for consideration by the Design Excellence Advisory Panel and other Council technical staff.

Further amended plans addressing various concerns raised by Council were submitted on 3 subsequent occasions.

The Design Excellence Advisory Panel report on the amended plans requested minor amendments but concluded that:

“ The Panel advises that this is a well-considered and presented scheme and that the architectural, urban design and landscape quality is of a high standard.”

Council's subsequent assessment found that the amended proposal had sufficient merit, on balance to support a favourable recommendation.

In terms of public consultation, the application was advertised on two occasions, and subsequently, and in accordance with the resolution of Council, a Conciliation Meeting was held by Council to facilitate dialogue between the applicant and interested submitters. The original assessment report submitted to panel comprehensively reports on these processes.

With respect to the issues raised with respect to the original design, these concerns of the City of Parramatta have been either addressed or subsequently informed as part of the Sydney Central City Planning Panel process as follows:

Issue	Response in modified scheme
Site Isolation of 48A Oxford Street	<p>The City of Parramatta was satisfied that the applicant had sufficiently demonstrated that attempts had been made to acquire 48A Oxford Street based on the substantial documentary evidence submitted to that effect.</p> <p>It is noted that subsequent legal advice provided at the request of the panel by the applicants legal advisor notes that although, the site may be currently practically isolated, it is not isolated in accordance with the planning principle as that the adjoining school site benefits from the same zoning, height and floor space to 48A (and indeed the subject site).</p> <p>The advice also concluded that the adjoining site further was capable of being</p>

	further developed in its own right notwithstanding its narrow frontage.
That the overall scheme lacked sufficient merit with respect to the attainment of the planning objectives relating to the site to permit any justification of the demolition of the heritage Item	<p>The City of Parramatta's assessment considered, on balance that the revised proposal exhibited sufficient design merit and consistency with the form desired within the Epping Town Centre on balance to permit the development to be supported.</p> <p>At the Panel's request, independent heritage advice has been provided by Urbis for the Panel's benefit.</p>
That the height variation proposed did not deliver any requisite design benefit (by way of a slimmer tower with reduced amenity impacts) and therefore was difficult to be justified on planning grounds	<p>The development was revised to provide a slimmer tower and floor plate per level, compared to the original scheme, resulting in a narrower shadow cast, and providing improve amenity per floor plate.</p> <p>The slimmer towers will also sit less heavily on the street, notwithstanding their greater height, compared with a compliant building.</p>
That the building had poor design quality with respect to the residential amenity of a substantial number of the proposed units – the site planning further resulting in a high number lacking appropriate solar access, outlook or well-designed pedestrian access	<p>The revision of the proposal to provide two wholly separate towers has significantly improved the amenity of the provided apartments and the site in general. This design has permitted the bulk of apartments being dual aspect, ensuring good solar amenity and outlook for future residents,</p> <p>The provision of a well landscaped central courtyard in the revised plans (reviewed by Council's Urban Design team to ensure the provision of adequate soil depths to ensure the viability of landscaping), as a feature of site access is a substantial design improvement. Equally, the substantially improved ground floor layout also provide a high quality entry sequence for the site. It is noted that both have been made possible by the provision of a slimmer tower form.</p>
The compatibility of the proposed commercial use with the residential uses on the site	The revised arrangement of commercial uses on the site is significantly more compatible with the residential uses above compared with the previous arrangement, in terms of the retail and the office space.
Issues related to the proposal to relocate the signalised pedestrian crossing in front of the site	The revised proposal relocated the driveway of the development thereby removing the

	need for the relocation of the pedestrian crossing.
Concern about the loss of the mature street trees on Oxford Street	The revised proposal makes provision to enable the retention of the existing street trees on Oxford St.
Issues with respect to the car park design including the design and number of motorcycle and bicycle spaces, the conflict between the loading bay and parking and the inability of the car park to accommodate Heavy Rigid Vehicles to the loading bay	The redesign of the proposal has resolved the vehicular conflicts. The basement design is now satisfactory.
Issues with respect to the waste management design.	The waste management design has been redesigned and is now considered adequate.

Sydney Central City Planning Panel Decisions

DA/486/2016 (the application) was reported by the City of Parramatta Council (the Council) to the Sydney City Central Planning Panel (the Panel) on 7 February 2018.

The Panel determined to defer a decision on the application for the reasons as stated in the Record of Deferral:

“The Panel unanimously decided to defer consideration of the application until legal advice had been received regarding:

- *Necessity of the use of Planning Proposal when it is proposed to demolish a heritage item.*
- *Whether the activities concerning Isolation of the site meet the requirements of the Court's Planning Principle.*
- *Response from Design Excellence and City Architect Office in relation to height variation, the zone boundary interface and feasibility of development on the isolated site in terms of whether that represents the orderly and economic use of the sites.*
- *Clarification whether in the circumstances here the concurrence of the Secretary of the Department of Planning can be assumed for the extent of the variation to the standard, i.e. greater than 10%.*

The Panel encourages a further report to:

- *Address the justification for determination of this application prior to the outcomes of the traffic study of Epping being available which will take into account cumulative impact.*
- *Provide a summary of the issues raised and outcomes of Council's community conciliation meeting held on 24 January 2018.*

As this reporting may take some little time the Panel encourage adjoining owners and the applicant to consider some form of mediation to resolve the isolation question.”

