

# **Report to Sydney West Central Planning Panel**

SWCCP reference	2016SYW219	
DA No.	968/2016	
Date of receipt	14 October 2016. Amended plans received 31 March 2017.	
Proposal	Tree removal and construction of two Residential Flat Buildings containing 556 apartments over 4 levels of basement car parking. Building A comprises a part 4, part 9 storey building and Building B comprises a part 8, part 15 and part 24 storey building.	
Street address	158 - 164 Hawkesbury Road, Westmead (Lot 5)	
Property Description	Lot 7 DP 1077852	
Applicant	Combined Projects Westmead Pty Ltd	
Owner	Western Sydney University	
Submissions	Three	
List of All Relevant s79C(1)(a) Matters	<ul> <li>Environmental Planning and Assessment Act and Regulations</li> <li>State Environmental Planning Policy No. 55</li> <li>State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development)</li> <li>State Environmental Planning Policy (Sydney Harbour Catchment) 2005</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX)</li> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>Infrastructure SEPP (ISEPP)</li> <li>Parramatta Local Environmental Plan 2011</li> <li>Parramatta Development Control Plan 2011</li> <li>Parramatta S94A Contributions Plan</li> </ul>	
Recommendation	Deferred Commencement	
Council Officer	Denise Fernandez, Senior Development Assessment Officer	

#### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report ?	Yes
Legislative clauses requiring consent authority satisfaction	
Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards	
If a written request for a contravention to a development standard has been received, has it been attached to the assessment report ?	Yes
Special Infrastructure Contributions	
Does the DA require Special Infrastructure Contributions conditions (S94EF)?	No
Conditions	
Have draft conditions been provided to the applicant for comment ?	Yes

#### 1. Executive summary

This report considers a proposal to construct two Residential Flat Buildings containing a combined 556 apartments over 4 levels of basement car parking. Building A comprises a part 4, part 9 storey building and Building B comprises a part 8, part 15 and part 24 storey building.

Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments has not identified any fundamental issues of concerns with the exception of aviation height limits. The application is therefore satisfactory when evaluated against section 79C of the Environmental Planning and Assessment Act 1979.

This report recommends that the Panel:

- Approve a variation to the building height and FSR controls in Parramatta Local Environment Plan 2011, via clause 4.6 of that plan; and
- Issue a Deferred Commencement until such time as the applicant has obtained the necessary approvals from the relevant authorities to redirect the flight path to and from Westmead Hospital as recommended by the Aviation Report.

## 2. Key issues

- a. Building height Clause 4.6 written request submitted;
- b. FSR Clause 4.6 written request submitted; and
- c. Variations to DCP unit mix and setback controls

# 3. Site context

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

The site is:

- Located directly opposite of Westmead Hospital to the north of the site.
- Located adjacent to a railway corridor to the south with Westmead Station located approximately 400 metres within walking distance to the south-east of the site.
- Adjacent to Parramatta Marist High school to the west.
- Approximately 400 metres north-west of Parramatta Park.



Figure 1: Aerial photo of the WSU site

## 4. Site description and location

- 4.1 Background
- 4.1.1 Westmead Precinct

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



Figure 2: Westmead Precinct

# 4.1.2 Planning Proposal of 158 -164 Hawkesbury Road and 2A Darcy Road

A Planning Proposal was sought by the University of Western Sydney in 2011 to rezone the land at 158 – 164 Hawkesbury Road and 2A Darcy Road from SP2 Special Uses (Educational Establishment) to B4 Mixed Uses. The Planning Proposal was submitted with studies and a master plan prepared by ARUP which informed the amendment to Parramatta LEP as well as provide site specific controls (ie height and FSR) within the Parramatta DCP.

The amendment to the LEP was gazetted on 2013. The amendments permitted building heights ranging from 31 - 48 metres and a FSR of 1.5:1 - 4:1 on Lot 5.

Further commentary with regards to the evolution of the controls for WSU as prepared by Council's Urban Designers is provided in **Appendix D** of this report.

## 4.1.3 The Stage 1 Masterplan under DA/571/2014

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

The approval also included building envelopes for each of the 5 subdivided lots. See Figures 4 and 5.

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

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



Figure 3: Area acquired by WSU from Parramatta Marist High school under DA 699/2014 for amalgamation.



Figure 4: 5 lot subdivision approved under DA 571/2014.

The Masterplan envisages a mixed use character that will complement the medical and research facilities of the precinct by providing housing, commercial space and educational facilities. Each of the subdivided lots was approved with particular land uses which include:

- $\circ$  Lot 1 educational. This lot also includes the heritage items.
- o Lot 2 commercial, retail, health and serviced apartments
- Lot 3 commercial
- Lot 4 residential
- Lot 5 residential

The building envelopes approved have been designed to reflect the land uses for each subdivided lot. Lot 2 is designed with a plaza and an open piazza to Darcy Road to accommodate a commercial / retail space to service this precinct. Similarly, Lot 3 is located and designed to facilitate additional commercial uses given its proximity to the hospital opposite Darcy Street. Lot 5 is situated adjacent to the railway corridor to allow for higher density residential development with open landscaped areas whilst respecting the heritage items and curtilage that is located on Lot 1.

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



Figure 5: Approved building envelopes for each subdivided lot under DA 571/2014.

## 4.1.4 Lot 5 under the Masterplan

The development subject of DA/968/2016 relates to Lot 5 of the Masterplan.



Figure 6: Lot 5 of the WSU site.

Under DA/571/2014, Lot 5 was granted concept approval with 3 separate buildings scaled to provide the bulk of the massing to the area adjoining the railway corridor to the south. The details of Lot 5 are as follows:

- Site Area = 9389m<sup>2</sup>
- Indicative Land use = Residential
- Gross Floor Area = 42,470m<sup>2</sup> (4.52:1)
- Height = Min. 6 storeys and Max. 12 storeys.

The design rationale behind the Lot 5 building envelope is as follows:

- Locate the bulk of the development against the railway corridor subject to an appropriate setback in accordance with Sydney Trains requirements to minimise amenity impacts on residential uses.
- A central common open space area with ample landscaping. The provision of a central courtyard area also ensures that the northern buildings and southern building are able to achieve building separation under the Apartment Design Guidelines (ADG).

- The provision of appropriate address (ie. limit development interface) at the boundary with the Parramatta Marist High school to the west.
- A landscape buffer is provided along the western boundary to ameliorate amenity impacts to the adjacent school.
- The development height of the northern buildings (6, 9 and 12 storeys) provides a transition of scale to the heritage item on Lot 1 and the public reserves to the north and the 12 storey development on Lot 4. The lower heights of the northern buildings also improve solar access to the southern building and the common open space area in the centre of the site.

## 4.1.5 Variation to height and FSR under the current application on Lot 5

The proposal on Lot 5 seeks to depart from the FSR and height standards that apply under the Parramatta Local Environmental Plan 2011.

Council's Urban Designers, City Architect and DEAP acknowledge that the current FSR and height controls applying to the site under the LEP and DCP were not well resolved under the original ARUP Masterplan.

The Stage 1 Masterplan approved under the DA/571/2014 improves the original design for WSU and Lot 5. However, upon further design analysis by the applicant including detailed modelling incorporating the ADG's and design controls contained in the PDCP 2011, it was deemed that further departures were required to realise the development potential for the site, in particular the height for Lot 5 in a manner that did not unduly impact on the quality of the final outcome.

## 4.1.6 Redirection of affected flight path to and from Westmead Hospital

NSW Health provided a submission expressing concern with regards to the height of the proposed development on Lot 5 and that the development will obstruct the helicopter flight paths to and from Westmead Hospital.

The applicant was advised of this concern and consequently and Aviation Study was submitted to Council to address this issue. The report advises that an alternative flight path has been identified by the aviation consultant. The report outlined the steps that are to be followed to obtain approval from the necessary for the redirection of the flight path. The alternate flight path would require approval from Civil Aviation Safety Authority (CASA) and the Department of Infrastructure and Regional Development.

As such, a deferred commencement condition will be imposed on the consent until such time as the consent holder has obtained the approvals required as per the Aviation Study from the relevant authorities.

## 5. The proposal

The current proposal comprises the following primary elements:

- Building A (4 to 12 storeys) is to comprise of a lower mezzanine and 118 residential apartments;
- Building B (9 storeys to 24 storeys) is to comprise of a lower mezzanine and 438 residential apartments;
- 5 levels of car parking including a lower ground level and 4 basement levels with a total of 704 parking spaces comprising of 595 residential spaces, 107 visitor spaces and 2 car share spaces



Figure 7: Diagram illustrating location of Building A and Building B in relation to Lot 5.

The application also includes:

- Landscaping of private open space within the site (ground, podium and roof top terraces);
- Public domain works to the internal road (Oakes Lane) adjacent to the site; and
- All required civil works including an Onsite Detention System for stormwater management.

## 6. Public notification

The notification period was 27 October 2016 -28 November 2016. Three submissions received.

#### 7. Referrals

Any matters arising from internal/external referrals not dealt with by conditions	No
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## 8. Environmental Planning and Assessment Act 1979

Does Section 5A (Significant effect on threatened species) apply ?	No
Does Section 77A (Designated Development) apply ?	No
Does Section 91 (Integrated Development) apply ?	Yes
Are submission requirements within the Regulations satisfied?	Yes

## 9. Consideration of SEPPs

Key issues arising from evaluation against SEPPs None - A detailed assessment is provided at Attachment A.

