

JRPP (October 2011 Version)	
File No:	DA-265/2016

ASSESSMENT REPORT – SEPP (AFFORDABLE RENTAL HOUSING) 2009

S79C – Environmental Planning & Assessment Act 1979

SUMMARY

Application details

DA No:	DA-265/2016 (Parramatta Ref: DA/501/2015)
Assessment Officer:	Sasi Kumar - Parramatta Council Glenn Dawes – Cumberland Council
Property:	62-64 Cross Street, GUILDFORD NSW 2161
Proposal:	Demolition of existing structures, lot consolidation and construction of a 4 storey RFB consisting of 31 units and basement carpark – Affordable Rental Housing (SEPP) 2009
Cost of Development:	\$6,240,909 (CIV)
Date of receipt:	04-Aug-2015
Applicant:	Australian Consulting Architects
Owner:	Mr B Hekeik and Mrs R L Hekeik
Submissions received:	Two
Property owned by a Council employee or Councillor:	The site is not known to be owned by a Council employee or Councillor
Political donations/gifts disclosed:	None disclosed on the application form
Issues:	Height
	Overshadowing
	Privacy
	Traffic
Recommendation: Determining Authority	Approval subject to conditions. Sydney West JRPP

Legislative requirements

Current Zoning:	R4 High Density Residential Parramatta - Local Environmental Plan (PLEP2011)
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Permissible under: State Environmental Planning Policy (Affordable Housing) 2009

Relevant legislation/policies: State Environmental Planning Policy (Affordable Housing) 2009, Parramatta DCP 2011, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy No. 55 (Remediation of Land), State Environmental Planning Policy (Infrastructure) 2007, Apartment Design Guide.

Variations: PLEP 2011:
Clause 4.3- Maximum permissible building height.

PDGP2011:
Clause 3.1.3- No of Storeys
Clause 3.4.5 Housing Diversity and Choice

Integrated development: No

Crown development: No

The site

Site Area: 2088 m²

Easements/rights of way: No

Heritage item: No

In the vicinity of a heritage item: Yes, 66 Cross Street (Local 1226) and 55 Cross Street (Local 1225)

Heritage conservation area: No

Site History: Yes

PL/12/2015 Concept plans for three storey Residential flat building containing 36 units with basement car parking. Advice provided in Dec 2015.

DA history

4 August 2015

11 August 2015

19 August to 9 September 2015

24 September 2015

7 October 2015

7 December 2015

21 December 2015

10 February 2016

29 February 2016

9 May 2016

24 May 2016

8 June 2016

13 July 2016

3 August 2016

8 August 2016

16 August to 6 September 2016

Application lodged.

Applicant advised to provide additional information including a Social Impact Assessment report, Electricity Substation, Clause 4.6 variation to Height of building.

Application notified and advertised.

Design Excellence Advisory Panel meeting.

DEAP recommendations and request for withdrawing the application provided to applicant.

Final reminder to applicant to provide amended plans along with response to DEAP comments.

Additional information submitted.

Meeting with Kim Crestani- City Architect and the applicant.

Amended plans provided by applicant.

Traffic comments provided.

Social Impact comments provided.

Amended CIV and Clause 4.6 variation received.

Application was transferred from City of Parramatta Council to Cumberland Council
Cumberland Council raised notification process concerns and errors in height calculation

Amended Elevations (with corrections) and Clause 4.6 variation received.

Application notified and advertised.

SECTION 79C EVALUATION

SITE & SURROUNDS



Figure 1: Subject site in yellow with red outline

The subject site is legally described as Lots 1 and 2 in DP 4907 known as 62-64 Cross Street Guilford. The subject site has a frontage of 40.23 m to Cross Street, and rear boundary of 40.34m. The northern boundary is 52.665m and the southern boundary is 51.41m with an overall site area is 2088m². The site slopes slightly from the south west corner to the northeast corner.

Each lot contains a detached dwelling and a separate garage. The site is approximately 400m south of Guildford station.

The site adjoined to the north by a single storey dwelling, while the adjoining site to the south has a heritage item in the form of a single storey dwelling which is currently used as a child care centre.

Opposite the site at 55 Cross Street is a heritage item which is within a complex of residential flat buildings.

The surrounding area is predominantly characterised by a mix of new residential flat buildings and existing single and two storey dwellings.

THE PROPOSAL

Consent is sought under SEPP (Affordable Rental Housing) 2009 for the following:

1. Demolition of existing structures on the lots mentioned above.
2. Construction of a 4 storey infill affordable housing building consisting of;

Basement

- 37 car parking spaces
- Storage spaces
- Access ramps, lift and stairways.

Ground floor

- 1x1 bedroom units consisting of kitchen, living, bathroom, laundry and a courtyard for each unit.
- 8x2 bedroom units consisting of kitchen, living, bathroom, ensuite, laundry and a courtyard for each unit.
- Lift and stairway access .
- Common open space.

First and second Floor

- 16x2 bedroom units consisting of kitchen, living, bathroom, ensuite, laundry.
- All units have been indicated for provision with balconies.
- Stairway and lift access.

Third Floor

- 6x2 bedroom units consisting of kitchen, living, bathroom, ensuite, laundry.
- All units have been indicated for provision with balconies.
- Stairway and lift access.
- Common area.

The development incorporates the following dwelling mix:

1 x 1 bedroom unit and 30 x 2 bedroom units. No adaptable units provided. A total of 13 units are proposed as affordable units as per the ARHSEPP calculation of 31% of the gross floor space proposed.

PERMISSIBILITY

Parramatta Local Environmental Plan 2011

The proposed development is defined as “Residential Flat Building” under the provisions of Parramatta Local Environmental Plan 2011.

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

The subject site is zoned R4 under the provisions of LEP2011 and a Residential Flat building is a permissible land use with consent under the zoning.

Notwithstanding the above, the proposed use is considered as “infill affordable housing” under the SEPP (Affordable Rental Housing) 2009.

Division 1 of the SEPP outlines the provisions applicable to infill affordable housing.

Clause 10 outlines land to which the Division applies. Clause 10 states:

10 Development to which Division applies

- (1) *This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if:*

- (a) *the development concerned is permitted with consent under another environmental planning instrument, and*
- (b) *the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the Heritage Act 1977.*
- (2) *Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.*

accessible area means land that is within:

- (a) *800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or*
- (b) *400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or*
- (c) *400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.*

Comment

The development is located within the R4 zone under the provisions of Parramatta Local Environmental Plan 2011. This zoning allows residential flat buildings.

The subject site is within 500m walking distance of a Guildford Railway Station .

REFERRALS

Internal

Development Engineer

The development application was referred to Council's Development Engineer for comment. No objections were raised to the proposed development subject to appropriate conditions being incorporated into the development consent.

Environmental Waste

The development application was referred to Council's Environmental Waste Officer for comment and the officer raised no issues to the proposed development subject to conditions being incorporated into the development consent.

Landscape

The development application was referred to Council's Tree Management and Landscape Officer for comment and the officer provided advice that they raised no issues to the proposed development subject to conditions being incorporated into the development consent.

The following trees are approved to be removed to facilitate development;

Tree No.	Name	Common Name	Location	Condition/ Height	Reason
5x	<i>Cinnamomum camphora</i>	Camphor laurel	Rear boundary and centre	16-18m	Exempt

			of site		
2x	<i>Cinnamomum camphora</i>	Camphor laurel	Centre of site	12-14m	To facilitate proposed development

Traffic and Transport

The development application was referred to the Traffic and Transport Investigation Officer for comment and the officer provided advice that they raised no issues to the proposed development subject to conditions being incorporated into the development consent.

Heritage Advisor

The proposed development is adjacent to a heritage listed building to the south and no concerns have been raised nor conditions provided for inclusion.

Social Impact

The application was assessed by Council's Social Outcomes team and recommendations have been included within the conditions of consent and acceptable.