The responses to the above matters are reported on in detail in the previous addendum report. A summary is provided below:

Deferral reason	Response
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Legal advice requested as to the necessity of the use of Planning Proposal when it is proposed to demolish a heritage item.	The City of Parramatta's General Counsel and the applicant's solicitor each provided separate advice that a planning proposal was not necessary when demolition of a heritage item is proposed.
Legal advice as to whether the activities concerning Isolation of the site meet the requirements of the Court's Planning Principle.	<p>The applicant provided legal advice that clarified that the site at 48A Oxford Street was not isolated in the manner described by the Court Principle, as the school site to the north had benefit of the same zone, height, and floor space ratio as 48A Oxford Street.</p> <p>The advice also indicated, in accordance with <i>Karavellas v Sutherland Shire Council</i> [2004] NSWLEC 251, that as offers based on valuations had not been accepted, and as the site remained developable in its own right, albeit for a smaller scale development, that the isolated site test had been, in the view of the advising solicitor, satisfied.</p>
Response from Design Excellence and City Architect Office in relation to height variation, the zone boundary interface and feasibility of development on the isolated site in terms of whether that represents the orderly and economic use of the sites.	Detailed responses from the City Architects Office and the Design Excellence Advisory Panel were supplied outlining that the proposal was an appropriate response given the isolation of the site to the north
Clarification whether in the circumstances here the concurrence of the Secretary of the Department of Planning can be assumed for the extent of the variation to the standard, i.e. greater than 10%.	The City of Parramatta's General Counsel provided advice that concurrence could be assumed by Sydney District Planning Panels as per the relevant circular from the Department of Planning.
Address the justification for determination of this application prior to the outcomes of the traffic study of Epping being available which will take into account cumulative impact.	<p>The applicant submitted a further traffic report that noted that the impact of the proposed development in the context of the broader traffic network was not substantial in and of itself.</p> <p>It is noted that at that time, it was the understanding of the City of Parramatta's assessment staff that the Epping Traffic Study was a substantial period from being reported to Council.</p> <p>However, in the intervening period between the second deferral of a decision on the matter by Panel at the 4 April 2018 and now,</p>

	the report was reported to (but not resolved upon) by Council on 28 May 2018.
Provide a summary of the issues raised and outcomes of Council's community conciliation meeting held on 24 January 2018.	The City of Parramatta had supplied this document to the secretariat prior to the first consideration of the matter by the Panel, however the document was subsequently provided for the Panel's benefit at its meeting of 4 April 2018.
The Panel advised the applicant to seek to conciliate with the adjoining property owner to see if a resolution could be arrived at.	The applicant had made contact with the adjoining property owner, however no agreement was able to be arrived at during the intervening period.

On 4 April 2018, the matter was returned for consideration by the panel with an addendum report from the City of Parramatta outlining the above in detail.

The Panel, in making its decision, resolved to defer the matter for a second time, as per the below extract from the decision record:

REASONS FOR DEFERRAL

The panel agreed to defer the determination of the matter until the following information is provided:

1. The Council's heritage adviser to advise on the remaining opportunities for proper interpretation of residential heritage in Epping in the event that the heritage item was demolished, and taking into account the likely future context of the heritage item, given the development controls that now apply to the Epping Town Centre.
2. The Council to provide an updated traffic assessment based on the latest forecasts of the quantum and rate of development in the Epping Town Centre, given that the available 2011 reports may not reflect the current situation. This report should include commentary on the status and adequacy of related infrastructure upgrading work.
3. The Council to advise of a completion date for the current strategic traffic study of Epping Town Centre.
4. The Council planning staff to provide further advice on the justification for variation on height and setback controls in circumstances where the heritage item on the site is not retained.

When this information has been received, the panel will hold another public determination meeting.

The decision to defer the matter was unanimous. The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

2. Response to SCCPP Deferral Reasons of 4 April 2018

The deferral matters are addressed in order below:

1. The Council's heritage adviser to advise on the remaining opportunities for proper interpretation of residential heritage in Epping in the event that the heritage item was demolished, and taking into account the likely future context of the heritage item, given the development controls that now apply to the Epping Town Centre.

Background to the consideration of the heritage issue by City of Parramatta staff

By way of background, the assessment by City of Parramatta staff with respect to the heritage item is summarised below, with more detail provided as to consideration of likely alternatives in the event that the heritage item were to be retained.

As outlined in the assessment report, there is an inherent conflict between the objectives of the Hornsby LEP with respect to the type of development sought in the Epping Town Centre and the heritage protection controls (by way of the listing of the item).

Based on the merits of the proposal put forward by the Council, it was considered, on balance, that the consistency of the proposal with the objectives for the Epping Town Centre in providing a building of good design quality with a mix of uses, on balance, justified approval of the application including demolition of the listed building.