### 10. Parramatta Local Environmental Plan 2011

The following table is a summary assessment against the LEP. A detailed evaluation is provided at **Attachment A.** 

Table 1: LEP compliance

Comment or non- compliances

Zones	R4 High Density Residential
Definition	Residential flat building
Part 2 Permitted or prohibited development	<ul><li>Permissible in the zone</li><li>Consistent with zone objectives</li></ul>
Part 4 Principal development standards	<ul> <li>Non-compliance - Building height The development standard is 31m, 40m and 48m.</li> </ul>

o Building A - 39.6m

(Non- compliance is 8.6m or 27.7% variation to the 31m height control) Building B – 81.3m (Non-compliance is 33.3m or 69.3% variation to the 48m height control) Non-compliance - FSR The development standards are 4:1 and 1.5:1. The total FSR for the development is 4.52:1 A request under clause 4.6 has been provided. The variations are supported. Part 5 Miscellaneous provisions All relevant provisions satisfied Part 6 Additional local provisions All relevant provisions satisfied

#### 11. Parramatta Development Control Plan 2011

The following table is a summary assessment against this DCP. A detailed evaluation is provided at **Attachment A.** 

Table 2: DCP compliance

	Comment or non- compliance
Part 2 – Site Planning	Consistent
Part 3 – Development Principles	Satisfactory
Part 4 – Special Precincts	Satisfactory

#### 12. Response to SWCPP briefing minutes

The matters raised by the Panel at its Briefing meeting are addressed below:

Issue 1

Concerns were raised with regards to the context of the site.

The context of the site is discussed in detail within the Executive Summary.

It is noted that Council is in receipt of a development application for a residential flat building containing 355 units on Lot 4 which adjoins Lot 5 to the north. This application is currently under assessment.

#### Issue 2

Concerns were raised with regards to the proposed height and FSR.

The **FSR** of the proposal is informed by the FSR approved under the Stage 1 Masterplan (DA/571/2014). Lot 5 is subject to two FSR controls being 1.5:1 and 4:1. The application

seeks to vary the FSR for the site proposing a total FSR of 4.52:1. Notwithstanding, this is consistent with the FSR approved for Lot 5 under the Stage 1 concept plan of DA/571/2014.

With regards to **height**, the building envelopes as approved under the Masterplan were modelled by the applicant which revealed that additional height would be required to allow the FSR for the site to be achieved. Given that the site is adjacent to the railway corridor, it was considered that the additional height can be accommodated at this location.

#### Issue 3

Concern is raised with regards to the Clause 4.6 requirements to justify the departures to the maximum standards.

Irrespective of the approved building envelopes approved under the Masterplan and its departures to PLEP 2011, the applicant has provided a Clause 4.6 variation statements for both the height and FSR. The submitted Clause 4.6 variation statements are considered to be satisfactory.

## Issue 4 Past planning proposal for site

The FSR and height controls for the site were informed by the ARUP masterplan. However, upon review, this masterplan has since been considered by Council's Urban Designers, City Architect and DEAP as being suboptimal as the height and FSR identified do not correlate.

To improve the design outcomes for the WSU site and Lot 5, departure to the both FSR and height were approved to the building envelopes under DA/571/2014.

It is noted that the current application only seeks to depart from the height of what was approved under the Stage 1 Masterplan of DA/571/2014. The 4.52:1 FSR as approved under DA/571/2014 for Lot 5 does not vary under the current application.

See **Appendix D** of this report for further commentary form Council's Urban Designers.

# Issue 5

Location of telecommunications tower

The location of the telecommunication tower as approved under DA/249/2016 is as follows. It is noted that Endeavour Energy did not raise any objections to the proposed development subject to conditions of consent.



Figure 8: Location of telecommunication tower as approved under DA/249/2016.

## Conclusion

On balance the proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework.

# RECOMMENDATION

- A. That the Sydney West Central Planning Panel approve the variations to the building height control in clause 4.3 and FSR in clause 4.4 of Parramatta LEP 2011, being satisfied that the applicants written request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone; and
- B. That pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 the Sydney West Central Planning Panel grant a Deferred Commencement consent to Development Application DA/968/2016 subject to Schedule 1 of the conditions in Attachment A.



# ATTACHMENT A- PLANNING ASSESSMENT

 SWCCP reference
 2016SYW219

 DA No.
 968/2016

## 1. Overview

This Attachment assesses the relevant matters for consideration under section 79C of the Environmental Planning and Assessment Act, as noted in the table below:

Table 1- Matters for consideration			
Provision	Comment		
Section 79(1)(a)(i) - Environmental planning instruments	Refer to section 2 below		
Section 79C(1)(a)(ii) - Draft planning instruments	Not applicable		
Section 79C(1)(a)(iii) - Development control plans	Refer to section 3 below		
Section 79C(1)(a)(iiia) - Planning agreements	Not applicable		
Section 79C(1)(a)(iv) - The Regulations	Refer to section 4 below		
Section 79C(1)(a)(v) - Coastal zone management plan	Not applicable.		
Section 79C(1)(b) - Likely impacts	Refer to section 5 below		
Section 79C(1)(c) - Site suitability	Refer to section 6 below		
Section 79C(1)(d) - Submissions	Refer to section 7 below		
Section 79C(1)(e) - The public interest	Refer to section 8		

The following internal and external referrals were undertaken:

#### Table 2: Referrals

Landscape	Satisfactory subject to conditions
Development Engineer	Satisfactory subject to conditions
Traffic	Satisfactory subject to conditions

Environmental Health (Waste)	Satisfactory subject to conditions
Environmental Health (Contamination)	Satisfactory subject to conditions
Environmental Health (Acoustic)	Satisfactory subject to conditions
Building Surveyor	Satisfactory subject to conditions
City Architect	Satisfactory
Urban Design (Public domain)	Satisfactory
Assets (Alignment)	Satisfactory
Heritage	Satisfactory
Sydney Trains	Satisfactory – concurrence and GTAs received
Office of Water	Satisfactory – concurrence and GTAs received
Endeavour Energy	Satisfactory subject to conditions
DEAP	Satisfactory
RMS	No response
CASA / DIRD	No response

## 2. Environmental planning instruments

Compliance with these instruments is addressed below.

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

Clause 7 of this Policy requires the consent authority to consider if land is contaminated and, if so, whether it is suitable, or can be made suitable, for a proposed use.

A site assessment activity was undertaken as part of DA/571/2014 (the Masterplan) which identified the site as containing historically imported fill material and an Underground Storage Tank (UST). The application then provided a Site Audit Assessment which found that a Remedial Action Plan was required to be prepared in accordance with Clause 7 of the SEPP to ensure that the site was made suitable for residential use.

The current application was submitted with a Site Audit report which summarises the following:

- The site assessment and remedial / validation activities are considered to have met the requirements of the Contaminated Sites: Guidelines for the NSW Site Auditor Scheme.
- Additional soil and groundwater investigations in former building footprints and in the vicinity of the former UST were undertaken by the consultant (GPL 2016b and GPL 2016c) in accordance with auditor requirements (JBS&G 2012), with no further contamination identified.
- The soil contamination, primarily identified as heavy metal, PAH and asbestos during the investigation works, was appropriately remediated in accordance with the RAP (GPL 2012c). The validation reports (GPL 2016c and PCA 2016) detail the validation results and findings from the site inspections confirming the effectiveness of the remediation works.

- Remediation works completed at the site included excavation and off-site disposal of impacted fill. The excavations were validated with no residual concentration of contaminants exceeding relevant criteria.
- There is no evidence of the migration of contaminants from the site likely to result in any unacceptable risks to surrounding human or ecological receptors.
- The site is considered suitable for the proposed land use (i.e., residential with minimal access to soils) as defined in Section 3 of Schedule B7 NEPC 2013.
- The land use suitability is not subject to any ongoing monitoring or management requirements.

The report provides the following conclusion:

"Overall, the conclusions reached by the consultant (GPL 2016c and PCA 2016) in relation to the validation of the remediation works undertaken to render the site suitable for the proposed residential land use with minimal access to soil are considered appropriate and meet the requirements of the site audit"

Council's Environmental Health Officer (EHO) has reviewed the applicant's technical report and concurs with the methodology and conclusions noted, and agrees the site can be made suitable for the proposed use. Conditions of consent nominated by the EHO are included in the recommendation of this report.

Those circumstances are sufficient to satisfy the requirements of clause 7 of this Policy.

#### 2.2 State Environmental Planning Policy BASIX

The requirements outlined in the BASIX certificate have been satisfied in the design of the proposal. A condition will be imposed to ensure such commitments are fulfilled during the construction of the development.

#### 2.3 State Environmental Planning Policy (Infrastructure) SEPP

The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

The application is subject to clause 45 of the SEPP as the development proposes works within the vicinity of electricity infrastructure. Endeavour Energy provided comments with regards to the development and found the application to be satisfactory subject to conditions.

The application is subject to clause 85 of the SEPP as the development proposes works adjacent to a rail corridor and clause 86 as the development proposes 4 levels of basement. As such, Sydney Trains were notified of the proposal within 7 days of the application being made. In response, Sydney Trains provided comment and consequently their concurrence on 6 July 2017. These requirements form part of the recommendations.

The application is subject to clause 87 of the SEPP as the development is for a residential purpose which is adjacent to a railway corridor. An acoustic report was submitted with the application which provides recommendations that ensure that any bedroom and other rooms elsewhere in the building meet acceptable decibel levels. The acoustic report was reviewed by Council's Health (Acoustic) Officer who found the report to be satisfactory subject to conditions with regards to the acoustic impacts on the development from rail noise. The acoustic report will be included as a recommendation for inclusion in the consent.

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 within the WSU site is less than 40,000 vehicles.

The application is subject to Clause 104 as the proposal seeks approval for a residential flat building with more than 300 dwellings with access to any road. In accordance with this clause, Council referred the application to RMS on 18 October 2016. To date, no response has been received from RMS. As more than 21 days have lapsed since the RMS were notified of the application and which Council has not received written submission from RMS, Council assumes that RMS do not wish to provide comment.