DEAP

The development application was referred to the Design Excellence Advisory Panel on 25 September 2015 and the following comments were provided;

*The nine SEPP65 design principles were considered by the Panel in discussion of the development application. These are: **Context and Neighbourhood Character, Scale and Built Form, Density, Sustainability, Landscape, Amenity, Safety, Housing Diversity and Social Interaction, and Aesthetics.***

The Design Excellence Advisory Panel make the following comments in relation to the project:

- 1. Whilst the subject application was lodged as a Development Application very soon after the introduction of the new SEPP 65 Apartment Design Guide, the applicant should be aware that for all apartment development applications lodged after 19 June 2015 and determined after 17 July 2015, the Apartment Design Guide, along with the changes to SEPP 65 apply.*
- 2. Whilst the applicants submitted planning report does address the ADG it appears the building has not been designed in accordance with the ADG. A thorough review of the design needs to be carried out by the applicant taking all the relevant objectives of the ADG into account before it is resubmitted to the panel.*
- 3. Notwithstanding the above, the panel acknowledge the attempts made by the applicant to address the concerns raised by the previous panel members at its meeting in March 2015. Whilst some of the issues have been addressed the revised courtyard and the side boundary setbacks are not supported.*
- 4. The panel considers the proposed courtyard to be unresolved. While it was increased in scale to improve its amenity as an open landscaped space (as directed by the previous Panel), it is now filled with stairs and bridging elements and serves chiefly as a circulation space. With multiple bedrooms facing onto it, it is liable to create privacy issues (both visual and audial) which may lead to serious conflicts between residents. If the courtyard is to be kept, circulation elements should be rationalized and better integrated with the form of the courtyard and bedrooms removed from the courtyard perimeter. However, if setbacks to the building are increased to comply with ADG*

requirements, the courtyard may no longer be viable. This could change the layout altogether. The Panel encourage the proponent to consider other layout options, such as "L" shaped, twin linear forms or eliminating the courtyard entirely and creating a compact centralised form and substantially increasing the rear setback. Alternative options would need to satisfy all setback and amenity requirements of the ADG. The break in the building separating the eastern and western blocks is crucial to maintaining sunlight and privacy to the adjacent child care centre to the south. The applicant might consider removing the units at the northern end of the courtyard as well to provide more sunlight to the courtyard and to reduce the impact of the development on the property to the north. This would simplify the development with one block facing east and one block facing west.

5. *The lift location on the eastern side of the courtyard is too far from the street and incorporates an extremely narrow corridor and stairs. This is unacceptable. The front units having access only via stairs from the lift lobbies is also considered to be unacceptable.*

Applicant's response:

The main pedestrian entry from the street frontage has been improved with a clearly accentuated and generous gated entrance porch at street level, a much wider and shorter corridor opening up into an additional large open lobby area for the western block as well as leading through to the open landscaped courtyard. Integrated into each block are two separate lift lobbies and escape staircase directly accessible from the basement, thereby deleting out all previous staircase links between the blocks. The units adjacent to these central lift lobbies and enclosed staircase have been adjusted throughout. The western block has been revised internally; the external street façade design remains similar to that proposed in December 2015.

6. *With regard to the setbacks the panel recommends increasing the north and south side boundary setbacks to 6m and the rear setback to 9m in accordance with the Part 2F of the ADG to maintain appropriate separation and equitable distribution of development opportunity for adjacent sites.*

Applicant's response:

Setbacks and building separation remains the same as per submission issue D(December 2015) complying with the DEAP comments and the ADG requirements. There is now additional building separation along the northern façade from first floor and above. The proposal is now designed as two separate wings complementing each other, with only a ground floor 'bridge' joining the two blocks together. This revision reduces the overall building bulk and opens up for extensive north day lighting into the central landscaped courtyard and communal open space.

As highlighted above, the revision will open up the entire courtyard area as well as to enable provision of a well-lit expanded area of deep soil dense landscaping (to be detailed further by the landscaped architect) within the central courtyard area. In addition, a first floor smaller landscaped communal open space serving as bridge between the two blocks has been provided. This secondary communal area will be directly north facing with good solar access and will complement the central communal space at ground level.

7. *Unit sizes appear too small with living areas less than 3.6 metres wide for 1 bedroom units and less than 4 metres wide for 2 bedroom units.*
8. *The application fails to provide any detailed context analysis. This needs to be carried out to inform the design of the building and to demonstrate design excellence in support of the provision of affordable housing.*

9. *Solar access does not appear to comply. The applicant is to provide diagrams demonstrating solar access compliance in accordance with Part 4A of the ADG.*
10. *The Panel is concerned that the increased height at the rear will have a significant impact on adjacent properties with regard to privacy and overshadowing. This is unacceptable. Higher massing was suggested by the previous Panel as a means to increasing courtyard size without losing density. However, the resultant courtyard and setbacks have failed to create an amenable outcome. The Panel would therefore suggest removing additional height and reconsider the layout as referred to above. If additional height is sought in a revised proposal, it should be relocated to the front of the site. However, additional height is not liable to be supported by the Panel or Council, unless the revised proposal can demonstrate outstanding internal and open space amenity, full ADG compliance and minimal impact on streetscape and adjacent properties.*

Comments

Notwithstanding the DEAP comments, subsequent meetings held between Council's City Architect and the applicant resulted in development of a more refined scheme which is in line with the recommendations provided by Council's City Architect.

In addition to the above, Cumberland Council officers have not been furnished with Parramatta's City Architects commentary, however, the proposed design, inclusive of the height variation, is not considered to create a substantial impact upon the adjoining developments given the 6 metre setbacks and design of the development. It is noted that the main portion of the building is kept within the 11 metre height limitation, with the breaching portions centralised within the middle, relatable to the lift overrun and portion of the 4th storey component.

External Referrals

None required.

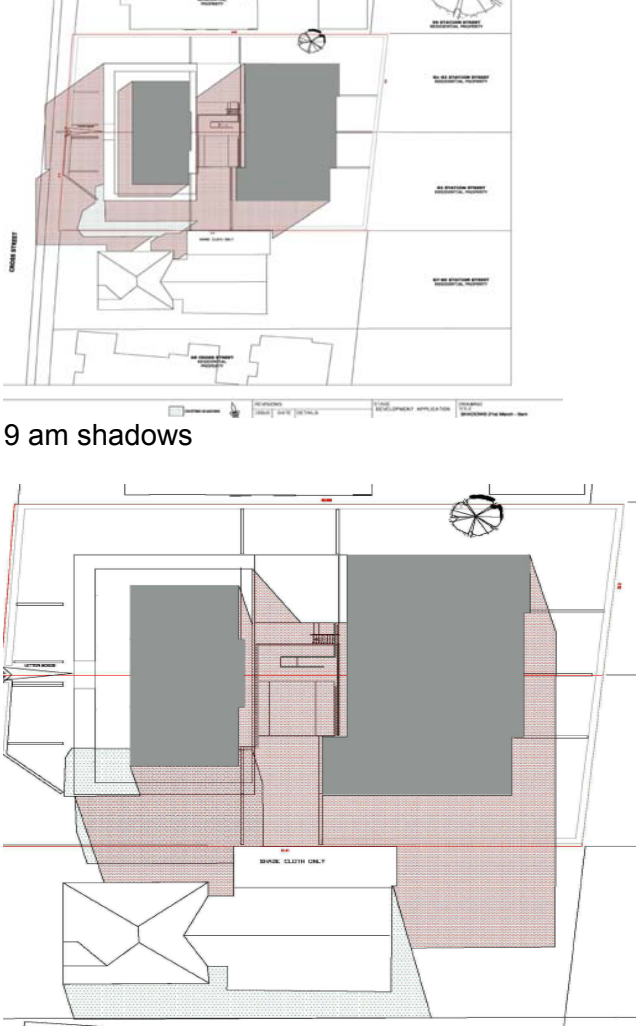
PUBLIC CONSULTATION

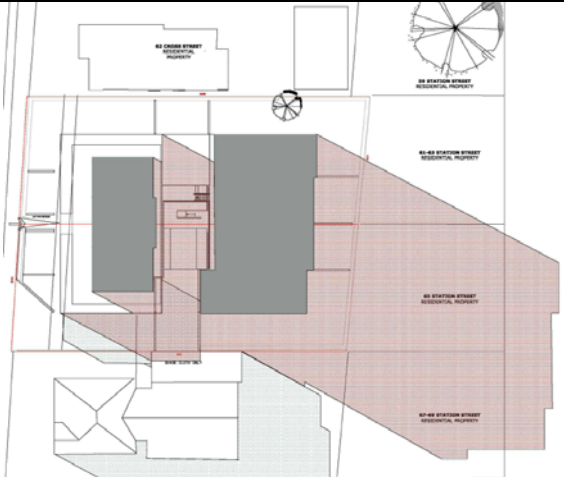
In accordance with Appendix 5 of DCP 2011, owners and occupiers of surrounding properties, and Council's Heritage Committee were given notice of the application for a 21 day period between 19 August and 9 September 2015. In response one submission was received.

Additionally, upon receipt of the development application, Cumberland Council officers noted that incorrect procedures were undertaken in the initial notification period in regards to the area captured within the notification radius. Cumberland Council readvertised the application for an additional period of 21 days between 16 August and 6 September. In response one submission was received.