It is noted for the Panel's benefit that historical attempts to combine the retention of the heritage item with newer (but substantially smaller) development on this site have significantly impacted upon the setting and readability of the heritage item.

Part of the assessment by Council staff involved considering the hypothetical options for retention of the heritage item, given the view of Council's Heritage Advisor that the house should be retained.

The assessment was necessarily hypothetical, and so is necessarily limited, but sought to examine implications of alternate design options for the site on both the quality of the proposal in the round, and on the level of significance of the heritage item able to be maintained within the given planning objectives for the site.

The conclusion of this exercise was as follows:

- While an alternative proposal on this site (or one amalgamating with the neighbouring site to the north) could retain the heritage item, the necessary redistribution of gross floor area would in all likelihood result in a single tower, predominantly at the rear of the site, significantly bulkier and taller than that currently proposed. This building would be likely to wholly overwhelm and diminish the setting of the listed building.
- With a bulkier, taller tower located at the rear of the site, most likely with larger floor plates (and correspondingly, elevation length), such a building would in all probability impose substantial additional solar access, privacy and amenity impacts on properties to the south and particularly the lower zoned land to the east in comparison to the proposal put forward.

It is noted that the size of development on this site has been fundamentally defined by the height and floor space provisions of the Hornsby LEP and DCP for the site, both of which are not reduced compared with surround sites despite the presence of the listed building.

- While amalgamation with the site to the north could present more options in terms of the positioning of this tower, the site would also benefit from a higher maximum gross floor area. This is because of the inclusion of the additional allotment in the calculation of the maximum permitted gross floor area, meaning that the benefits of the additional space gained by the amalgamation is off-set by more gross floor area to be accommodated, again meaning a taller, bulkier tower.
- The location of a new tower on the site would need to be predominantly defined by the considerations with respect to providing the best realisable setting for the heritage listed building within the context of the substantial change in height and floor space ratio.

This would most likely place the bulkier, taller tower with an orientation that would not provide optimal orientation for the dwellings provided therein, or and would impose a larger floor plate meaning more units with single aspect.

Of course, key in the consideration of the scheme would be just how tall a building could be permitted, as, with a single tower of 30 storeys or more a narrow floor plate, with consequent amenity benefits could be achieved as per the proposal could be realised.

It is, however, extremely unlikely that a building that exceeds the height control by two times would be acceptable even with the heritage item being retained as justification, given the inconsistency of such a proposal with the desired townscape as defined by the DCP.

- Retention of the heritage item would make extremely difficult provision of an active streetscape along Oxford Street, a key design requirement for development within the Epping Town Centre, as the setbacks required to provide the item with an appropriate setting would insert a significant break in streetscape continuity.

The conclusion of the City of Parramatta's planning staff was that unless a vast (and likely unacceptable) variation to building height was permitted for a single tower on the site, retention of the heritage item would result in a new building (in comparison to the current proposal) being:

- Bulkier, heavier, and of poorer design quality, both internally and with respect to the impacts imposed upon neighbouring sites; and
- A development not capable of providing an active street frontage or continuous street wall along Oxford Street; and
- A development that would in itself impact significantly on the townscape of Epping and on the setting of the Heritage listed building itself.

It is on that basis that Council staff sought to pursue an option to provide a development with a good level of design quality, in the absence of the heritage item.

It is acknowledged that this conclusion is based on certain assumptions, and also weighing the Epping Town Centre future desired character standards against the heritage conservation requirements of the LEP, however it is considered that the recommendation with respect to this application on this basis remains a reasonable conclusion based upon the context the site and the relevant planning framework.

Panel request for further independent heritage advice

Following on from the Panel resolution, it was clarified by the Secretariat of the Panel that the panel wished for the above advice to be provided via an independent town planner engaged by the City of Parramatta.

In this context, the City of Parramatta engaged Urbis to provide advice with respect to the matter at hand, and that advice is attached.

As this advice was provided as independent advice to assist Panel in its decision making, this assessment report provides no further commentary on the provided advice.

2. The Council to provide an updated traffic assessment based on the latest forecasts of the quantum and rate of development in the Epping Town Centre, given that the available 2011 reports may not reflect the current situation. This report should include commentary on the status and adequacy of related infrastructure upgrading work.

The Epping Traffic Study, put forward for consideration by the Council of the City of Parramatta on 28 May 2018, is now a public document. It is attached to the report for the Panel's benefit.