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

This Policy aims to improve the design quality of residential flat development. This proposal has been assessed against the following matters relevant to SEPP 65 for consideration:

- Design Excellence Advisory Panel;
- The 9 SEPP 65 Design Quality Principles; and
- The Apartment Design Guide (ADG).

#### Design Excellence Advisory Panel (DEAP)

The proposal was considered by DEAP at pre-lodgement stage, as a formal development application and again upon submission of amended plans. The amended plans were reviewed by DEAP at its meeting on 25 May 2017. The DEAP comments, applicant's response and Council's comments are tabled below.

DEAP Comments	Applicant Response	Planning Comment
The second DEAP meeting	Noted	-
identified a number of design		
issues, and responses to these		
were provided in detail by the		
proponent's architect and planner		
at the subject meeting. Generally,		
the Panel is of the view that these		
responses are acceptable,		
however the following matters		
require further clarification:		
It is noted that the proponent has	A Natural Ventilation Report	Satisfied.
provided a Report by Windtech	prepared by Windtech has been	
that addresses natural cross	submitted to Council in relation to	Council acknowledges the findings
ventilation compliance as required	natural cross ventilation.	made by the report prepared by
by the ADG and concludes that this		qualified engineers.
is achieved. The Panel has	This report is not an opinion based	
ongoing concerns that a number of	document, but its findings are	It is noted that the development
units identified in the Report and on	based on empirical evidence	achieves the cross ventilation
the architectural diagrams as	achieved by actual wind tunnel	requirements pursuant to the
achieving natural cross ventilation	testing of a model of the proposed	provisions of the ADG for the first 9
do not in fact comply with ADG Part	development. Accordingly, it's	storeys. The ADG controls
48 design requirements	findings are fact.	assumes that all units above Level

#### Table 3: DEAP comments and response

	The Windtech report confirms that the development achieves 59.3% conventional natural cross ventilation for Building A and 48.3% conventional natural cross ventilation for Building B, and also that there are further apartments which achieve a target criteria which achieves the objective of natural cross ventilation such that the combined performance of conventional natural cross ventilation and apartments which achieve the target criteria is 82.2% for Building A and 76% for Building B.	9 will be appropriately cross ventilated. The submitted Wintech report further investigates the cross ventilation for all apartments on all levels despite this exercise not being a requirement under the ADG's.
	It has therefore been demonstrated that a sufficient proportion of apartments achieve the equivalent of natural cross ventilation via evidence based testing in a wind tunnel, such that the consent authority should be satisfied that the amended proposal reasonably satisfies Objective 4B-3 of the ADG being that "The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents".	
The above must also be considered together with the requirements of ADG Parts 3F and 4H, to ensure acceptable visual and acoustic cross privacy between units is also achieved.	The amended plans have resolved issues of concern in relation to visual and acoustic privacy between units through design amendments to deal with this issue. In particular, Turner prepared a series of 1:50 detail plans illustrating how reasonable acoustic and visual privacy could be achieved between adjacent units.	The amended plans have demonstrated that visual and acoustic privacy is achieved between units. It is noted that Council's Urban Designer and City Architect did not raise this as an issue.
It is recommended that Council engage an independent consultant to review and provide feedback on the Windtech Report conclusions.	This is a matter for Council to consider.	As the report was prepared by qualified engineers, its recommendations are considered to be acceptable and which did not require an independent review.
There is ongoing concern in relation to the amenity of units facing south and in close proximity to the rail corridor. The Panel was advised that Sydney Trains have reviewed and accepted the apartment layouts, however there are issues with outlook and acoustics that could be further considered, particularly as this is a south aspect with no solar access available to units.	The Panel raises two issues in relation to proximity to the railway line specially in relation to outlook and acoustics. In relation to outlook, it is unavoidable that due to the location of the site immediately adjacent to the railway line that some apartments will have some outlook over the adjacent railway line, which is not an unusual	The ADG's acknowledge that not every apartment in the development will receive solar access during the winter solstice due to orientation of the site. The proposal meets these requirements. The application was submitted with an Acoustic Report and have recommended noise attenuation measures that will meet the

	circumstance within Sydney. Notwithstanding this, the 1 bedroom units at Lower Ground Floor adjacent to the railway line have been deleted (Refer to DA-11 0-001 M_Lower Ground) and the remaining units are elevated sufficiently to look out above the railway line and associated fencing to the district views beyond. In addition, where possible, corner or cross-over type units orientate their main living area away from the rail line. In relation to acoustic impact, please refer to the Lot 5 DA Acoustic Report which outlines how adequate acoustic performance could be achieved to the units effected by the railway line. Please also refer to the Turner drawing DA-31 0-005 A_Section FF _ Acoustic Treatment To Balcony, which shows the detail of the acoustic treatment to the balconies adjacent to the railway which allows for windows to be open to achieve natural ventilation as well as achieving the necessary internal noise criteria within the apartment.	relevant standards. The Acoustic Report and its recommendations have been incorporated in the proposed conditions of consent.
It is therefore recommended that the proponent further review the requirements of ADG Part 4J and DOP "Development Near Rail Corridors And Busy Roads - Interim Guideline"	The proposed design solution has in fact been guided by the requirements of ADG Part 4J and DOP and in particular the "Development Near Rail Corridors And Busy Roads - Interim Guideline". The Guideline specifically makes the point under Section 3.5.1 Rail Corridors that standard mitigation measures are based on having windows and external doors closed, therefore consideration of ventilation requirements for noise- exposed rooms will be required to meet the provisions of the Building Code of Australia and other relevant standards. To minimise sleep disturbance, air should be ducted into these rooms from a quiet area not exposed to rail noise or through the use of quiet, acoustically treated ventilators. A design solution has been developed in collaboration between the acoustic consultant	Council acknowledges the noise attenuation treatments integrated in to the design of the development and that this meets the relevant criteria under the relevant guidelines. It is also noted that Council's Health (Acoustic) Officer has reviewed the proposal and found the recommendations mitigate acoustic impacts from rail noise to be satisfactory.

	whether the barries to address	
	windows to be open to achieve	
	natural ventilation as well as	
	simultaneously achieving the	
	necessary internal noise criteria	
	within the apartment as illustrated	
	in the Turner drawing DA-31 Q-005	
	A_Section FF _ Acoustic	
	Treatment To Balcony. The	
	solution is considered to be an	
	exemplar for this type of scenario	
	and represents best practice.	
A further effort to increase and	There has already been	The effort that has been made to
improve landscaping along this	considerable effort to achieve a	landscape this portion of the site is
edge of the development is also	landscaped character to the	considered to be acceptable, but is
recommended	greatest extent possible having	restricted by the buffer to the rail
	regard to the constraints of the site.	corridor. Sydney Trains have in
	In particular, it is not possible to	previous instances preferred that
	achieve landscaping within the 4	these buffer zones be free from
	metre wide Railcorp right of way	vegetation for maintenance
	and where the alignment of the	purposes
	building allows outside of this area	F F
	landscaping has been included	
	within the common area (refer to	
	the landscaping outside units	
	82 C 03 81 C 02 & 81 C OI Pefer	
	also to the Landscape Architect's	
	DA drawings and report)	
	Finally, it is also noted that the	
	edge of the rail corridor adjacent to	
	the site is also densely vegetated.	

Overall the Panel was supportive of the proposal, concluding:

The Parramatta Design Excellence Advisory Panel (The Panel) supports the proposal in its current form. 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.

## Design Quality Principles

Part 4 of the Policy introduces 9 design quality principles. These principles do not generate design solutions, but provide a guide to achieving good design and the means of evaluating the merits of proposed solutions. As required by the Environmental Planning and Assessment Regulation, the application is accompanied by a response to those design principles, as prepared by the project architect.

The following table provides an assessment of the proposal against those principles having regard to the comments of DEAP and assessment by Council's officers:

Principle	Comment
Context and	The locality, in particular, this portion of the Westmead precinct is
neighbourhood transforming to a high density residential/mixed use area. The	
character	development generally accords with the desired future character

Table 4: Response to SEPP 65 design principles

Principle	Comment		
	nominated by the LEP and DCP. The building will contribute to the		
	quality and identity of the area.		
Built form and scale	Notwithstanding the departures to the FSR and height for the site, the		
	development responds to the intent of the Masterplan. Site planning,		
	building volume/ mass presentation and detailing are satisfactory		
	noting the conclusions of the DEAP. Public domain outcomes are satisfactory.		
Density	The proposed density is consistent with the precinct specific controls		
	in the LEP and DCP. Those controls were developed with regard to		
	the context of the site in terms of availability of infrastructure, public		
	transport, community facilities and environmental quality.		
Sustainability	Energy and water efficiency targets under SEPP (Basix) 2004 are		
	achieved. The design is consistent with best practice design criteria		
	for cross ventilation and solar access under the ADG.		
Landscape	The landscape treatment is generally satisfactory.		
Amenity	Amenity for the apartments is satisfactory when tested against best		
	practice design criteria identified in the ADG which supports the		
	SEPP. The scheme includes a range of communal facilities for the		
	benefit of all residents.		
Safety	Appropriate outcomes achieved through the design generally, and		
	otherwise by conditions of consent as proposed.		
Housing diversity and	The proposal skews the unit mix towards 1 and 2 bedroom units. The		
social interaction	applicant has provided a Market Housing Report that demonstrates		
	that 1 and 2 bedroom units are in demand in the locality. The		
	required number of adaptable housing units is provided.		
Aesthetics	The composition of building elements and materials is satisfactory.		

Residential Flat Design Code

The SEPP requires consideration of the ADG which supports the 9 design quality principles by giving greater detail as to how those principles might be achieved.