The issues raised within those submissions are addressed below.

Issues	Comments
<u>Privacy</u> Concerns with affordable units and balconies facing the child care centre to the south.	There is no evidence to suggest that provision of affordable units will contribute to negative social impacts. Affordable infill housing is a form of residential development which is permissible in the zone and where appropriate, should be considered in the overall residential mix as a
Concern as to privacy impacts in general	

	<p>valuable form of affordable housing. Notwithstanding, the balconies in question have been indicated for provision with reasonable side setbacks and solid blade walls along their edges such that any overlooking toward the south would be at an oblique angle only.</p> <p>The proposal introduces balconies that face the street and rear of the site. All windows and internal uses are considered to be appropriately orientated to reduce any potential impact upon adjoining developments.</p>
<p><u>Height</u> Concern is raised that the proposed building exceeds the maximum permissible height of 11m and would add to the bulk and scale. Request the forth level be removed from the rear.</p> <p>The development is not considered to be within the context of the street.</p>	<p>The proposed height of the building varies from 9.15m to the southern boundary to the lift overrun of 13.431m to the centre of the building to the south. This variation is minimal and acceptable.</p> <p>The locality is predominately made up of a mixture of single and two storey dwelling houses. However, it is noted that three storey apartment developments have been completed within the vicinity, demonstrating that the area is undergoing transition into higher densities.</p>
<p><u>Overshadowing</u> Concern was raised that the building will overshadow the child care centre and will not provide the required 3 hours of solar access.</p> <p>Concern is raised as to the general overshadowing of the adjoining properties.</p>	 <p>9 am shadows</p> <p>12 pm shadow</p>

	 <p>3 pm shadow</p> <p>It is clear from the shadow diagrams that the immediate neighbouring site to the south will have the required 3 hours of solar access to the private open space to the rear. However it is noted that it is not a dwelling and is used as a child care centre.</p> <p>Additionally, it is noted that the development to the south is the only adjoining development to be impacted significantly by shadow. All other residential properties will receive ample amount of solar penetration.</p>
<p><u>Traffic</u> Concern is raised that the proposed development will have an impact on the traffic management of the child care centre.</p> <p>Concern is raised as to the impact of traffic and loss of parking within the locality.</p>	<p>The proposal has been reviewed and endorsed by Councils Traffic Engineers and no concerns have been raised.</p>
<p><u>Waste Unsightliness</u> Concern is raised as to the unsightliness of rubbish bins</p>	<p>Waste bins are to managed within the basement. Upon collection days, these bins will be placed along the street frontage. This is seen to be consistent with waste management within the area. It is considered that there is sufficient frontage provided (42 metres) to line bins upon the kerb. Given that this will not occur daily, this is considered acceptable in this instance.</p>

Amended Plan

Yes

Summary of amendments

Architectural plans amended

This was as per discussions with City Architect.

ENVIRONMENTAL PLANNING INSTRUMENTS

STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009

The development application has been made under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009, which applies to all land in the City of Parramatta and aims to facilitate the provision of affordable housing within New South Wales and particularly within the Sydney region.

The application was made **AFTER** amendments were made to the SEPP on 20 May 2011. The development application has been assessed against the provisions of the SEPP as amended.

The following provisions of the SEPP are relevant to this proposal:-

Clause	SEPP Requirements	Compliance
Clause 10 – Land to which Division applies	<p>Land must be zoned R1, R2, R3 or R4 (or equivalent zone)</p> <p>Land must be within an accessible area (ie. within 800m of a railway station or 400m walking distance of a public transport service).</p> <p>Land must be within 400 metres walking distance of land within Zone B2 or Zone B4 (not in the Sydney Region).</p>	<p>R4 and complies</p> <p>The proposal is located approximately 500m walking distance from a railway station.</p> <p>Additionally, although located within the Sydney Region, the subject site is located within 400m of a B2 local centre zone as per the PLEP 2011.</p>
Clause 13 – Floor Space Ratios	<p>The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus:</p> <p>(a) if the existing maximum floor space ratio is 2.5:1 or less:</p> <p>(i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or</p> <p>(ii) Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent, where:</p> <p>AH is the percentage of the gross floor area of the</p>	<p>Total= 2292m²</p> <p>Permissible FSR under PLEP 2011=0.8:1 1664m²</p> <p>The applicant has sought to provide 30% of the GFA as affordable housing and therefore will get benefit from the option a (ii) as stated. Therefore the additional FSR that can be added is 0.3. The total permissible floor space ratio therefore becomes 0.8 + 0.3= 1.1:1.</p> <p>The proposed development has a GFA of 2292m², which equates to an FSR of 1.1:1 and complies with this clause</p>

	<p>development that is used for affordable housing.</p> <p>The bonus applies above the existing maximum FSR that applies to residential accommodation on the land.</p>	30% bonus applicable.
Clause 14 – Standards that cannot be used to refuse consent.	<p>1. Low rise development</p> <p>(b) Site Area: Min 450m²</p> <p>(c) Landscaped area: min 30% landscaped. = 655m²</p> <p>(d) Deep soil zones: min 15% site area, 3m min dimension and 66% located at rear of site if practicable. =312m²</p> <p>(e) Solar Access: 70% of dwellings receive min 3 hours direct sunlight in mid-winter.</p> <p>2. General</p> <p>(a) Car Parking: 1 space for 2-bedroom dwellings and 1.5 spaces for 3-bedroom dwellings.</p> <p>(b) Dwelling Size: 70m² for each 2-bedroom dwelling.</p>	<p>2088m²- complies</p> <p>981m²-complies</p> <p>721m²-complies</p> <p>80%</p> <p>complies</p> <p>The proposal requires 1 space per affordable unit and therefore will require 13 spaces for the affordable rental housing portion of the development.</p> <p>37 car spaces including 6 visitor and 3 disabled spaces.</p> <p>Minimum 70sqm for each 2 bedroom units- complies</p>
Clause 15 – Design Requirements	Consideration must be given to the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development (2004).	N/A
Clause 16 – Continued application of SEPP 65	SEPP 65 continues to apply to RFB proposals.	The proposal has been assessed against these guidelines (in the SEPP 65 portion of this report).

Clause 16A – Character of Local Area.	This clause requires Council to take into consideration whether the design of the development is compatible with the character of the local area.	A compatibility assessment of the proposal is provided at the end of this table.
Clause 17 – Must be used for affordable housing for 10 years	Consent cannot be granted unless conditions are imposed that will require the development to be used for 10 years from issue of Occupation Certificate.	The applicant has provided written confirmation that the development would conform to this requirement.
Clause 18 – Subdivision	Subdivision of land on which development has been carried out for affordable housing may be subdivided with consent.	No subdivision proposed.

Clause 16A - Character of local area:

The amended SEPP requires Council to consider whether the design of the development is compatible with the character of the local area. There are no guidelines associated with the SEPP to provide Council with guidance in the determination of what is compatible development with the character of the local area. However, the Land and Environment Court has considered this issue many times in its role in deciding legal appeals for development applications. It has issued a planning principle on this matter that is a useful guide for the purposes of this assessment. The character assessment for the current proposal is provided in the following section:

Part A – Identify the local area

The local area for the purpose of the assessment of this development application is considered to be the area bound by the following streets:-

Railway terrace to the west, Guildford Road to the north, Station Street to the east and Guildford Railway corridor to the south.