With respect to traffic in the Epping Town Centre, the findings of the latest traffic study are summarised as follows:

- For March 2017, up to four of the six key intersections on the four major traffic routes (Beecroft, Blaxland, Carlingford and Epping Roads) are operating at oversaturated traffic levels (waiting time average 5 minutes);
- During the morning peak, combined east bound and south bound traffic queues on Beecroft and Carlingford Roads can reach a combined total length of approximately 1.5km;
- The traffic queuing effect occurs at approximately 8:30a.m and 5:40p.m in line with Sydney regional traffic conditions;
- The increasing road traffic congestion occurring in the Town Centre area is adversely affecting both regional through traffic movements and local traffic accessibility to the major road network.
- In the future, peak traffic conditions (in modelled scenarios of +5000 and +10000 dwellings growth) will worsen even with the identified RMS and Council road improvements;
- In the road networks, five of the six assessed intersections will have traffic conditions operating at oversaturated levels during the morning and afternoon traffic peak.
- In 2036, over 3,300 vehicles cannot enter the network.
- The average intersection delays are predicted to improve by 2036 from the 2026 base scenario as a result of Council proposed road improvements which are anticipated to be implemented during this period. However, the most crucial intersection, Beecroft Road, will actually worsen in terms of average delay by 2036.
- The report finds that the afternoon performance of the network for the base 2036 is such that it is unlikely that there will be any spare capacity for additional vehicles.

The report notes some projects that may assist with providing some improvements to the current situation, but the Council's report concluded that Planning Proposals seeking further residential yield (i.e Gross Floor Area) beyond that currently permitted by the applicable Epping planning controls should at as a general principle not be supported at this time.

The report made no recommendation with respect to the management of Development Applications in this precinct.

The Epping Traffic issues notwithstanding, it is also relevant to note that the traffic issues in Epping are a result of cumulative impacts of a number of developments both within, but predominantly outside of the Epping Town Centre Precinct.

The planning framework, including heights and densities for the Epping Town Centre, were developed based upon the previous traffic study that informed the decision making by the Department of Planning, and indicated that the proposed density uplift was appropriate subject to certain works.

In relation to the broader problem, the trip generation rates for the subject development, while contributory to the cumulative impact, are insubstantial compared with the total level of local traffic generation.

The proposal includes a mix of uses that is consistent with what the traffic study would have anticipated for the town centre as the key traffic generating metric – gross floor area - is below the maximum permitted for the site.

Further, the application was lodged prior to a number of similar or greater scale already approved within the Epping Town Centre, and it is not possible to establish that this particular project will so worsen local traffic conditions as to justify a different consideration to those similar, and in many cases, larger, developments.

However, in the context of the traffic problems already apparent, the applicant has furnished a green travel plan which has been provided to the secretariat and includes recommendations to seek to reduce the traffic generation of the use proposed.

Additionally, the applicant has advised that they would be open to conditions with respect to the following matters, subject to the discretion of the Panel:

- Dedication of 5 car spaces to be provided for the purposes of car-pooling for occupants of the building. The car share scheme to be managed by the Stata Scheme;
- Car spaces ownership to be coupled with either unit owners or the strata scheme i.e. sale to third parties i.e. external to the building will be prohibited
- Agree to a restriction on title that denies building residents the benefit to any future on-street parking

Further measures are recommended in the Green Travel Plan for the benefit of the Panel. Condition 1. If the Panel considers the measures proposed adequate, the Green Travel Plan and the above can be incorporated as additional conditions in the recommendation.

3. The Council to advise of a completion date for the current strategic traffic study of Epping Town Centre.

As noted above, the Epping Town Centre strategic traffic study is now publically available and has been attached for the Panel's benefit.

4. The Council planning staff to provide further advice on the justification for variation on height and setback controls in circumstances where the heritage item on the site is not retained.

As the subject application does not propose retention of the heritage item, the City of Parramatta's original assessment report considered the variation to height and setback controls, with the recommendation with respect to these aspects of the proposal based upon testing and detailed analysis of the various site development outcomes and their impacts by Council assessment staff.

In the interest of brevity and simplicity in reporting, the finer detail of this consideration was not included in the report.

It is accepted that these finer details would have been of benefit in assisting the Panel to understand the assessment of these matters and this is now provided below:

Height

With respect to height, the two key controls defining height are under Clause 4.3 of Hornsby LEP 2013, and under Clause 4.6.4 Scale of the Hornsby Development Control Plan 2013.

Local Environmental Plan

The Local Environmental Plan outlines that a maximum building height of 48 metres for the subject site.

The proposal seeks consent for two towers with the following heights:

Front tower: 62.2m

Rear tower: 51.12m

Development Control Plan

The Development Control Plan outlines that where a maximum building height of 48m applies, a maximum 15 storeys may be provided.

The proposal includes a tower of 15 storeys and a tower of 18 storeys.

Analysis

The variation with respect to the two towers is different as is the magnitude of variation. As such, the two are analysed separately below:

Rear tower

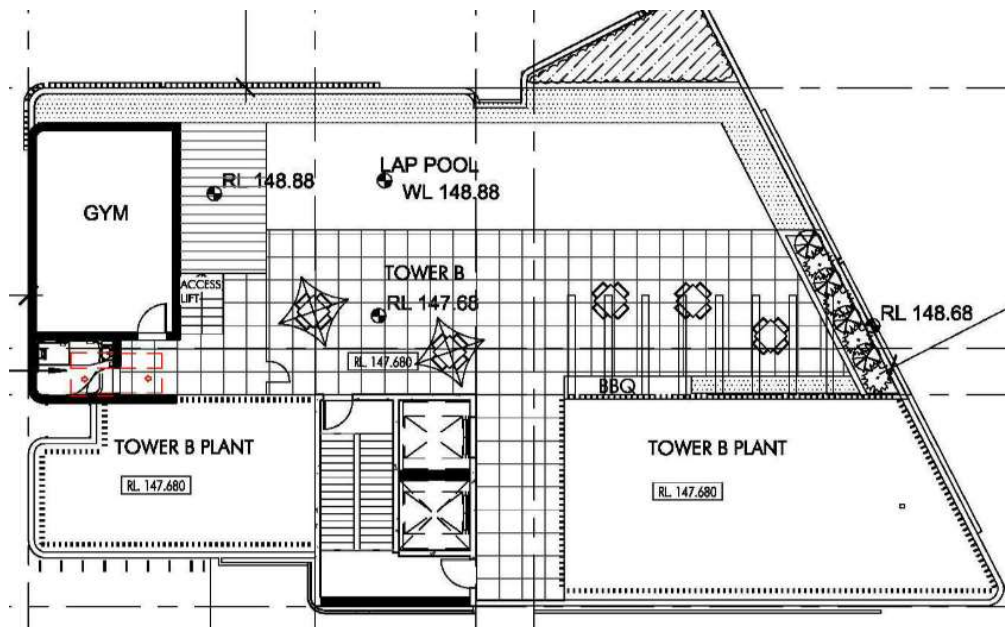
The rear tower exceeds the maximum height by 3.12m in total and complies with the storeys defined under the DCP.

The tower structure itself sits beneath the 48m height limit. The elements breaching the height limit include:

- The lift overrun (the highest part of the building);
- The roof top gym (the second highest part of the building);
- Roof-top fencing; and
- The roof top swimming pool.
- A portion of the roof of the top floor on one side of the building (a result of the slope of the site beneath).

The latter three of the above consisting of marginal variations.

The first image below shows, on floor plan, the size of these facilities with respect to the size of the overall building roof top. The second shows the extent of the breach of the rear tower.



Above: Roof top plan, rear tower. The bulk of the variation is for the gym and lifts. The variations for the pool and the fencing of the top level are extremely modest in extent.



Above: The maximum building height line of 48m is the red line above. Note that the dark shading in the background behind the roof element is the approved (and under construction) development to the south which is taller than the rear tower and not part of this building.

Lift overruns are required for tower developments and it is not uncommon that these elements breach the maximum building height due to the necessities of lift engineering.

It is noted that the maximum building height of 48m, when combined with the 15 storeys outlined under the DCP, does not account for lift over-runs.

Assuming:

- for the ground floor retail a floor to ceiling height of 4.1m; and
- for the 14 wholly residential storeys a slab to slab height of approximately 3.1m, (which includes the 2.7m floor to ceiling height for the unit, space for utilities, and space for the slab between floors);

the building would have a height of 47.5m (just 500mm beneath the maximum building height). This is not sufficient space to provide for a lift overrun.

Furthermore, the lift overrun is higher than required in this instance as the roof top (communal open space area) is directly accessible by the lift.

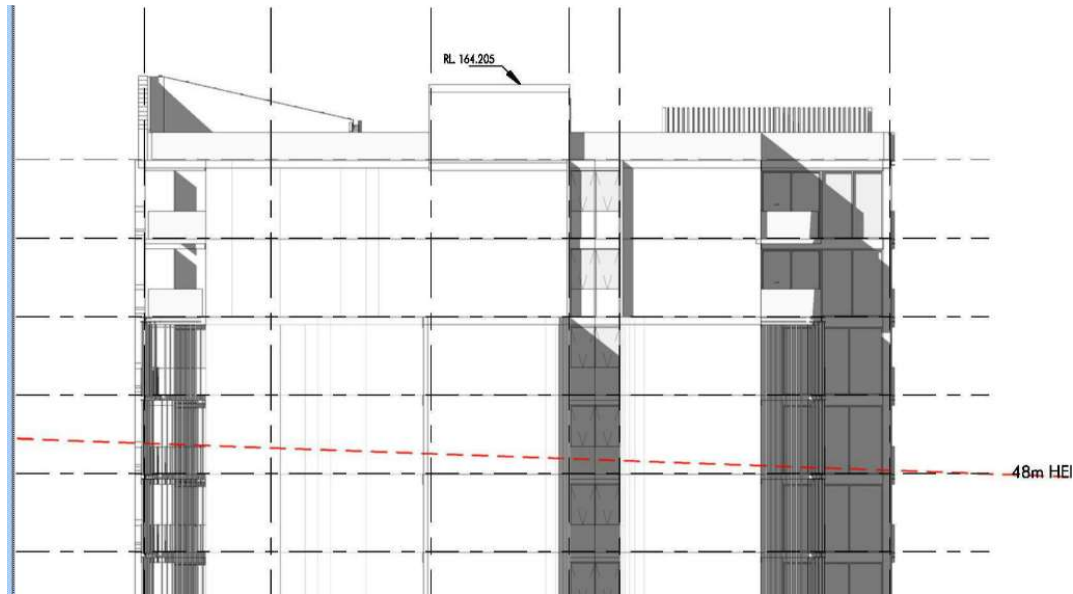
As the roof level provides modest but important communal amenities, and as lift access clearly improves the accessibility of these services to all building residents, it is considered that this variation is acceptable and in the public interest.