The application is supported by a detailed table demonstrating consistency with the design criteria in the ADG. The table below considers the proposal against key matters:

#### Table 4: Response to ADG

Element	Comment	Complies
Building separation	Up to 4 storeys – Min.4.5m 5 to 8 storeys – Min. 3m 9 storeys and above - 3m	No, but acceptable
	The building separation between Building A and Building B are generally compliant. The non- compliance occurs where balconies are adjacent to the living rooms within each building.	
	However, privacy screens, fencing and noise attenuation measures are provided to ensure that amenity impacts on occupiers of the development are limited.	
Common Open Space	Required – 2347.25m2 (25% of the site) Provided – 2317m2 (24.6% of the site)	No, but acceptable

	The departure is considered to be minor and that the common open space (COS) provided is adequate in providing enhanced residential amenity. The development provides a main COS area on the ground floor and a secondary COS on the lower ground floor as well as Level 9 on Building A. DEAP have found these areas to be satisfactory.	
	It is also noted that the ground floor units are provided with generous private open space areas that range between 10m <sup>2</sup> and 50m <sup>2</sup> .	
Deep Soil	Provided 844.521m2 or 9% of the site	Ves
Visual privacy	The arrangement of units and privacy measures within the development ensures a satisfactory level of privacy between apartments and areas of private open space	Yes
Parking and Bicycle storage	The site is subject to maximum parking provisions under the PDCP 2011. A such, the development is not to exceed 546.8 (547) residential parking spaces and 111.2 (112) visitor spaces.	No, to be conditioned
	The development provides 595 residential spaces and 107 visitor spaces which exceeds the maximum rate.	
	Despite this, Council's Traffic Engineer has imposed a condition on the consent requiring the reduction of parking spaces to 533 residential spaces and 107 visitor spaces (total of 654) to ensure compliance with the maximum rate and that the development does not result in adverse traffic movements.	
	The redundant spaces are to be accommodate storage areas. This will be enforced via a condition of consent.	
Solar access and daylight	336 out of 556 dwellings (60%) receive a min. of 2 hours direct sunlight.	Yes
	It is noted that a further 53 units are provided with skylights. If included, a total of 389 units or 70% of the development are provided with solar access.	
	The Level 9 and the ground floor COS will receive more than 2 hours of direct solar access during the winter solstice.	
Common circulation	The development provides a maximum of 10 apartments per core. Notwithstanding, the development is designed to ensure that the units are provided with satisfactory cross ventilation as well as solar access in accordance with the ADG and which has the support of DEAP. The development also provides greater than the minimum ceiling heights to the corridors to improve the user experience.	No, but acceptable
Apartment size and layout	<ul><li>Minimum unit sizes are achieved</li><li>Apartment layouts are efficient</li></ul>	Yes
Ceiling heights	Minimum of 2.7m for habitable rooms is achieved	Yes

Private open space and balconies	Balconies meet design criteria	Yes
Natural ventilation	<ul> <li>First 9 storeys - 61% (221 apartments) of units are ventilated (criteria is 60%)</li> </ul>	Yes
Storage	Required supply of storage for each unit is achieved	Yes

## 2.5 Deemed State Environmental Planning Policy (Sydney Harbour Catchment) 2005

This Policy applies to all of the City of Parramatta local government area. It aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing principles and controls for the whole catchment.

The site is located within proximity to Toongabbie Creek to the east of the site. The nature of this project and the location of the site are such that there are no specific controls which directly apply, with the exception of the objective of improved water quality. That outcome will be achieved through the imposition of suitable conditions to address the collection and discharge of water.

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

This application is captured by Part 4 of this Policy which provides that the Panel is the consent authority for this application.

## 2.7 Parramatta Local Environmental Plan 2011

## Zoning and permissibility

The proposed uses meet the definitions of '*residential flat building*' and is permissible with consent in the zone.

#### Zone objectives

Clause 2.3(2) requires the consent authority to have regard to the zone objectives when determining a development application. The objectives for the B4 zone are:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage waling and cycling.
- To encourage development that contributes to an active, vibrant and sustainable neighbourhood.

The proposal is consistent with those objectives.



Figure 9: Extract from LEP zone map

## **Remaining provisions**

Consideration of other relevant provision of the Plan is addressed in the following table:

Clause	Comment	Complies
Clause 2.7 Demolition	No demolition is proposed.	N/A
Clause 4.3 Building height	<ul> <li>The development standard is 31m, 40m and 48m. The proposed heights are:</li> <li>Building A – 39.6m (Non- compliance is 8.6m or 27.7% variation to the 31m height control)</li> <li>Building B – 81.3m (Non-compliance is 33.3m or 69.3% variation to the 48m height control)</li> </ul>	No, refer to clause 4.6
Clause 4.4 Floor space ratio	The FSR is 4:1 and 1.5:1. The development proposes a FSR of 4.52:1.	No, refer to clause 4.6
Clause 4.6 Exceptions to standard	The application relies upon this clause to allow the exceedence of the height and FSR standard as noted above. See assessment following at the end of this table.	Yes

Clause 5.1 Relevant acquisition authority	Not applicable.	N/A
Clause 5.9 Preservation of trees	Five trees require removal.	Yes
Clause 5.10 Heritage	<ul> <li>The site is not a listed heritage item, nor is it within a conservation area.</li> <li>Lot 5 is adjacent to Lot 1 (to the east) which contains a heritage item. Council's Heritage Adviser has reviewed the proposal and raises not objections to the development given its distance from the heritage item.</li> </ul>	Yes
Clause 6.1 Acid sulphate soils	<ul> <li>The site is identified a "Class 5" ASS.</li> <li>The works do not trigger need for an ASS management plan.</li> </ul>	Yes
Clause 6.2 Earthworks	<ul> <li>Consideration of potential impacts upon drainage patterns, and proximity to watercourses have been considered by Council's Development Engineer, who is satisfied the works can be managed without adverse impact.</li> <li>Site works will not prejudice the future development of any adjoining land, or the amenity of that land.</li> <li>Issues relating to soil quality are addressed via considerations of SEPP 55</li> <li>No circumstances identified to indicate potential for disturbing relics.</li> </ul>	Yes
Clause 6.3 Flood Planning	The site is not identified on the flood planning map	N/A
Clause 6.4 Biodiversity	The site is not identified on the biodiversity map	N/A
Clause 6.5 Water protection	The site is not identified on water protection map	N/A
Clause 6.6 Landslide Risk	The site is not identified on the landslide risk map	N/A
Clause 6.7 Foreshore Building Line	The site is not identified on the foreshore building line map	N/A

# Non-compliance with building height and FSR

# Overview

The	
standard/s	Clause 4.3 of PLEP 2011 - Height of buildings - 31m, 40m and 48m.
	See Diagram below.



Figure 10: LEP height limits for the WSU site

The development also seeks to vary Clause 4.4 of PLEP 2011 - FSR - 4:1 and 1.5:1. See diagram below.



Figure 11: LEP FSR for the WSU site

Objectives As per clause 4.3(1) of the LEP:

(a) to establish a maximum height of buildings to enable appropriate development density to be achieved, and

standard/s

of the

(b) to ensure that the height of buildings is compatible with the character of the locality

As per clause 4.4(1) of the LEP:

- (a) To regulate density of development and generations of vehicular and pedestrian traffic, and
- (b) To require the bulk and scale of future buildings to have regard to heritage sites and their settings

Extent of The maximum defined heights and the % variations are:

the variations

- Building A 39.6m (Non- compliance is 8.6m or 27.7% variation to the 31m height control)
- Building B 81.3m (Non–compliance is 33.3m or 69.3% variation to the 48m height control)
- Non-compliance is 4914m<sup>2</sup> or 11.5% departure to the 4:1 FSR control.
- Non-compliance is 28,386.5m<sup>2</sup> or 66.8% departure to the 1.5:1 FSR control.



Figure 12: Extract of sectional drawing when viewed from the Northern Elevation.



Figure 13: Extract of sectional drawing when viewed from the Eastern Elevation

#### Evaluation

#### Clause 4.6(1) of the LEP - Objectives of clause 4.6

The objectives of this clause are:

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

#### Clause 4.6(2) of the LEP - Operation of clause 4.6

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

#### Clause 4.6 (3) - The applicant's written request

Clause 4.6 (3)(a) - Is strict compliance unreasonable or unnecessary in the circumstances of the case.

The applicant contends this consideration is met by reliance upon one of the 'five ways' established by the Land and Environment Court (LEC) in its judgement *Wehbe v Pittwater Council (2007)*, being that:

Compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding noncompliance with the standard.

To that end, and in summary, the proponent contends with regards to the height:

- a) The height controls for the site were derived from the ARUP masterplan which informed the Planning Proposal for the site. However, this masterplan has more recently been considered by Council to be "suboptimal" and Council has approved a substantially different site layout and suggested arrangement of buildings under Stage 1 Concept Plan (DA/571/2014) which relied upon a Clause 4.6 request in relation to height. As a result, the height controls and boundaries no longer correspond with the approved site arrangement and configuration such that Council has effectively abandoned the height controls for the site. Notwithstanding this, the broad principles reflected by the height controls, with increasing height to the west and the south, are considered to remain relevant and the proposed development adheres to these principles with the tallest buildings along the southern end of the site.
- b) The proposal provides a high quality architectural solution that is responsive to the location of the site on the southern edge of the Westmead precinct and will provide a clearly defined entry into Westmead from the south.
- c) The proposed massing of the development results in a high level of modulation with the building height decreasing toward the north and east to provide a transition in scale to the heritage significant buildings to the east and the open space areas to the north such that the proposed arrangement of heights is appropriate for the site and its context.
- d) The proposed variation to the height controls allows the floor area of the development to be accommodated within slimmer buildings with much greater separation as well as providing an appropriate curtilage to the heritage buildings located to the east of Lot 5.
- e) The proposed variation also facilitates a greater level of modulation in scale between the various buildings within the development as well as improved environmental performance within the development, reduced impacts on surrounding properties, and a much higher level of visual permeability throughout the site.
- f) The desired future character outlined for the subject site within section 4.3.4.1 of the PDCP indicates that the future built form on the site shall include taller, slender "statement" buildings located along the railway line to enable a strong visual relationship between the precinct and the CBD. The proposal appropriately responds to the desired future character, providing two towers adjacent to the railway corridor which are 15 and 24 storey in height. The two towers are proposed to be separated by an 8 storey building component, satisfying the requirement that tall slender statement buildings be provided to enable a visual connection between the Westmead precinct and the Parramatta CBD located to the east.
- g) The design of the proposal involves a dynamic architectural language and a façade treatment with a high level of materiality that will compliment and improve the character of the area.
- h) A solar analysis prepared by Turner Architects accompanies the subject application and demonstrates that the proposal does not result in a significant adverse impact to the surrounding properties.
- *i)* There are no adverse impacts in terms of overshadowing, views, visual and acoustic privacy impacts to adjacent sites resulting from the proposed variation to the height development standard which would warrant strict compliance.