The local area is indicated in the following map:

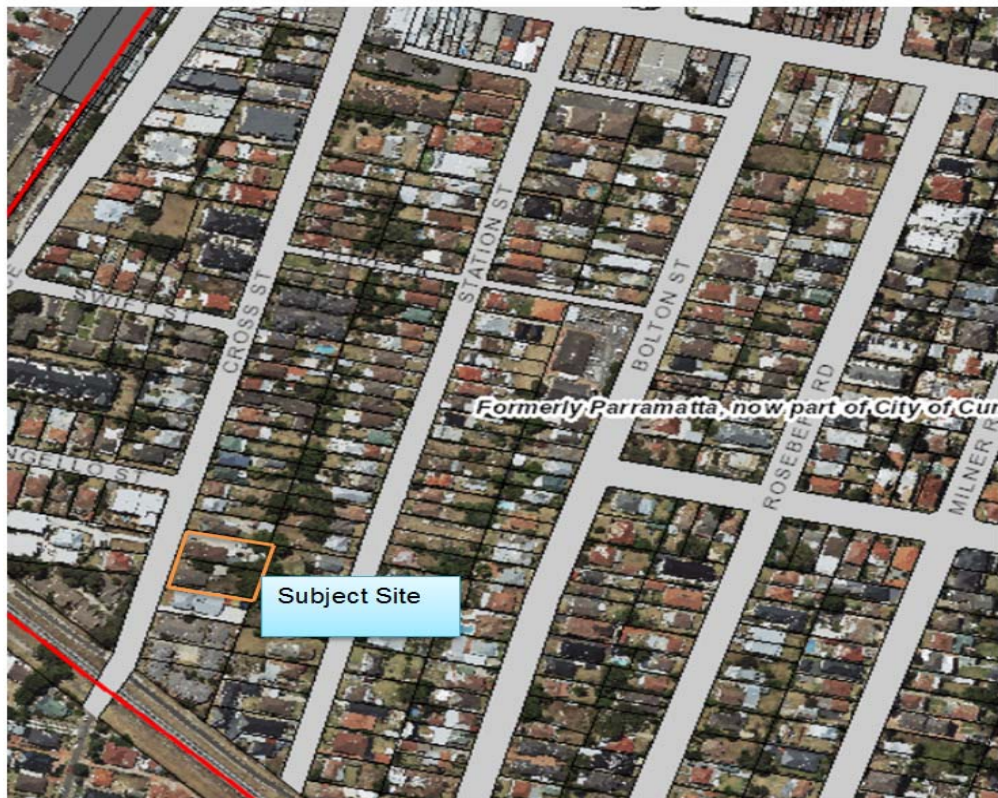


Figure 2: Subject site and its immediate surrounds.

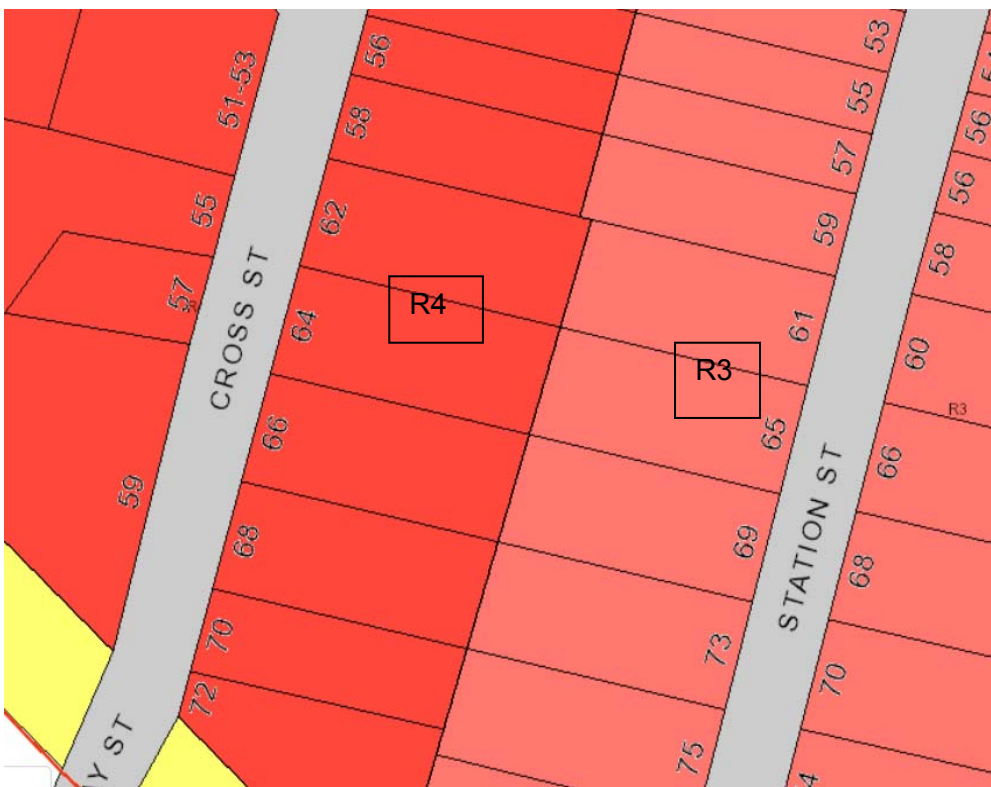


Figure 3: Zoning for the subject site and immediate surrounds

Part B – Determine the character of the local area.

The existing zoning of the locality is R4 High Density Residential under PLEP 2011 and extends between Railway Terrace to the west, half way between Cross and South Street to the east and Guildford Road to the north. The subject site is to the eastern fringe of the R4 zoning and adjoins the R3 medium density zoning to the east of the site. Across Cross Street

to the west are residential flat buildings and to the eastern side is predominantly single or two storey dwellings.. Along Elonera Street to the north are two storey town houses.

Future built forms in the surrounding areas are likely to incorporate a mixture of residential flat building with specific side setbacks, front setbacks, rear setbacks, a height up to 11m, and an FSR up to 0.8:1. As shown on the submitted plans the current proposal is designed to adopt a comparable building form similar to a modern residential flat building.

There are sufficient setbacks provided which will minimise overlooking opportunities toward neighbouring properties.

Part C – Determine if development is compatible with character of the local area.

Compatibility within the urban environment is an issue that has been given detailed consideration by the Land and Environment Court. In the decision of *Project Ventures Development Pty Limited and Pittwater Council*, the Senior Commissioner of the Court was asked to consider the process of deciding whether a building is compatible with its surroundings. This led to the development of a Planning Principle that planners could refer to as a guide on this particular issue.

The planning principle states there are two important aspects of compatibility that need to be satisfied:

- Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.
Physical impacts generally include privacy, overshadowing, visual bulk and compatibility in the streetscape.

In terms of the physical impacts of the development, the following points are made:

- The design of the proposal and orientation of the lot means there will typically be some overshadowing to the adjoining property to the south; however the current building on the subject site is a single storey dwelling and the proposed 4 storey residential flat building would have an impact on the overshadowing of the dwelling to the south. However there is a predominant setback of 6 m from the boundary. Given the setbacks provided and the orientation of the site the overshadowing impact is unavoidable and would be of a lesser impact than a two storey dwelling with a 1.5 m setback.
- Privacy impacts are mitigated through the use of building separation and provision of highlight windows to side boundary facing bedrooms.
- Noise impacts are reduced through siting the communal living areas to the northern portion of the site away from adjoining dwellings and road traffic areas.
- The proposal is appropriate for the consolidated parcel of land which is constraint by R3 zoning to the rear of the site.

The development will have acceptable impact on neighbouring privacy (subject to conditions), does not result in any unreasonable exacerbation of the existing overshadowing potential (due to lot orientation), and provides for appropriate setbacks and height which does not result in undue visual bulk.

The proposal will not impact on the development potential of adjoining sites by isolating or by unduly constraining them through site design.

Given that predominant future character of the area is for high density residential use in terms of usage and building type, with the majority of the proposed development containing high density residential it is considered that the proposal is in harmony with the emerging surrounding development. In this regard, it is considered to be visually compatible within this context, and responds to the varied elements that make up the high density character of the surrounding environment. Character and design were also assessed by the Design Excellence Advisory Panel and the additional concerns raised in regards to height, have been adequately addressed by the applicant.

- Is the proposal's appearance in harmony with the building's around it and the character of the street?

To be considered compatible, a development should contain or at least respond to the essential elements that make up the character of the surrounding area. The essential and desirable elements are assessed as being the older style single and two storey dwellings, along with residential flat buildings.

There are residential flat buildings under construction and completed along the western side of Cross Street and along Railway Terrace, after the rezoning of the area into R4 High Density Residential zone through PLEP 2011.

The proposal is also considered to be in keeping with the future desired character of the area as defined in the planning controls that apply to the site.

It is therefore considered that the proposal demonstrates consistency with the existing and future desired character of the locality. This was also assessed by the Design Excellence Advisory Panel and the additional concerns regarding height, have been satisfactorily addressed by the applicant.

STATE ENVIRONMENTAL PLANNING POLICY 55 – REMEDIATION OF LAND

The provisions of SEPP No. 55 have been considered in the assessment of the development application. The site is not identified in Council's records as being contaminated. Further, the site does not have a history of a previous land use that may have caused contamination and there is no evidence that indicates the site is contaminated. Accordingly, the development application is satisfactory having regard to the relevant matters for consideration under SEPP 55.

STATE ENVIRONMENTAL PLANNING POLICY – BASIX

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

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

The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.

The Sydney Harbour Catchment Planning Principles must be considered and where possible achieved in the carrying out of development within the catchment. The key relevant principles include:

- protect and improve hydrological, ecological and geomorphologic processes;
- consider cumulative impacts of development within the catchment;
- improve water quality of urban runoff and reduce quantity and frequency of urban run-off; and
- protect and rehabilitate riparian corridors and remnant vegetation.