The pool, gym and associated fencing, which all breach the height limit in a more modest fashion all serve to provide recreation opportunities for residents in a precinct where such opportunities are limited and are considered to therefore provide important recreational opportunities for building residents.

It is noted that the incursions beyond the maximum building height for the rear tower have minimal solar, privacy or amenity impacts on any surrounding site.

Front Tower

When existing ground level is considered, the tallest building element proposed is the eastern side of the front tower where approximately 4 storeys sit above the 48m maximum building height requirement, above which are architectural roof features, and a lift overrun.



Above: the upper portion of the front tower.

The design of the proposal, including the height breach, was in part arrived at following consultation with the Design Excellence Advisory Panel and the City Architect's Office.

To understand the logic behind the recommendation to take the chosen approach was as per below:

- While for most low scale (i.e. 1-3 storey) developments, a height variation can significantly impact on the streetscape and the amenity of adjoining properties, for tower developments such as that sought by the Epping Town Centre controls, a variation to the maximum building height can (provided no net increase in gross floor area) result in a building with relatively reduced streetscape and amenity impacts within the development and for surrounding sites.
- The reason for this is that the taller building is able to redistribute its bulk over a greater area vertically, resulting in a net reduction in the size of the average floor plate provided per level.
- Read on elevations, this reduction reduces the wall length on all sides of the building.
- In terms of streetscape, the taller building is experienced as a less dominant, less heavy object with greater sculptural quality compared with a shorter but wider tower.
- In terms of solar access, the taller, narrower tower, due to the narrower wall widths, casts a longer, though narrower shadow that lingers for a shorter period on overshadowed locations.

In this case, the extra length of the shadow from the extra building height is unimportant as the shadow cast by the approved and under construction building to the south already extends for the bulk of the length of the shadow of the proposed building.

In contrast, given that, for buildings of the scale of those permitted under the Epping Town Centre Controls, the apartment design guide separations do little to minimise shadowing impacts.

The taller tower, by casting a narrower shadow, permits a level of solar access to the development to the south in excess to that provided by a building maintaining the present gross floor area but complying with the maximum height control.

- The taller, narrower building, by virtue of having reduced wall lengths, has less building edge interfaces with adjoining sites, reducing risks with respect to privacy and overlooking.
- By taking up a smaller proportion of the site, the taller, narrower building allows for the provision of increased separations than would occur with a shorter, wider building, and further frees up the ground floor for other options, in this case, the central communal open space area accommodating the hidden forest element.
- In terms of internal amenity, the smaller floor plates also result in improved residential amenity by facilitating the provision of more corner apartments with dual aspect (in this case, the levels in breach provide 16 corner apartments). These apartments would otherwise likely need to be single aspect to fit in a larger floor plate.
- The smaller resulting floor plates also improve residential amenity by limiting the number of dwellings per floor, an objective generally encouraged by the apartment design guide.

It is noted that the floors wholly or partly above the maximum height limit accommodate approximately 2071m² of gross floor area.

In terms of individual floor plates, small size of the floor plate of the front tower has an average floor plate of 517.75m², in contrast, the front tower of the approved development to the south has a floor plate of 813.23m², with a similar floor plate for the rear tower. The proposals tower consequently has a floor plate 36% smaller than the those towers to the south, and will read consequently as a significantly more slender building.

In terms of alternate options for accommodating the floor space beneath the height limit, if this were evenly added to the 13 residential floors below the maximum building height, an additional 159m² would be added to each floor plate producing a bulkier building.

Assuming this mass was added in a 'box' element to one end of the tower, the wall length would extend by 7m on two sides of the building resulting in a greater level of shadowing, reduced ground floor space not occupied by tower base, and an all round bulkier building. Alternatively, the whole tower could widen in all directions, still resulting in a building with a greater environmental impact on its surroundings.

As such, although the quantum of height variation is significant, the variation permits an outcome clearly superior to an alternative, compliant scheme, and is thus in the public interest.

It is important to note that taller towers bring greater construction cost, due to the need to construct extra slabs in space, and given the proposal is below the maximum floor space ratio control, there is no benefit accruing to a future development aside from an improved level of dwelling amenity resulting from the additional height sought.

In terms of this specific site, the likely challenges of developing the site at 48A Oxford Street, sandwiched between the subject site and the Arden School, has imposed particular discipline with respect to the setbacks provided to the northern side.

In the absence of a slimmer tower, such separations would not be able to be achieved, and the development potential of that site would be further affected as a result.

It is in the context above that the City of Parramatta, in accordance with the advice of our City Architects Office and Design Excellence Advisory Panel, support the proposed height variation as a clear improvement on this site to the complaint alternative defined by the planning controls under the Hornsby LEP and DCP.

Setbacks and Building Separation

As with all buildings subject to State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings (SEPP 65) and also subject to a Development Control Plan (DCP), in this instance 2 types of effective setbacks apply.