- *j)* Apartments within the development are provided with a high level of amenity. The proposal provides for open space and deep soil in accordance with the relevant requirements.
- *k)* The proposed variation allows for the most efficient and economic use of the land.
- Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public.

#### And with regards to the **FSR**:

- a) The floor space ratio controls applicable to the overall site fail to provide for the provision of roadways and open space which are critical to the successful functionality of the overall site. The approval of the Stage 1 Concept Plan recognised that the density proposed across the overall site was consistent with the density permitted pursuant to PLEP despite the individual allotments exceeding the permissible floor space ratio. In this regard, Council have effectively abandoned the FSR provisions in the LEP as they relate to the individual allotments approved under the Stage 1 development consent in preference for the allocation of a quantum of gross floor area to each allotment. The density proposed on Lot 5 is consistent with the density approved under the Stage 1 Concept Plan.
- b) The proposed distribution of built form and massing of the buildings across the site is the result of a considered analysis of the context of the site and the desire to deliver a positive urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located on the site.
- c) The proposal will deliver a high quality transit orientated development that will increase the vibrancy of the precinct.
- d) The proposal is consistent with the desired future character outlined within PDCP 2011 for the subject site and the Westmead precinct generally.
- e) The density proposed does not prevent achievement of the 9 principles of SEPP 65.
- f) There are no unacceptable adverse impacts in terms of shadow, view, visual and acoustic privacy impacts resulting from the proposed variation to the floor space ratio development standard which would warrant strict compliance.
- g) The proposed density will not result in an acceptable impact on local traffic conditions.
- h) The proposed variation allows for the most efficient and economic use of the land.
- *i)* Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public.

Clause 4.6 (3)(b) - Sufficient environmental planning grounds

The applicant contentions that this consideration is met, are summarised below:

#### <u>Height</u>

• The proposed distribution of built form and massing of the buildings across the site is the result of a considered analysis of the desired future character of the site and the Westmead precinct generally and the desire to deliver a positive urban design outcome.

- The location and scale of the buildings have been specifically designed as a robust architectural solution for the site which optimises solar access both within the site and for adjacent sites as well as providing a high level of modulation to the skyline. The proposed arrangement of buildings across the site will facilitate the achievement of the identified floor space for the site whilst achieving compliant building separation, solar access and cross ventilation for the development. The proposed arrangement of buildings heights across the site will allow for an appropriate curtilage to the heritage significant buildings located to the east. In addition, the scale of each individual building within the overall development is also modulated which further assists in creating opportunities for differing architectural language and visual interest.
- The scale of the proposed development does not result in any unreasonable impacts on the surrounding properties in terms of views, loss of privacy or visual impact. The architectural package includes a solar access analysis which demonstrates that the proposed scale of the development will not unreasonably overshadow development on surrounding properties.
- The scale of the buildings will not be perceived as jarring or antipathetic in the future streetscape and urban design context which will develop in the area.
- Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public and in this particular circumstance there are sufficient environmental planning grounds to warrant the proposed variation to the current height controls as the proposal will achieve a superior outcome with a higher level of residential amenity within the site and without any significant adverse impact to adjacent sites.

## <u>FSR</u>

- The proposed gross floor area complies with the allocated gross floor area under the Stage 1 development application.
- The proposal will deliver a high quality transit orientated development that will increase the vibrancy of the precinct whilst providing a greater diversity of housing to meet the demand generated by changing demographics and housing needs in an existing urban area with excellent access to public transport, health services, educational establishments, recreational opportunities and services and facilities.
- The proposed distribution of built form and massing of the buildings across the site is the result of a considered analysis of the context of the site and the desire to deliver a positive urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located on the site.
- Apartments within the development are provided with a high level of amenity.
- The development provides the required provision of car parking and will have an acceptable impact on local traffic conditions.
- There are no adverse impacts in terms of shadow, view, visual and acoustic privacy impacts resulting from the proposed variation to the floor space ratio development standard which would warrant strict compliance.
- Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public and in this particular circumstance there are sufficient environmental planning grounds to warrant the proposed variation to the floor space ratio controls as the proposal will achieve a superior outcome with a higher level of residential amenity within the site and without any significant adverse impact to adjacent sites.

## Clause 4.6 (4)(a)(i) of the LEP - Adequacy of submission

The applicant's written requests is provided at **Attachment C**. These requests has adequately addressed the matters required to be demonstrated by subclause (3).

#### Clause 4.6 (4)(a)(ii) of the LEP – The public interest

The variation to the building height and FSR standards is in the public interest because the resulting built form will be consistent with:

- The objectives for height and FSR standards as prescribed by clause 4.3(1) and 4.4(1) respectively and noted above; and
- The zone objectives, as provided at section 2.5 above.

#### Clause 4.6 (4)(b) – Concurrence of the Secretary

Such concurrence is assumed as per Planning Circular PS 08-003 'Variations to development standards'.

#### Conclusion

The request for a variation of the height and FSR control is supported for the following reasons:

• The heights and FSR envisaged by the masterplan that informed the planning proposal were a result of a suboptimal concept plan. The Stage 1 approval under DA/571/2014 improved the building envelopes by departing from the height and FSR under PLEP 2011 to allow for a more feasible development on each allotment.

However, in designing for the development on Lot 5, further modelling of the building envelopes approved under DA/571/2014 resulted in a built form that did not reflect the development potential for the site, in particular, the height for the site.

- The most significant departures to the height relates to building B which is favourably located to the south-west portion of Lot 5 where it is adjacent to the railway corridor and the open space areas of Parramatta Marist High school. In this regard, the exceedance in height to Building B is unlikely to result in adverse solar access impacts to adjoining properties.
- Locating the tallest building in this portion of Lot 5 allows for a transition in scale for future developments throughout the WSU site.
- Further, locating the tallest point of the development to the south-western corner of Lot 5 does not in this instance obstruct any views to or from the site identified in Council's planning controls. It is also noted that the variation to the height on Building A also does not obstruct any views to and from the site.
- The departure to the height in this instance does not result in any adverse impacts to the heritage item located on Lot 1 given its location and separation. Council's Heritage Adviser upon review of the proposal, found the development to be satisfactory and did not raise objections to the variation to the height.
- The proposed FSR in this case is generally consistent with the approved Stage 1 plan and the departure to the 1.5:1 FSR relates only to minor portion of the site to the east where the development proposes a lower scale of development to remain sympathetic to the heritage curtilage of Lot 1.
- The departure to the FSR does not result in adverse traffic and parking impacts and has the support of Council's Traffic Engineer.

- The departure to the height and FSR has the support of Council's Urban Designers, City Architect and DEAP as it is considered to result in a better Urban Design outcome.
- The development contributes to the wider Westmead precinct by providing residential development to support its primary function as a health and educational hub.
- The departures to the standards does not hinder the development from achieving the objectives of the B4 Mixed Use zone as it contributes to providing residential development in the locality.
- The preconditions of Clause 4.6(4)(a), in relation to the adequacy of the applicant's written request and the public interest, are satisfied.

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

# 3. Parramatta Development Control Plan 2011

#### Compliance

The DCP is comprised of the following sections:

- 2 Site Planning
- 3 Development Principles
- 4 Special Precincts

Compliance tables are provided below:

Table 6: DCP 2011 compliance table			
	Part 2 – Site Planning		Complies
	2.4.1 Views and Vistas	The site is not identified as having views and vistas identified as being significant by Appendix 2 nor is the site located in the Harris Park Conservation Area.	Yes
	2.4.2.1 Flooding	The site is not identified by Council as being flood prone.	N/A
	2.4.2.2 Protection of Waterway	The site does not adjoin a waterway.	N/A
	2.4.2.3 Protection of Groundwater	Four levels of basement parking are proposed which requires extensive excavation below NGL.	Yes
		A Geotechnical report has been submitted confirming that tests conducted on the site may encounter groundwater / water table. As such, the application was deemed to be nominated integrated development in accordance with Section 91 of the Act as the works related to the proposal may require an Aquifers License from the Office of Water.	
		In response, the Office of Water provided their General Terms of Approval to be incorporated into the consent.	