The site is within the Sydney Harbour Catchment and eventually drains into the Harbour.

The site is not located on the foreshore or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development.

The development is consistent with the controls contained with the deemed SEPP.

STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application. The application is not subject to clause 45 as the site does not have any electricity assets. The application is not subject to clause 101 of the SEPP as the site does not have frontage to a classified road. The application is not subject to clause 102 of the SEPP as the average daily traffic volume of Cross Road is less than 40,000 vehicles.

State Environmental Planning Policy No.65 – Quality Design of Residential Apartment Development (SEPP 65)

The relevant provisions and design quality principles of SEPP 65 have been considered in the assessment of the development application. In general, the proposed development is considered to perform satisfactorily having regard to the SEPP 65 design principles as well as the provisions under the Apartment Design Guide (ADG).

Principle	Commentary
Principle 1: Context and Neighbourhood Character	<p>The proposed development is considered to make a positive contribution to the locality and improve the existing streetscape. The character of this locality is undergoing transition from low/medium-density residential to high density developments within the Guildford locality. This proposal is consistent with that shift.</p> <p>The proposal is within walking distance of the local shops, parks and Guildford train station.</p> <p>The site is located at the edge of Guildford Precinct as noted within the PDCP 2011.</p>
Principle 2: Built Form and Scale	<p>The site sits on the edge of Guildford Precinct and mediates between the high scale of the town Centre, as well as respond to the lower scale of the neighbourhood moving away from the town centre.</p> <p>The design of the development introduces suitable setbacks from adjoining land uses to facilitate its 4 storeys and is seen to be consistent with the surrounding locality and shift in low to high</p>

	<p>density.</p> <p>It is noted that the development will introduce a height in breach of the PLEP 2011 which specifies a 11m height limitation, however, as discussed within this report, the breach primarily relates to the lift overrun and as such is not considered to create a significant impact. It is noted that the development is compliant with the FSR of the area given the floor space boost provided by the SEPP Affordable Rental Housing legislation.</p>
Principle 3: Density	<p>The development will contribute 31 apartments (including a percentage of affordable rental units) in midrise building forms that will contribute to the redevelopment of the area. The proposal is within the permissible total FSR allowable.</p> <p>The applicable FSR of the site is 0.8:1 plus associated boost provided with the SEPP Affordable Rental Housing.</p> <p>The development is compliant with SEPP 65 recommendations regarding building separation, ventilation and solar access.</p>
Principle 4: Sustainability	<p>A BASIX Certificate and relevant reports have been submitted with the development application. It is noted that a revised BASIX Certificate will form part of a deferred commencement condition, however the development as a whole is considered to perform adequately in this instance.</p> <p>The proposal will incorporate features relating to ESD in the design and construction of the development inclusive of water efficient fixtures and energy saving devices.</p> <p>The development achieves a good level of ventilation throughout the development with a majority of the proposed units having dual aspects or diagonal cross ventilation.</p>
Principle 5: Landscape	<p>The proposal recognises the strong landscape character and green network of the neighbourhood, and extends that across the ground floor of the site. This strategy both ties the development into the neighbourhood and provides significant resident amenity. The large communal open space has been sited within this unique landscape setting, giving it a distinct character and adding to its amenity. Landscaping and planting has also been used to provide additional privacy to the ground floor units.</p>
Principle 6: Amenity	<p>The proposal will deliver sufficient amenity to residents of the building.</p> <p>The proposal achieves compliance with the ADG</p>

	<p>in this regard which contains many amenity controls.</p> <p>The development provides sufficient setbacks that provide suitable building separation between the proposal and adjoining uses, having considerations into any future conflicts that may occur.</p> <p>Suitable access is provided to all parts of the building, through the efficient use of lift to access all levels.</p>
Principal 7: Safety	<p>Passive surveillance of public space is maximised through orientation of units.</p> <p>The position and orientation of the various building elements allow balconies and habitable rooms of apartments to overlook the streets and communal open space.</p> <p>Suitable security measures are to be undertaken with the installation of ground level lighting. Street level activity will be encouraged via the provision of direct public access from the pedestrian footpath from Cross Street.</p> <p>Lift foyer and basement car parking can be appropriately secured with security cards and intercom access for visitors.</p>
Principal 8: Housing Diversity and Social Interaction	<p>The building will introduce an appropriate mix of 1 and 2 residential apartments in accordance with the zoning of the site and future desired character of a locality undergoing transition.</p> <p>The proposal also incorporates at least 13 affordable apartments to provide for affordable rental housing.</p> <p>The proposal is located in the Guildford precinct and is seen to be suitably located near local business and local transport systems.</p> <p>Suitable conditions will be imposed on the development to ensure that adaptable units are provided to the development in accordance with the PDCP 2011.</p>
Principle 9: Aesthetics	<p>The building has an attractive contemporary appearance and utilises building elements that provide individuality to the development without compromising the streetscape or detracting from the appearance of existing surrounding development.</p> <p>The building respond well in this regard with its provision of good aesthetics through the use of high quality materials, attention to detail in its internal spaces and how it addresses the street frontages.</p>

	<p>The building provides an appropriate response to the existing and likely future character of the locality.</p> <p>As nominated earlier, the proposal has been submitted to Parramatta's DEAP and City Architect who, apart from compliance with the ADG, have not raised any specific concerns with the design of the development.</p>
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APARTMENT DESIGN GUIDE COMPLIANCE

COMPLIANCE TABLE		
Development standard	Proposal	Compliance
Building Separation Up to 4 storeys 12m between habitable spaces	6m provided on side boundaries 7.9m provided at rear	Yes – development meets minimum requirements to provide half the separation distance between the specified allotments.
Communal Open Space Minimum 25% Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)	225sqm	No – The development requires 522sqm of communal open space. However, the proposal meets the design criteria of this part as it; <i>provides larger balconies or increased private open space for apartments</i> <i>demonstrates good proximity to public open space and facilities and/or provide contributions to public open space</i> 50% of the principal usable part of the communal open space has solar access for more than 2 hours.
Deep Soil Minimum 7%	721m ² 34%	Yes – Substantial landscaped/deep soil areas have been proposed.
Visual Privacy Minimum 6m (Up to 4 Storeys)	6m	Yes
Bicycle and Carparking	37 (inclusive of 6 visitors and 2 accessible spaces)	Yes
Solar Access Minimum of 70% to have 2 hours of solar access	28/31 units have greater than 2 hours	87% - Yes

Ventilation Minimum of 60% of units to be cross ventilated. Maximum depth 18m	30/31 units are cross through and have 2 openings in separate elevations	97% - Yes Maximum depth: Approx 13 m
Ceiling Heights Min 2.7m	2.7m minimum	Yes
Apartment Size 1 bed: 50sqm 2 bed: 70sqm Additional Bathroom additional 5sqm Habitable room depth Max 8 m Bedroom size Master Bed >10sqm Other>9sqm Minimum dimension for bedroom >3m Minimum living room depth Minimum of 4m	1 bed: >50sqm 2 bed > 70sqm All 2 bedroom units with an additional bathroom have a floor area of >75sqm Habitable Room depth Maximum 8 m Master Bed >10sqm Other>9sqm >3m All units have a living room depth of 4m or greater.	Yes
Private Open Space and Balconies Min Balconies 1 Bed 8sqm and 2m depth 2 Bed 10sqm and 2m depth Ground Floor Units min 15sqm and 3m depth	1 Bed 8sqm and 2m depth 2 Bed 10sqm and 2m depth Ground Floor Units min 15sqm and 3m depth	Yes
Common Circulation Maximum apartments of a circulation core is 10 Max one lift to service 40 units	Max 5 Only 31 Units in complex	Yes
Storage 1 x 6cubic metre storage 30 x 8 cubic metre storages	31 storages provided in basement	Yes

Comment: The proposal is seen to be consistent with the core requirements of the Apartment Design Guide.

PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2011

The relevant matters to be considered under Parramatta Local Environmental Plan 2011 for the proposed development are outlined below.