The first consist of the Building Separation requirements of the Apartment Design Guide called up by SEPP 65, the second are those under the Hornsby DCP 2013, and particularly those under Section 4.6 of that Policy which relates specifically to the Epping Town Centre.

These are considered separately below.

SEPP 65 and the Apartment Design Guide Building Separation

The objective of the Clause that outlines desired building separations under the Apartment Design Guide is Clause 3F-1 which states:

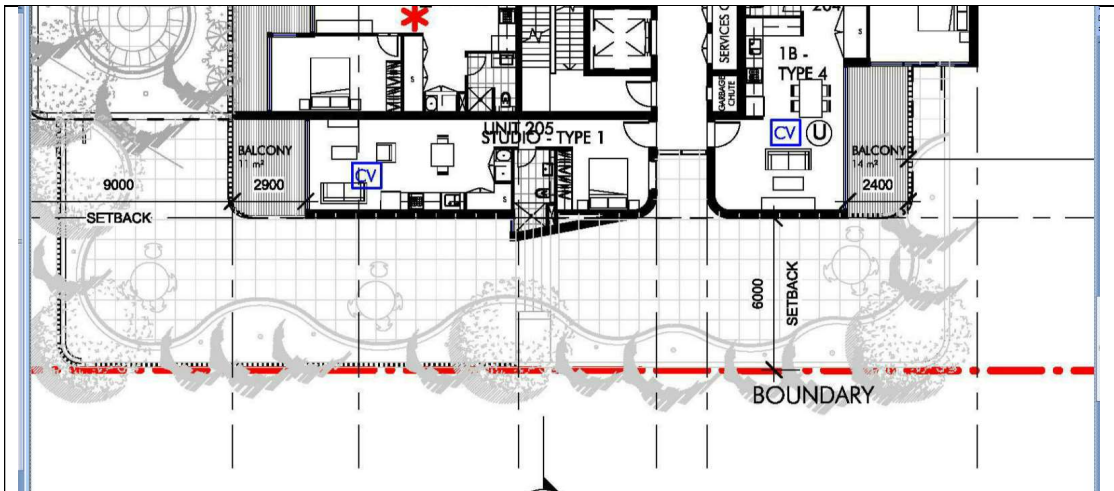
“Adequate building separations are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.”

It is important to note that under the Apartment Design Guide all separations below specifically relate to separations between **windows and balconies** with no separation required for blank walls (see design guidance of the same clause).

This means that although a building may not necessarily meet the separations distances below, careful handling of its window and balcony placement could prove to be consistent with the apartment design guides intent.

Requirement	Proposed	Compliance
To boundaries	<i>North</i>	Yes
Up to 12m (4 storeys)	9m front building	The only exception is the podium balconies of the front building. These are fully screened to the side
Habitable – 6m	12m rear building	
Non-habitable – 3m	<i>South</i>	

	<p>6m provided within site; 13m provided to adjoining building.</p> <p>Note: Podium balcony is on the boundary, northern and southern sides, but fully screened.</p> <p><i>East (req +3m as lower zone)</i></p> <p>12m</p>	<p>boundaries and no privacy impact thus results.</p>
<p>Up to 25m (5-8 storeys)</p> <p>Habitable – 9m</p> <p>Non-habitable – 4.5m</p>	<p><i>North</i></p> <p>9m front building</p> <p>12m rear building</p> <p><i>South</i></p> <p>6m front and rear (with 1 portion of each building 5.3m)</p> <p><i>East (req +3m as lower zone)</i></p> <p>12m</p>	<p>North – Yes</p> <p>South – No</p> <p>East - Yes</p>



Above: The diagram shows the setback to the rear tower, for levels 5-13, but this is typical for most levels of the tower. The splayed wall is the portion that encroaches on the numerical building separation line, however no windows or openings occur on this wall element which face the adjoining building.

Over 25m (9+ storeys)	<i>North</i>	
Habitable – 12m	9m front of front building	North – Yes
Non-habitable – 6m	12m rear of front building	
	12m rear building	
	<i>South</i>	South – No
	6m front and rear	
	(with 1 portion of each building 5.3m)	
	<i>East (req +3m as lower zone)</i>	
	12m	East – No

The two key areas in which the separation distance is not met above relate to the southern boundary above 4 storeys, and to the eastern boundary above 9 storeys. These are separately discussed below:

Southern boundary separation above 4 storeys

The separation distances to the south do not comply with the numeric requirement for distance between buildings.

However, a closer analysis of the southern treatment of the two towers proposed reveals that care has been exercised in the design to orient elements away from that southern elevation, with the balconies facing in that direction fully screened.

Any windows for south facing rooms have been designed to face east or west, via the use of angled walls.

In such a context, as no privacy impact results, the proposal is appropriate, and the need for the separation control has been overcome by cautious design.

Eastern boundary separation above 9 storeys

As the property to the east has a lower density and height, and zone, a 3m separation increase is required to meet the ADG requirement to the boundary.

In this context, 15m would be required to the boundary, while 12m is provided.