2.4.3.1 Soil Management	An erosion and sedimentation plan has been submitted with the application.	Yes
2.4.3.3 Salinity	Subject to conditions, the works will not impact or be impacted by salinity.	Yes
	The proposed landscaping is assessed as appropriate. Consultation with Council's Landscape and Tree Management Officer has found that the proposed plant species will not require an unreasonable amount of water for their maintenance.	
2.4.4 Land Contamination	Refer to assessment under SEPP 55.	Yes
2.4.5 Air Quality	Standard conditions of consent will be applied.	Yes
2.4.6 Development on sloping land	The development responds to the slope of the site by providing appropriate excavation to ensure an adequate building platform	Yes
2.4.7 Biodiversity	Council's Landscape Officer has not raised concerns with regards to the Landscape Plan subject to conditions.	Yes
	The landscape plan submitted with the application does not include provision for species nominated in Appendix 3 of the PDCP 2011.	
	The site does not adjoin bushland nor does it adjoin land zoned E2 or W1.	
2.4.8 Public Domain	The plans have been amended to provide an appropriate street address with distinguishable entries via a clear pedestrian pathway to ensure clear identification from the public domain.	Yes
	Balconies and windows on the upper units address the street frontage promoting natural surveillance from within the units to the front, public domain and railway corridor. Windows and balconies also face the central communal area to provide surveillance to this area.	
	Standard conditions incorporated in the consent requiring the payment of a bond to ensure that the nature strip is maintained and in the event that it is damaged due to the works associated with the proposal that Council be reimbursed for the damages.	
Part 3 – Development Principles Compli		
Height	See LEP assessment under 'height'	No, but acceptable
FSR	See LEP assessment under 'FSR	No, but acceptable
Minimum Site Frontage	Required – Min. 18m Provided: Frontage 1 – 100.7m	Yes
	Oakes Lane – 77.9m	
--	--	-----------------------
Front Setback	Required – Min. 3m. A lesser setback may be permitted if consistent with the predominant setback.	No, but acceptable
	Provided: Oakes Lane – 8.7m Frontage 1 – 2m	
	As the development on Lot 5 is the first development on the WSU site, there is no front setback pattern to adhere to. Despite this, the encroachment on the northern frontage is appropriately treated and does not increase any adverse impacts to the perception of bulk and scale. Further, Lot 4 which is located opposite the site (to the north) and proposes a residential flat building is more than 30 metres from the site. The street separation between Lot 5 and Lot 4 is approximately a minimum of 28 metres.	
	In this regard, it is unlikely that the encroachment of the development on the secondary setback will result in unreasonable overlooking or acoustic impacts.	
Side Setback	Required – As per Special Area Controls for 158 – 164 Hawkesbury Road. See Part 4 of this table.	No, but acceptable
Rear Setback	Required – As per Special Area Controls for 158 – 164 Hawkesbury Road. See Part 4 of this table.	No, but acceptable
Deep Soil	See ADG assessment for deep soil requirements.	Yes
Landscape Area	Required – Rear setback is to be landscaped area if residential development is proposed on the ground floor.	Yes
	Provided – 22.5% of the site (or 2113.79m <sup>2</sup> ) is landscaped area.	
	It is noted that due to the setback/separation requirements to the rail corridor, landscaping opportunities for the southern portion of the site of Lot 5 is limited. Also, the Stage 1 building envelopes approved under DA/571/2014 envisaged that the majority of the landscaping provided for Lot 5 is to be located to the centre of the site which the current proposal reflects. Given this, the location of the landscaped area is considered to be acceptable.	
3.2.1 Building Elements	The bulk of the building is consistent with the desired future character of Westmead.	Yes
	It is considered that the proposed development subject to conditions of consent will not adversely impact on the existing streetscape as plans indicate satisfactory setbacks and articulation, thereby, reducing the bulk and scale of the development and as such, any adverse impacts on the amenity of the potential adjoining properties.	
3.2.2 Building Façade and Articulation	The proposal provides appropriate setbacks and building articulation resulting in a reduced perception of bulk and scale.	Yes
	The development is designed with multiple recesses to create articulation, improve solar access to the adjoining properties and to create some visual interest on the pedestrian level. Accordingly,	

	there will be no unreasonable loss of amenity to adjacent properties.	
	The application proposes balconies to the upper floors which address the street frontage and do not project more than 800mm beyond the building envelope.	
	The proposal does not propose Juliet balconies or bay windows.	
	Multiple stair lift/cores are provided to encourage multiple street entries.	
3.2.3 Roof Design	The development incorporates a flat roof which is not uncommon with the modern design for similar forms of development. The flat roof also allows for the provision of a roof top common open area on Building A.	Yes
3.2.5 Streetscape	The urban context of the wider locality is residential of low to high density. Westmead is also a health and educational precinct.	Yes
	As previously stated in this report, the development is of an appropriate bulk and scale with adequate setbacks and landscaping. As such, the development is considered to be consistent with the B4 Mixed Use zoning of the site and the future streetscape character of the area.	
	Basement carparking is provided to minimise the impact of parking structures on the building façade and the front setback.	
	The site adjoins a pedestrian/vehicular link (Oakes Lane). The development has been designed to address Oakes Lane such as orienteering the balconies and entries to Oakes Lane.	
	The mail boxes are located in each lobby of the development.	
3.2.6 Front Fences	No front fences are proposed.	N/A
3.3.1 Landscaping	The proposed works has the endorsement of Council's Landscape and Tree Management Officer subject to conditions of consent.	Yes
	The basement is located within the building footprint and as such, provides adequate areas for landscaping to the western portion of the site.	
3.3.2 Private and Common Open Space	A swimming pool is proposed. The pool is located within the central common open space area. Conditions will be imposed on the consent that the swimming pool be made to comply with the relevant standards.	Yes
	See ADG assessment for Common Open Space and Private Open Space requirements.	
3.3.3 Visual Privacy	See ADG assessment for Visual Privacy.	Yes

3.3.4 Acoustic Amenity	See ISEPP discussion with regards to acoustic amenity.	Yes
3.3.5 Solar Access & Cross Ventilation	The site to the north (Lot 4) as well as the reserves to the north and the heritage item and its curtilage to the east will achieve the minimum 3 hours of solar access during the winter solstice.	Yes
	The development provides 2.7m floor to ceiling height on each floor.	
	See ADG assessment for cross ventilation.	
3.3.6 Water Sensitive Urban Design	Council's Development Engineer has advised that the concept OSD plan is satisfactory and appropriate conditions have been imposed to ensure it is designed appropriately at the construction certificate stage to achieve relevant objectives and design principles outlined in the DCP.	Yes
3.3.7 Waste Management	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.	Yes
	The garbage room is located within the lower ground floor area and on the ground floor.	
	The WMP states that the development will be serviced by private waste contractor on site. Waste storage areas will be maintained by the caretaker.	
3.4.1 Public Art	An Arts Plan has been submitted with the application. Conditions will be imposed on the consent requiring engagement with Council for its implementation.	Yes
3.4.2 Access for People with disabilities	A BCA Report was submitted and reviewed by Council's Surveyor whom raised no objections to the proposal subject to conditions of consent.	Yes
	It is noted that the ground floor is accessible form the street by people with disabilities. Access from the basement to the upper levels is via a lift.	
3.4.4 Safety and Security	The proposal does not contribute to the provision of any increased opportunity for criminal or anti-social behaviour to occur. The entries face towards the street or the central common open space, promoting natural surveillance from within the units to the public domain.	Yes
3.4.5 Housing Diversity and Choice	Provided - 23 x studio units (4.1%) 313 x 1 bedroom units (56.3%) 185 x 2 bedroom units (33.3%) 35 x 3 bedroom units (6.3%)	Yes

	A Market Housing Demand Report was submitted which explained the housing mix proposed. The housing mix in this case is driven by the demand for 1 and 2 bedroom units in the Westmead area. Given this, the skew to 1 and 2 bedroom apartments in this case is considered acceptable.	
Adaptable dwellings	Required – 55.6 (56) units Provided – 56 units	Yes
3.5 Heritage and Archaeology	Lot 5 does not contain a heritage item.	Yes
, tonacology	The site is not within a heritage conservation area.	
	The site however is located within proximity to heritage listed items on Lot 1. Council's Heritage Adviser reviewed the proposal and upon review raised no objections to the proposal as there is considered to be ample building separation between sites. As such, it is deemed that no significant views or heritage values will be impacted by the development.	
3.6 Parking	See ADG assessment for parking requirements.	Yes
Provisions	Two car share spaces are provided.	
	Oakes Lane is a shared zone and is provided along the eastern portion of the site.	
	The site does not result in the isolation of any adjoining properties.	

#### Part 4 – Special Precinct

Subdivision	No subdivision is proposed under the current application.	Yes
Height	See LEP table	No
FSR	See LEP table	No
Setbacks	Required – Southern and western frontage of Lot 5 = 3 metre landscape setback	No, but acceptable
	Provided – Southern – Nil Western – 6m	
	Whilst the western setback exceeds compliance at 6m, the requirement to provide a 3m landscaped setback to the south does not. It is considered that the 3m setback to the south was initially required to ameliorate any impacts from the rail corridor. However, due to the amelioration measures incorporated into the design of the development (ie noise treatments for the balconies), it did not require the 3 metre setback. The proposal was also reviewed by Sydney Trains. Upon review of the proposal, Sydney Trains raised no objections to the nil setback to the southern boundary.	
Open Space	Public domain is as per the Stage 1 approved under DA/571/2014 and Figure 4.3.4.1.2 of PDCP 2011.	Yes
Heritage	Lot 5 does not contain a heritage item.	Yes
	Council's Heritage Adviser reviewed the proposal and upon review raised no objections to the proposal as there is considered to be ample building separation between Lot 5 and Lot 1 which contains a heritage item.	
Traffic and Transport	See ADG assessment.	Yes

## 4. 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.

## 5. Environmental Planning and Assessment Regulation 2000

This application satisfies relevant clauses of the Regulation as follows:

#### **Table 7: Relevant EPA Regulations**

Clause 50(1)(a)	The nominated documentation is provided being
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- o A design verification statement;
- An explanation of the design in terms of the principles in SEPP 65

Relevant drawings and montages

Clause 98 All building work will be carried out in accordance with the provisions of the Building Code of Australia.