COMPLIANCE TABLE

Development standard	Proposal	Compliance
Land Use Table – R4 Low Density Residential Zone	Residential buildings permissible. flat are	Yes
4.3 Height of Buildings Height Map shows that the maximum height of new developments for the subject site is 11 metres.	13.431m	There is an incursion into the maximum permissible height of 11m. A clause 4.6 variation request has been provided and assessed separately.
4.4 Floor Space Ratio Floor Ratio Map shows that the maximum FSR of new developments for the subject site is 0.8:1. Note: Car parking to meet any requirements of the consent authority (including access to that car parking) is excluded from gross floor area in the Draft LEP.	Permissible under 2011=0.8:1 = 1664m ² FSR PLEP	The applicant has sought to provide 30% of the GFA as affordable housing and therefore will get benefit from the option a (ii) as stated. Therefore the additional FSR that can be added is 0.30. The total permissible floor space ratio therefore becomes 0.8 + 0.30= 1.1:1. The proposed development has a GFA of 2292.1m ² , which equates to an FSR of 1.1:1 and is permissible under ARHSEPP.
4.6 Exceptions to development standards	Yes A variation to the maximum permissible height.	Refer to discussion below.
5.1A Development on land intended to be acquired for public purposes This clause applies to land shown on the Land Reservation Acquisition Map and specified in Column 1 of the Table to this clause and that has not been acquired by the relevant authority of the State specified for the land in clause 5.1.	N/A	N/A
5.6 Architectural roof features	N/A	
5.7 Development below mean high water mark.	N/A	The proposal is not for the development of land that is covered by tidal waters.
5.9 Preservation of trees.	Yes	See previous discussion on tree removal.

5.10 Heritage Conservation	Yes - Subject site is in proximity to two heritage items.	According to the Heritage Item and heritage conservation maps the subject site is <i>not</i> a heritage item or within a heritage conservation area. Refer to discussions below.
6.1 Acid sulfate soils	Class 5	No ASS management plan required.
6.2 Earthworks	A basement is proposed.	Council's Development engineer has assessed the application and comments have been provided supporting the development.
6.3 Flood planning	N/A	N/A
6.4 Biodiversity protection	N/A	N/A
6.5 Water protection	N/A	N/A
6.6 Development on landslide risk land	N/A	N/A
6.7 Affected by a Foreshore Building Line	No	The site is not located in the foreshore area.

4.6 Exceptions to development standards within LEP 2011

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

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

(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.

A request for exception under clause 4.6 was lodged as the proposed development exceeds the 11m maximum permissible building height prescribed by clause 4.3 of PLEP2011(13.431m to the top of the lift overrun representing a variation of 22.1%). This exception is considered to warrant Council's support and is discussed in further detail within this report.

The applicant has provided the following justification for the non compliance with the development standard:

1. The lift overrun is a maximum of 13.431m (2.431m and 22.1% variation) to the permissible maximum building height.
2. The minor non-compliance with the maximum building height control of 11m does not prevent the achievement of a transition between building heights on surrounding land.
3. There are no existing views to or from the site or across the site from adjoining land and accordingly the proposed minor variation to maximum building height will not disrupt views.
4. Overall the shadow impacts of the proposal are to be reasonably expected as the area undergoes a transition from low density to high density residential development.
5. The Statement of Heritage Impact originally submitted with the development application concluded that the proposal had an acceptable impact to both nearby heritage items at No. 55 and No.66 Cross Street.
6. The height of the proposal will have no detrimental environmental impact and will not be detrimental to the amenity of the site and surrounding properties.
7. The relevant objectives for development in Zone R4 and the partial non-compliance with the height control do not prevent the development from meeting the objectives of the zone.

Assessment of the exception under clause 4.6:

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

1. Is the planning control a development standard?

The maximum permissible building height is a development standard.

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

The purpose of Clause 4.3 is to ensure that the bulk and scale of the development is suitable with regard to the area of the site and the type of development proposed. Clause 4.3 specifically states that the objectives are as follows;

4.3 Height of buildings

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

- (a) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,*
 - (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*
 - (c) to require the height of future buildings to have regard to heritage sites and their settings,*
 - (d) to ensure the preservation of historic views,*
 - (e) to reinforce and respect the existing character and scale of low density residential areas,*
 - (f) to maintain satisfactory sky exposure and daylight to existing buildings within commercial centres, to the sides and rear of tower forms and to key areas of the public domain, including parks, streets and lanes.*
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).*

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

Compliance with the development standard would be inconsistent with the stated objectives of the clause in that the proposed 4 storey residential flat buildings provide a transition in the built form from the northern end to the south end of Cross Street. There are approved 4 storey buildings to the to the northern side of Cross Street and strict compliance with the development standards would render the application inconsistent with the objectives specified in section 5 (a) (I) and (ii) of the EPA Act

The objection to the development standard will ensure that the proposed development will satisfy the objectives of the clause.

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

It is considered that it would be unreasonable to require the development to comply with the maximum permissible height given that the proposed building provides essentially a four storey structure which is setback from the frontage and the side and is well within the maximum permissible height for the predominant portion of the building except for the lift over run. The proposed 4 storey is supported for the following reasons;

- a) The proposed buildings are within a R4 High Density residential use site within the Guildford Town Centre, strategically located within 400m from Guildford Railway Station and the commercial hub and designed to set the tone and scale for comparable future developments.
- b) The recessed nature of the roof top communal areas and lift cores, makes the extent of variation not visible from the street.
- c) The proposal has been designed to mitigate any privacy issues and there are no known significant overshadowing impacts.

5. Is the exception well founded?

In accordance with the principles established in *Wehbe v Pittwater Council* the objection is considered well founded for the following reasons;

- a) The proposed height variations to the building are essentially only to the lift cores which are to the centre of the proposed building.
- b) The lift overruns which increases the actual building height, however are recessed and not visible from the street level.
- c) The proposed buildings do not contribute to any additional privacy issues.
- d) The proposed development complies with the FSR requirements under ARHSEPP.
- e) The proposal does not result in any unacceptable over shadowing to surrounding residential development by virtue of the orientation of the site.
- f) The proposed buildings are designed to set a positive precedent for the tone and scale of comparable future developments within the Guildford Town Centre.
- g) The proposed buildings are in the immediate vicinity of other high density residential developments.

Further the judgement of Pearson C in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 dated 30 January 2015 has also been considered in the assessment of this variation. The judgement argues that a public benefit arising from the additional housing and employment opportunities are not unique to any specific mixed use development, nor are the proximity to transport hubs, it in fact can be achieved by any generic mixed development. These were not considered proper grounds for considering any variation under clause 4.6.

On 20 August 2015, the NSW Court of Appeal handed down its decision on appeal from the Land and Environment Court's decision: *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248. The case upheld Commissioner Pearson's original decision in regard to clause 4.6 but it interpreted the approach taken by the Commissioner differently to Pain J. In doing so, the decision largely confines Commissioner Pearson's decision to the particular facts of that case and the particular exercise of discretion by the Commissioner.

While Leeming JA found no error in the approach taken by the Commissioner in relation to the dissatisfaction with the environmental planning grounds relied upon, that was a matter for the Commissioner on the facts of the particular case and not a general principle.

More recently, a Commissioner of the Land and Environment Court applied the Court of Appeal's approach in *Moskovitch v Waverley Council* [2016] NSWLEC 1015 suggests a greater flexibility when assessing a variation.

In this the Commissioner upheld, what the applicant sought, to vary the FSR development standard on grounds that:

- *compliance with the development standard was unreasonable or unnecessary in the circumstances of the case as required by cl 4.6(3)(a) because the relevant objectives of the standard were met by the proposal and would not be achieved or would be thwarted by a complying development;*
- *there were sufficient environmental planning grounds for the variance because of the lack of environmental impact of the development and the environmental benefits of the replacement of two residential flat buildings with poor amenity.*

Given the above grounds it is acceptable that the 8.3% variation to the maximum permissible height would meet the relevant objectives of the standard given that it has no known adverse environmental impact to the immediate surrounding development.

Zone Objectives

The objectives of the R4 High Density Residential zone include:

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provides facilities or services to meet the day to day needs of residents.
- To provide opportunity for high density residential development close to major transport nodes, services and employment opportunities.
- To provide opportunities for people to carry out a reasonable range of activities from their homes if such activities will not adversely affect the amenity of the neighbourhood.

The proposed development is consistent with the aims and objectives of the R4 High Density Residential zoning applying to the land as the proposed works are suitably located, and are of a bulk and scale that maintains suitable residential amenity for adjoining sites.

5.10 Heritage Conservation

The proposed new development is to be located adjacent to a heritage item, No. 66 Cross Street and opposite 55 Cross Street. Other items in the area, such as No. 10 Cross Street are physically and visually separated from the site. The water pipeline is also distanced from the site with open easement, high fence and built development in between.

The subject development has been supported by a Statement of Heritage Impact, prepared by Perumal Murphy Alessi which nominates the following;

The heritage significance of both Nos. 55 and 66 Cross Street relates to their historic associations and early 20th century, Federation and Inter-war period aesthetic character and details. The proposed new development will have no impact on the historic or aesthetic significance of each. The historic associations, aesthetic character and primary external features of the items and their primary setting and setbacks that contribute to their significance and streetscape will be retained.