The ambition of separation distances to the boundary is that the base separation distance should be doubled to calculate the actual desired separation distance. Here, a 24m separation distance would achieve compliance with the ADG.

In fact, the siting of the buildings on the adjoining property, 25m distant at their nearest point, is compliant with the ADG. In this regard, although a technical non-compliance exists with respect to separation to the boundary, compliance is achieved with respect to separation to the buildings on the adjoining site.

In any event, it is noted that the comparative disparity between the height of buildings on the subject site and that of the eastern neighbour is such that a point-to-point measurement of distance from any of the windows or balconies above 9m to the windows of that unit block would substantially exceed the separation distance so stated.

Between towers	24m	Up to 12m – Yes
(within the site)		
<i>Up to 12m (4 storeys)</i>		5-8m – Yes
Habitable 12m		
Non-habitable 6m		25m + Yes

<p><i>Up to 25m (5-8 Storeys)</i></p> <p>Habitable – 18m</p> <p>Non-habitable – 9m</p> <p><i>Over 25m (9+ storeys)</i></p> <p>Habitable – 24m</p> <p>Non-habitable – 12m</p>		<p>It is noted here that although the bulk of the buildings are 15m apart, the placement of windows and balconies is such that none are placed within that range of another window or balcony. Hence, compliance is achieved.</p>
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Summary of separation compliance

A preliminary or cursory review of the plans of the proposed development may bring immediate attention to the fact that the separation distances under the Design Guide appear not to be met, particularly between the two towers and to the site to the south.

However, detailed analysis reveals that the cautious placement of openings and of balconies largely eliminates any privacy risk.

In that context, although the building separation requirement is not met, the intent of the control is achieved as the focus of the guide is with respect to achieving adequate separation between *windows and balconies* which the proposal clearly achieves.

Hornsby DCP 2013 Setback Requirements

The key setbacks identified under the Hornsby DCP are identified as being:

- Street Setback
- Rear and Side Setbacks

These are examined separately below:

Street Setback

Requirement	Proposed	Compliance
0m to Podium and Basement (podium to be 2-3 storeys)	0m to the street for podium	Yes
12m to tower element and upper floors	9m	No
Towers on Oxford Street may encroach on the 12 front setback to a minimum of 9m for up to 1/3 of the tower width	9m whole frontage	No
<p>A key element of front setbacks is to achieve consistency along a street alignment to ensure the appropriate positioning of buildings relative to surrounding developments, and the public domain more generally.</p> <p>The proposal is compliant with respect to the street-edge setback requirements for the podium, however, the tower element is setback predominantly 9m from the street, 3m forward of the</p>		

12m requirement of the DCP (although noting that the DCP permits 1/3 of the building width at the front building line to encroach to 9m).

A review of the documentation associated with the approval of the building at 30-42 Oxford Street Epping has identified that the tower element of that building is setback variously between 9m and 10.7m, with the portion of that development closest to this site having a setback of 9m.

It is noted that the element of that building closest to the subject development consists of a projecting wall, for the full 16 storeys of that development.

The encroachment of the proposal, in contrast, predominantly consists of balconies, with timber-look aluminium battens forming up the bulk of the balustrading for up 70% of its width above level 9, and 50% between the top of the podium and Level 9.

The key feature of this 'timber look' element is that the open – rather than structural - balustrades so created read from the street as an appurtenant element of the building, rather than as part of the mass of the tower behind.

Given the above, it is considered that the proposal will satisfy the design intent of the front setback control as:

- (a) The proposal is aligned with the front setback of the building approved and immediately to the south in terms of its tower setback; and
- (b) The proposal is so designed as to provide balcony elements that are light and open when read from the street and therefore provide a sense of open-ness compared with the heavy structure used on the balconies of the building to the south.

Side and rear setbacks

Requirement	Proposed	Compliance
0m side and rear for podiums	0m setbacks either side.	Yes
Above podium height, 6m from rear and side boundaries	6m South 9m North	Yes
To residential zoned land adjoining, 9m setback required (6m + 3m additional requirement near zone boundary)	12m to the rear	Yes

The proposal therefore complies with the side and rear setback requirements nominated for the Epping Town Centre under the Hornsby DCP 2013.

Analysis

In terms of setbacks, and by extension building separation requirements, under the Apartment Design Guide, the building predominantly complies with the relevant setbacks under the Development Control Plan, and further, satisfies the objectives for which building separation controls apply under the Apartment Design Guide.

It is noted that no windows or balconies facing a boundary or the other tower are positioned within the separation distance applicable under the Design Guide.

4. Conclusion

The additional matters for which information and clarity was sought by the Panel have been responded to. It is the view of the assessment team, it is considered that sufficient further information has been provided with respect to these issues to enable the Panel to move the matter towards determination.

RECOMMENDATION

- A. That pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979* the Sydney Central City Planning Panel grant a Deferred Commencement to Development Application DA/485/2016 in accordance with the recommendations previously provided to Panel with the following amendments:
 - 1. Condition 1 be modified to include the applicant's green travel plan.

- B. That all the objectors be advised of the Sydney Central City Planning Panel's decision.