# 6. Likely impacts

## 6.1 Context and setting

The Land and Environment Court planning principle on "compatibility with context" as established in *Project Venture Developments v Pittwater Council* provides the following test to determine whether a proposal is compatible with its context:

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites ?

## <u>Response</u>

This proposal will result in acceptable physical impacts as follows:

- Site works and alterations to the ground profile are considered appropriate to allow for basement parking as well as addressing the topography of the site;
- Appropriate arrangements will be made for the collection and disposal of stormwater;
- Arrangements for vehicle access, and traffic generation will not compromise safety for road users, and will not reduce the efficiency of the local road network;
- The design and location of the building will not preclude surrounding land from being developed in accordance with planning controls; and
- The proposal will not generate noise, cast shadows or diminish views that would be detrimental to adjacent and surrounding sites.

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

## Response

This proposal will have a satisfactory relationship with its context for the following reasons:

- It contributes to the mix of land uses contemplated by the planning controls and the residential needs of the Westmead precinct;
- Site planning locates tower elements in suitable location to avoid negative amenity outcomes of adjacent sites or areas of public open space;
- The scale and form and presentation of the building is generally consistent with planning controls, and the design and site planning is acceptable as independently assessed by Council's Design Excellence Advisory Panel;
- The built form does not result in significant adverse impacts for adjacent sites;
- The public domain treatment is satisfactory;

• The operational characteristics of the site will not result in any adverse impacts for adjacent sites or the wider locality.

# 6.2 Site works

## **Excavation**

The excavation required to provide the 4 levels of basement is considered to be acceptable. Both Sydney Trains and Office of Water have not raised any objections with regards to extent of excavation work with proximity to the rail corridor and any impacts to ground water.

## Tree removal

Five trees are required to be removed. The scheme makes satisfactory adequate arrangements for re-landscaping of private and public elements of the proposal.

## Utility services

All utility services are available to the site. Standard conditions will be imposed on the consent requiring approvals to be obtained for connection to the service providers prior to the issue of the Occupation Certificate.

## 6.3 Natural and technological hazards

The contamination of the site is assessed elsewhere in this report. See SEPP 55 assessment.

## 6.4 Site design

## Setbacks

There are several instances where the design does not strictly comply with the DCP setbacks, however the outcome is nevertheless satisfactory. See DCP table for the assessment.

#### Height, bulk and scale

The height of the building is satisfactory as previously discussed. The bulk and scale of the proposal is consistent with the outcomes contemplated by the precinct planning controls, and is satisfactory on merit.

#### External materials

The schedule of external materials and finishes is satisfactory.

## Wind

The application is supported by a technical report which has identified the need for wind mitigation measures as follows:

Table 8: Wind mitigation measures	
Location	Mitigation measures
Ground Level	<ul> <li>Retention of existing landscaping to the north, west and east of the development on Lot 1.</li> <li>Additional landscaping as per the landscape plan</li> <li>The inclusion of additional densely foliating trees at a height of 4m located at the south-eastern corner of Building A.</li> </ul>
Building A Rooftop Terrace	<ul> <li>Additional landscaping, canopy structures and perimeter screening outlined for this area as per the landscape plan.</li> </ul>
Private balcony areas (Building A1)	The inclusion of full height impermeable screening or operable louvers along the western aspect of the north-western corner balconies on all levels.

Suitable conditions are included in the recommendation.

## **Accessibility**

The application is supported by a technical report which concludes the proposal is able to achieve compliance with the requirements of the BCA, DDA and AS 4299, subject to resolution of nominated design matters. Those matters are minor and can be addressed at the time of the Construction Certificate.

#### Landscaping

Council's Tree Management and Landscape Officer is generally satisfied with the landscape treatment, and has provided conditions for inclusion in any approval.

## 6.5 Amenity considerations

#### Internal amenity

A satisfactory outcome is achieved. See ADG assessment for further comment.

#### Common open space

The primary common open space is located on the ground floor. Secondary common open space areas are located on the lower ground floor as well as the roof top of Level 9 of Building A. These areas meet the ADG criteria for size and solar access.

#### <u>Noise</u>

The application is supported by a technical report which confirms that road traffic noise levels, and noise from the railway corridor, will exceed relevant minimum and maximum noise criteria for the apartments without noise attenuation measures.

The report confirms identifies glazing/seals treatments to facades to resolve that circumstance. Suitable conditions are included in the recommendation.

## 6.6 Public domain

## Built form relationship to public domain

A positive public domain outcome will result given:

- The building achieves a desirable interface with public areas in terms of the relationship between the ground floor levels and the adjoining footpaths;
- The building addresses its street frontages;
- Service areas are integrated into the building design and do not visually dominate the streetscape or pedestrian areas adjoining the site;
- The building provides for a direct visual connection to the street ensuring a high degree of passive surveillance which will encourage a sense of safety within the public spaces around the site;
- The architectural treatment will achieve a suitable streetscape presentation; and
- An appropriate landscape treatment is provided for those edges of the site that contribute to the public domain.

## Public domain works

Council's Urban Design (Public Domain) team is generally satisfied with the treatment nominated for public domain areas, and has provided conditions for inclusion to confirm the works.

## 6.7 Relationship to adjacent sites

## Overlooking

The development, ensures adequate separation within the development as well as future residential development to the north (Lot 4). No residential development is proposed to the east (Lot 1).

## Overshadowing

This is addressed in detail in the ADG and PDCP 2011 tables.

## Operational noise

Enclosed space for mechanical plant is provided at each floor of the development, and also at the roof level.

The acoustic report supporting the application states acoustic treatments to control noise emissions to satisfactory levels.

## 6.8 Access, transport and traffic

## Parking supply

The number of parking provided satisfies maximum provisions under the DCP.

## Parking access and design

The geometry and design of parking areas and associated elements, including service areas, is satisfactory.

#### Construction Traffic

A condition will be imposed on the consent requiring the submission of a Construction Traffic Management Plan to be prepared and submitted to Council for review and approval prior to any works commencing.

#### 6.9 Water management

#### Stormwater collection and disposal

Council's Engineer is satisfied with the approach to stormwater management, including arrangements for WSUD.

#### Water quality during construction

This matter is addressed by conditions in recommendation to this report.

#### 6.10 Waste management

#### Construction phase

This matter will be addressed within a Construction Management Plan.

#### Operation phase

Dedicated space for the storage and collection of waste is provided on the ground floor along the Oakes Lane frontage. Council's Waste Officer has reviewed the Waste Management Plan which supports the application, and is satisfied with arrangements for the storage and collection of waste from the development.

Council's Traffic Engineer is satisfied the design of the service areas is satisfactory for the type and size of waste vehicles required to attend the site.

## 6.11 Construction Management

To minimise nuisance during the construction period the recommendation to the report requires the preparation of a construction management plan addressing the following matters:

- Dilapidation reports;
- Demolition and removal of hazardous materials;
- Sediment and erosion control and water quality during construction;
- Construction traffic management plan;
- Hours of works;
- Construction noise and vibration;
- Material delivery and storage;
- Safety fencing;
- Traffic and pedestrian safety;
- Dust control; and
- Tree protection.

# 6.12 Safety, security and crime prevention

Crime Prevention Through Environmental Design (CPTED) is a recognised model which provides that if development is appropriately designed it is anticipated to assist in minimising the incidence of crime and contribute to perceptions of increased public safety.

Evaluation of the application with consideration of the principles which underpin CPTED (surveillance; access control; territorial reinforcement and space management) indicates the design has given due regard has been given to those considerations. Further, a Crime Prevention Assessment was submitted with the application which ensures suitable outcomes are achieved. The recommendation of the assessment includes:

- Internal and external lighting to Australian Standards;
- Installation of CCTV to the basement entry;
- Design of landscaping within the area between Lobby A1 and B3 to include low planting and to be well lit.
- Way finding measures within the parking level;
- Provision of signage to be prominently displayed

# 6.13 Social and economic impacts

No adverse impacts have been identified.

# 7. Site suitability

Subject to the conditions provided within the recommendation to this report the site is suitable for this development given:

- That the proposal is an appropriate "fit" for the locality given the preceding analysis which demonstrates a lack of adverse built form and operational impacts; and
- Site attributes are conducive, noting a lack of natural constraints/hazards.

# 8. Public interest

In accordance with the notification procedures that are contained in Appendix 5 of PDCP 2011 owners and occupiers of surrounding properties were given notice of the application for a 30 day period between 27 October 2016 and 28 November 2016. In response, 3 submissions were received.

The issues raised in the submissions are as follows.

Issue	Comment
Bulk and Scale	This issue is assessed in detail elsewhere in this report. Despite
	the variations to the height and FSR, it is considered appropriate
	for its location and is designed as envisaged by Council's controls
	for the Westmead Precinct.
Increase in Density	The increase in the density within this precinct as a result of the
	development is in line with the desired outcomes for the
	Westmead Precinct. The development has been designed to
	manage the impacts associated with the density increase in
	terms of acoustic and solar amenity, parking, traffic and
	Increased pedestrian movement.
Over supply of parking	Council's Iraffic Engineer has imposed a condition on the
spaces	consent requiring the reduction of parking spaces to 533
Dedectrien Sefety	The pedactrice measurement within the WOLL site was accessed in
Pedestrian Safety	The pedesthan movement within the WSU site was assessed in detail under the Store 1 enpreuel and therefore did not require to
	be revisited. However, as this application relates only to Let 5
	only the pedestrian movement within the site was reviewed. It is
	noted that I of 5 provides appropriate linkages at ground level
	with connections to the street frontages. These links were
	reviewed by Council's Urban Designers and considered to be
	acceptable.
Darcy Road Pedestrian	As above, these issues were reviewed under the Stage 1
Overpass and Hawkesbury	approval. It is noted however that the overpass and underpass
Road underpass	do not form part of this application.
Increase in traffic will impede	The increase in traffic movement within the locality as a result of
access to hospital	the development was reviewed by Council's Traffic Engineer
	whom raised no objections subject to conditions of consent. In
	this regard, the development is not considered to impede on
	access to hospitals by emergency vehicles.
Development should have	Lot 5 does not have a frontage to Darcy Road.
Consideration to the	
Plan if it addresses Daray	
Road	
The development is of a	The applicant has submitted an aviation report that confirms that
height that will impact on the	an alternative flight nath is required to ensure that the
flight path for Westmead	development on Lot 5 does not obscure flight paths. Accordingly
Hospital	Deferred Commencement condition will be imposed requiring the
·····	consent holder to obtain the necessary approvals from the
	relevant authorities to redirect the flight path prior to the issue of
	an operative consent.
Proposal is to be in	The development has been designed in accordance with the
accordance with the	relevant policies applicable to the Westmead precinct as well as
Westmead Redevelopment	its B4 Mixed Use zoning of the site.