The proposed development has been articulated and redesigned to reduce overall bulk and scale and interpret the early subdivision and streetscape pattern. The scheme incorporates open landscaped common areas, courtyards and balconies to soften the built context and increase the amenity, light and ventilation to the site and neighbours. Any potential visual impacts are also reduced by the use of contemporary and complementary building materials and architectural style, setback of the upper storey and the use of flat roof forms also improve the street frontage.

The report concludes that there is no objection in relation to the subject development being approved.

DEVELOPMENT CONTROL PLANS

Development Control	Proposal	Compliance
Site Considerations		
<p>2.4.1 Views and Vistas</p> <p>Development is to preserve views of significant topographical features such as ridges and natural corridors, the urban skyline, landmark buildings, sites of historical significance and areas of high visibility, particularly those identified in Appendix 2 Views and Vistas. Refer also to Views and Vistas in the Harris Park Heritage Conservation Area in Part 4.</p>	<p>The proposed development does not impact any views as described in PDCP2011.</p>	<p>Yes</p>
<p>2.4.2.1 Flooding</p> <p>Is the site flood affected by local or mainstream flooding? If yes refer to section 2.4.2 of DCP 2011 for detailed controls.</p>	<p>The subject site is not flood affected as per Council's records.</p>	<p>N/A</p>
<p>2.4.2.2 Protection of Waterways</p>	<p>The subject site is not impacted by any Waterways.</p>	<p>N/A</p>
<p>2.4.2.3 Protection of Groundwater</p>	<p>The proposed basement excavation is not considered to impact any ground water.</p>	
<p>2.4.3.2 Acid sulphate soils</p>	<p>Refer to LEP table above</p>	<p>Yes</p>
<p>2.4.3.3 Salinity</p> <p>Is the site identified as being of moderate or high salinity potential or of known salinity by the 'Salinity Study Map for Western Sydney 2006'?</p> <p>If yes, have investigations been undertaken in accordance with the Western Sydney Salinity Code of Practice 2003?</p> <p>If yes, does landscaping comprise of low water use species and are irrigation systems low water usage?</p>	<p>The site is of low salinity potential and accordingly salinity is unlikely to impact on the development.</p>	<p>The landscaping is appropriate for the salinity hazard and appropriate conditions have been included in the recommended conditions to ensure that appropriate construction techniques are utilised to ensure the structural integrity of building work is not compromised.</p>
<p>2.4.4 Land Contamination</p> <p>Is the site identified as or likely to be contaminated?</p> <p>If yes have the requirements of SEPP 55 been satisfied?</p>	<p>The site is not considered contaminated nor is there any previous known history that may have caused contamination.</p>	<p>N/A</p>

2.4.5 Air Quality	Standard conditions have been imposed to ensure that the potential for increased air pollution has been minimised.	Yes
2.4.6 Development on Sloping Land Does the design of the development appropriately respond to the slope of the site?	The subject site slopes gradually to the rear and the building has been designed in accordance with the slope.	Yes
2.4.6 Biodiversity	Council's landscape officer has reviewed the application and advises that vegetation removal is appropriate, the amended landscape plan is appropriate and a Statement of Flora/Fauna Impact is not required.	Yes
2.4.7 Public Domain Does the building appropriately address the public domain? Does the development provide appropriate passive surveillance opportunities? Have appropriate public domain enhancements including street tree planning, footpath construction or reconstruction been included as conditions of consent?	The proposed development has living room windows and balconies facing the street and provides for adequate passive surveillance opportunities.	Yes
2.4.7.2 Development on land abutting the E2 Environmental Protection zone and W1 Natural Waterways zone	The site does not adjoin land zoned E2 or W1.	N/A
3. Preliminary Building Envelope		
Frontage Minimum 24m	40m	Yes
Height Maximum height is shown on the Parramatta LEP 2011 Height of Buildings Map – 11metres; max 3 storeys On battleaxe allotments the maximum permissible height is	13.431 m to the lift overrun and 4 storeys	A clause 4.6 variation request has been provided and assessed separately. The 4 storey variation is supported since the site slopes to

1 storey / 4.5 m, with attic rooms permitted		the rear and the four storey element to the building to the east is well within the maximum permissible height and the 4 storey element to the building to the west is setback away from the street.
<p>Front Setback</p> <p>Is the setback consistent with the prevailing setback along the street and within the range of 5-9m?</p> <p>Small Lot (less than 550m²) consistent with the prevailing setback along the street and no less than 3m.</p> <p>Minimum 3m on secondary street for corner allotments.</p>	5m	Yes
<p>Side Setback</p> <p>Minimum 4.5m</p>	6m	Yes
<p>Rear Setback</p> <p>Minimum 15% of the length of site</p> <p>8m</p> <p>Small lot (< 550 m²) minimum 6m or consistent with prevailing rear setback</p>	7.21m to the southern end and 8.12m to the northern end.	Supported.
<p>Deep Soil zone</p> <p>Minimum 30%, including at least 50% at the rear of the site and 15% at the front of the site</p> <p>dimensions not less than 4m x 4m</p>	<p>Required=624m²</p> <p>Provided=721m²</p>	Yes
<p>Landscaped Area</p> <p>minimum 40% (including deep soil zone)</p> <p>Where basement carparking extends beyond the building envelope, a minimum soil depth of 1.0m is to be provided, measured from the top of the slab and will not be calculated as part of the deep soil zone.</p>	<p>Required=832m²</p> <p>Provided=981m²</p>	Yes
3.2. Building Elements		
<p>3.2.1 Building Form and Massing</p> <p>Are the height, bulk and scale of the proposed building consistent with the building patterns in the street?</p>	The proposed 4 storey residential flat building is similar in scale bulk and height to the	Yes

	residential flat buildings proposed and built on Cross street.	
<p>3.2.2 Building Façade and Articulation</p> <p>Are the building facades modulated in plan and elevation and articulated to reduce the appearance of building bulk and to express the elements of the building's architecture?</p> <p>Does the building exceed the building envelope?</p> <p>If yes, by more than:</p> <ul style="list-style-type: none"> • 800mm for balconies and eaves: • 600mm for Juliet balconies and bay windows 	<p>The building is modulated and articulated and has been through a Design Excellence Advisory Panel review and modifications have been carried out in consultation with the City Architect.</p>	Yes
<p>3.2.3 Roof Design</p> <p>Does that roof form minimise the bulk and scale of the building?</p> <p>Does the roof form respond to the local context, in particular scale and pitch?</p>	<p>A flat concrete roof with parapet is proposed. A common open space of 400m² is proposed on the roof of the building to the west.</p>	Acceptable.
<p>3.2.5 Streetscape</p> <p>Does the development respond to the existing character and urban context of the surrounding area in terms of setback, design, landscape and bulk and scale?</p> <p>Garages are to be a maximum of 6.3m wide or 50% of the width of the street elevation whichever is the lesser.</p>	<p>The entire western side of Cross street has approved and built residential flat buildings.</p>	Yes
<p>3.2.6 Fences</p> <p>Front fences are to be a maximum height of 1.2m.</p>	<p>No front fences are proposed.</p>	Yes
3.3 Environmental Amenity		
<p>3.3.1 Landscaping</p> <p>Are Natural features on the site such as trees, rock outcrops, indigenous species and vegetation communities retained and incorporated into the design of the development?</p> <p>If the basement carpark extends</p>	<p>A landscape plan has been provided and assessed by Council's Landscape and Tree Management Officer and no concerns have been raised.</p>	Yes

	beyond the building envelope is a minimum soil depth of 1m provided from the top of the slab?		
3.3.2	<p>Private Open Space Minimum of 100m² of private open space provided at ground level, behind the building line, and with minimum dimensions of 6m.</p> <p>A minimum of 80m² of private open space is to be provided at ground level, with minimum dimensions of 4m.</p> <p>Is a minimum of 80m² (small lot <550m²) of private open space provided at ground level, behind the building line, and with minimum dimensions of 4m?</p>	<p>The ground floor units are provided with courtyards with areas 10m²</p> <p>Units on the upper levels have balconies having minimum areas of 2.5m².</p>	Yes
3.3.2	<p>Common Open Space</p> <p>Is a minimum of 10m² of COS provided per dwelling?</p>	<p>Required= 31units x10m²=310m² Provided= 360m²</p>	Yes
3.3.3	<p>Visual and Acoustic Privacy Are windows, balconies and decks designed to minimise overlooking of living areas and private open spaces of adjoining dwellings?</p>	There are no balconies facing the side boundaries other than the rear facing ones. These have appropriate privacy screenings to the side.	Yes
3.3.4	<p>Acoustic Amenity Is the dwelling is located within proximity to noise-generating land uses such as major roads and rail corridors?</p> <p>Internal habitable rooms of dwellings affected by high levels of external noise are to be designed to achieve internal noise levels of no greater than 50dBA.</p>	Although the subject site is not in close proximity to any noise generating land uses, an acoustic report has been provided and is acceptable.	Yes
3.3.5	<p>Solar Access and Cross Ventilation Does this dwelling receive a minimum of 3 hours sunlight to habitable rooms and in at least 50% of the private open space areas between 9am and 3pm on 21 June?</p> <p>Will adjoining properties receive a minimum of 3 hours sunlight to habitable rooms and 50% of their private open space areas between 9am and 3pm on 21 June?</p>	<p>The shadow diagrams submitted indicate that it is achieved.</p> <p>The existing child care centre to the south is impacted given the</p>	<p>Yes</p> <p>Please refer to discussion under the responses to</p>

<p>Are living areas, such as kitchens and family rooms located on the northern side of dwelling with service areas such as laundries and bathrooms to the south or west?</p>	<p>orientation of the site. The shadow diagrams indicate that the living rooms of the dwelling will have solar access between 1 and 3 pm. The private open space to the rear of the child care centre will be impacted by the overshadowing from the dwelling itself.</p> <p>Every effort has been made to ensure the habitable rooms are located to the north .</p>	<p>submission within the report.</p> <p>satisfactory</p>
<p>Cross Ventilation Is the minimum floor to ceiling height 2.7m on the ground floor and 2.4m on the first floor?</p> <p>Note: The maximum floor to ceiling height is 3m</p> <p>If an attic is proposed, is it cross ventilated?</p>	<p><i>All Floors</i> 2.7m</p>	<p>Yes</p>
<p>3.3.6 Water Sensitive Urban Design</p> <p>WSUD principles are to be integrated into the development through the design of stormwater drainage, on-site detention and landscaping and in the orientation of the development rather than relying on 'end of pipe' treatment devices prior to discharge.</p>	<p>Council's Development engineer has assessed the application and no concerns have been raised.</p>	<p>Yes</p>
<p>3.3.7 Waste Management</p>	<p>The Waste Management Plan is satisfactory, detailing the types and amounts of waste that will be generated by the development and the methods of removal and disposal.</p> <p>The proposal is for 31units and complies with the Council requirements. A total of 62 bins are required and can be placed within the 42m street</p>	<p>Yes</p>

	frontage.	
3.4 Social Amenity		
3.4.4 Safety and Security	The proposed building faces the street with entries and habitable rooms facing the street.	Yes
<p>Has the development been designed in accordance with crime prevention principles?</p>		
3.4.5 Housing Diversity and Choice	Adaptable- no units-0%	No
Is the unit mix in accordance with the following:	1bed-1units-3%	No
	2bed-30 units-97%	No
	3 bed- no units -0%	A condition of consent requiring 2 adaptable units will be incorporated within the consent. The variation to the housing mix is considered acceptable since it is for use as affordable units.
<p>The following mix is to be used as a guide for residential flat buildings, the residential component of mixed use developments:</p> <p><input type="checkbox"/> 3 bedroom 10% - 20%</p> <p><input type="checkbox"/> 2 bedroom 60% - 75%</p> <p><input type="checkbox"/> 1 bedroom 10% - 20%</p>		
Have adaptable dwellings been provided in accordance with the following ratio:		
<p>Total no. of dwellings in development No. of adaptable dwellings required</p> <p>Less than 10 =1</p> <p>10-20 = 2</p> <p>more than 20 = 10%</p>		
		Note: Although 31 Units are proposed, the provision for adaptability is nominated for the purposes of the units that have not been nominated as affordable rental housing and hence the calculation is based on 18 units. This will correspond to the 2 accessible spaces provided.
3.5 Heritage & Part 4 Special Precincts		
Development must comply with the objectives, principles and controls in Part 4 and any relevant objectives, principles and controls in Parts 2 and 3 of this DCP. Where there is any inconsistency Part 4 will prevail.	N/A	N/A
3.6 Movement & Circulation		
Parking and Vehicular Access		Yes

<p>SEPP (Affordable Rental Housing) 2009 – 14-2-(a)</p> <p>➤ 1 space per 2 bedroom unit x 13 units = 13 spaces</p> <p>Total Residential = 14 spaces</p> <p>PDCP 2011 (within 400m of a bustop)</p> <p>➤ 1 space per 1 or 2 bedroom Units x 18 units = 18 spaces</p> <p>➤ 0.25 spaces per dwelling x 18 units (ex affordable units) = 4.5 or 5 spaces</p> <p>Total required = 36</p>	<p>37 spaces including 6 visitor spaces and 2 disabled spaces</p>	
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Parramatta Council's Affordable Housing Policy

The policy was adopted by Council in May 2009.

The **focus of the policy** is on driving actions that will:

- Maintain share -maintain the percentage of affordable housing,
- Expand choice - dwelling type and price range, and
- Champion investment - by private, not for profit and government sectors in affordable housing.

The **aim of policy** is to protect existing affordable housing and to facilitate new affordable housing in Parramatta LGA to provide for social, cultural, environmental and economic sustainability.

- The policy and implementation plan is targeted to improve the housing outcomes of those known to be most in need in the Parramatta LGA:
- Low to moderate income earning households, who are
- Renting, and are either
- Couple families with young children (under 15)
- Older one person households (65 yrs +)
- Middle aged one person households (45 – 64yrs)

Council's Social Impact Outcomes unit has assessed the application and provided their comments in the internal referral comments section of this report.

PARRAMATTA S94A DEVELOPMENT CONTRIBUTIONS PLAN 2008

The proposal requires payment of a S94A development contribution as the value of the works exceeds \$100,000.

Council received correspondence from the Department of Planning on 2 November 2010 regarding the ability to levy Section 94A contributions for developments subject to the SEPP (Affordable Rental Housing) 2009. This letter states that *“where a component of the development is ‘affordable rental housing’ then that component should be excluded from the working out of the development costs for a section 94A contribution under clause 25J of the Regulations”*.

In accordance with the advice received from the Department of Planning, Section 94A contributions would be levied only on the cost of the development works which do not

comprise affordable housing. Under clause 25J of the Regulations the applicant has provided an estimated cost of the development excluding the cost of the affordable housing component of the proposed development which is \$4,616,863 (\$6,865,000-\$2,248,137) and the Section 94A contributions have been determined on this basis.

A standard condition of consent has been imposed requiring the contribution to be paid prior to the issue of a Construction Certificate

PARRAMATTA CITY COUNCIL SECURITY BONDS FOR THE PROTECTION OF CIVIL INFRASTRUCTURE

Council's current Schedule of Fees and Charges requires the developer to pay Security Bonds to ensure the protection of civil infrastructure located in the public domain adjacent to the site. As the development has a value of works in excess of \$500,000, and the site has one street frontage, a Security Bond of \$20,000 is required to be paid prior to the release of a Construction Certificate.

PLANNING AGREEMENTS

The proposed development is not subject to a planning agreement entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F.

REGULATIONS

Applicable regulation considerations including demolition, fire safety, fire upgrades, compliance with the Building Code of Australia, and compliance with the Home Building Act, PCA appointment, and notice of commencement of works, sign on work sites, critical stage inspections and records of inspection may be addressed by appropriate consent conditions in the event of an approval.

LIKELY IMPACTS

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

With respect to provision of appropriate utilities within the site, an area for the location of the substation has been provided for in the plans.

SUITABILITY OF THE SITE

The potential constraints of the site have been assessed and it is considered that the site is suitable for the proposed development.

SUBMISSIONS & PUBLIC INTEREST

Two submissions were received in response to the notification of the application. The issues raised within the submissions have been discussed within this report.

The proposed development is not contrary to the public interest.

Conclusion

After consideration of the development against Section 79C of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, the proposal *is* suitable for the site and *is* in the public interest. Therefore, it is recommended that the application be approved subject to the imposition of appropriate conditions.

Recommendation

Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979

APPROVAL SUBJECT TO CONDITIONS

That JRPP as the consent authority grant development consent to Development Application No. DA-265/2016 for Lot consolidation and construction of a 4 storey RFB, including affordable housing and basement carpark at 62-64 Cross Street, GUILDFORD NSW 2161 for a period of five (5) years for commencement from the date on the Notice of Determination subject to conditions provided in the attachment.