Amended plans were submitted in response to DEAP comments as well as in response to commentary from Council's internal specialists such as Development and Traffic Engineers. However, these plans were not re-advertised in accordance with Clause 5.5.9 entitled

"Notifications of Amended Development Applications Where The Development Is Substantially Unchanged" of Council's Notification Development Control Plan as the amended application is considered to be substantially the same development and does not result in a greater environmental impact.



# **ATTACHMENT B - CONDITIONS OF CONSENT**

SWCCP reference 2016SYW219

**DA No.** 968/2016

# SCHEDULE 1

- 1. Pursuant to the provisions of Section 80(3) of the Environmental Planning and Assessment Act, 1979, the development application be granted a Deferred Commencement Consent subject to the completion of the following:
  - a.) All necessary approvals from the relevant authorities are to be obtained to confirm that the development will not impact on any flight paths.

**Reason:** To ensure that the development does not obstruct flight path/s.

The above requirement(s) must be satisfied within 24 months of this determination or the consent will lapse.

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

# GENERAL MATTERS

1. The development is to be carried out in accordance with the following plans endorsed with Council's Stamp as well as the documentation listed below, except where amended by other conditions of this consent and/or any plan annotations:

Drawing No.	Prepared By	Dated
Site Plan, Project No. 16001.	Turner Architects	2 August 2016
Drawing No. DA-110-020. Revision		
Н.		
Railcorp Easement Plan, Project	Turner Architects	2 August 2016
No. 16001. Drawing No. DA-110-		
050. Revision H.		
Site Analysis Plan, Project No.	Turner Architects	2 August 2016
16001. Drawing No. DA-110-010.		
Revision H.		
Basement 01 Plan, Project No.	Turner Architects	10 March 2017
16001. Drawing No. DA-110-B01.		
Revision N.		
Basement 02 Plan, Project No.	Turner Architects	10 March 2017
16001. Drawing No. DA-110-B02.		
Revision N.		

Basement 03 Plan, Project No. 16001. Drawing No. DA-110-B03. Revision N.	Turner Architects	10 March 2017
Basement 04 Plan, Project No. 16001. Drawing No. DA-110-B104. Revision N.	Turner Architects	10 March 2017
Lower Ground Floor Plan, Project No. 16001. Drawing No. DA-110- 001. Revision M.	Turner Architects	6 March 2017
Ground Floor Plan, Project No. 16001. Drawing No. DA-110-002. Revision M.	Turner Architects	6 March 2017
Level 1 Floor Plan, Project No. 16001. Drawing No. DA-110-010. Revision M.	Turner Architects	6 March 2017
Level 2 Floor Plan, Project No. 16001. Drawing No. DA-110-020. Revision K.	Turner Architects	6 March 2017
Level 3 Floor Plan, Project No. 16001. Drawing No. DA-110-030. Revision K.	Turner Architects	6 March 2017
Level 4 Floor Plan, Project No. 16001. Drawing No. DA-110-040. Revision K.	Turner Architects	6 March 2017
Level 5 Floor Plan, Project No. 16001. Drawing No. DA-110-050. Revision K.	Turner Architects	6 March 2017
Level 6 Floor Plan, Project No. 16001. Drawing No. DA-110-60. Revision K.	Turner Architects	6 March 2017
Level 7 Floor Plan, Project No. 16001. Drawing No. DA-110-070. Revision K.	Turner Architects	6 March 2017
Level 8 Floor Plan, Project No. 16001. Drawing No. DA-110-080. Revision K.	Turner Architects	6 March 2017
Level 9 Floor Plan, Project No. 16001. Drawing No. DA-110-090. Revision K.	Turner Architects	6 March 2017
Level 10 Floor Plan, Project No. 16001. Drawing No. DA-110-100. Revision K.	Turner Architects	6 March 2017
Level 11 Floor Plan, Project No. 16001. Drawing No. DA-110-110. Revision J.	Turner Architects	6 March 2017
Level 12 Floor Plan, Project No. 16001. Drawing No. DA-110-120. Revision J.	Turner Architects	6 March 2017
Level 13 Floor Plan, Project No. 16001. Drawing No. DA-110-130. Revision J.	Turner Architects	6 March 2017
Level 14 Floor Plan, Project No. 16001. Drawing No. DA-110-140. Revision J.	Turner Architects	6 March 2017

Level 15 Floor Plan, Project No. 16001. Drawing No. DA-110-150. Revision J.	Turner Architects	6 March 2017
Level 16 Floor Plan, Project No. 16001. Drawing No. DA-110-160. Revision J.	Turner Architects	6 March 2017
Level 17 Floor Plan, Project No. 16001. Drawing No. DA-110-170. Revision J.	Turner Architects	6 March 2017
Level 18 Floor Plan, Project No. 16001. Drawing No. DA-110-180. Revision J.	Turner Architects	6 March 2017
Level 19 Floor Plan, Project No. 16001. Drawing No. DA-110-190. Revision J.	Turner Architects	6 March 2017
Level 20 Floor Plan, Project No. 16001. Drawing No. DA-110-200. Revision J.	Turner Architects	6 March 2017
Level 21 Floor Plan, Project No. 16001. Drawing No. DA-110-210. Revision J.	Turner Architects	6 March 2017
Level 22 Floor Plan, Project No. 16001. Drawing No. DA-110-220. Revision J.	Turner Architects	6 March 2017
Level 23 Floor Plan, Project No. 16001. Drawing No. DA-110-230. Revision J.	Turner Architects	6 March 2017
Level 24 Plant and Roof Plan, Project No. 16001. Drawing No. DA- 110-240. Revision J.	Turner Architects	6 March 2017
Overall Roof Plan, Project No. 16001. Drawing No. DA-110-250. Revision J.	Turner Architects	10 March 2017
North Elevation Plan, Project No. 16001. Drawing No. DA-210-001. Revision N.	Turner Architects	10 March 2017
East Elevation Plan, Project No. 16001. Drawing No. DA-210-002. Revision N.	Turner Architects	10 March 2017
South Elevation Plan, Project No. 16001. Drawing No. DA-210-003. Revision N.	Turner Architects	10 March 2017
West Elevation Plan, Project No. 16001. Drawing No. DA-210-004. Revision N.	Turner Architects	10 March 2017
Section AA Plan, Project No. 16001. Drawing No. DA-310-001. Revision N.	Turner Architects	10 March 2017
Section BB Plan, Project No. 16001. Drawing No. DA-310-002. Revision N.	Turner Architects	10 March 2017
Section CC Plan, Project No. 16001. Drawing No. DA-310-003. Revision N.	Turner Architects	10 March 2017

Section DD & EE Plan, Project No. 20160021. Drawing No. DA100. Revision A.	Turner Architects	10 March 2017
Tree Management Plan, Reference No. 20160021. Drawing No. DA100. Revision 2.	Scott Carver	24 February 2017
General Arrangement Plan, Reference No. 20160021. Drawing No. DA101. Revision 2.	Scott Carver	24 February 2017
Ground Floor Detail Plan, Reference No. 20160021. Drawing No. DA102. Revision 2.	Scott Carver	24 February 2017
Ground Floor Plan 2, Reference No. 20160021. Drawing No. DA103. Revision 2.	Scott Carver	24 February 2017
Level 9 – Rooftop Terrace, Reference No. 20160021. Drawing No. DA104. Revision 2.	Scott Carver	24 February 2017
Ground Floor Detail Plan 2, Reference No. 20160021. Drawing No. DA103. Revision 2.	Scott Carver	24 February 2017
Swept Path Details	Scott Carver	Undated
Ground Floor Section AA Plan, Reference No. 20160021. Drawing No. DA200. Revision 1.	Scott Carver	24 February 2017
Ground Floor Section BB and CC Plan, Reference No. 20160021. Drawing No. DA201. Revision 1.	Scott Carver	24 February 2017
Ground Floor Section DD and CC Plan, Reference No. 20160021. Drawing No. DA202. Revision 1.	Scott Carver	24 February 2017
Soil and Water Management Plan. Project no. 202174601. Drawing No. C005. Revision A.	Bonacci	22 July 2016
Soil and Water Management Details. Project no. 202174601. Drawing No. C006. Revision A.	Bonacci	22 July 2016
Civil Works Cover Sheet, Project No. 0789, Drawing No. C01, Revision A	Neil Lowry & Associates	20 July 2016
Specifications Sheet, Project No. 0789, Drawing No. C02, Revision A	Neil Lowry & Associates	20 July 2016
Bulk Earthworks Plan Project No. 0789, Drawing No. C03, Revision A	Neil Lowry & Associates	20 July 2016
Internal Driveways and Pathway Plan, Project No. 0789, Drawing No. C04, Revision D	Neil Lowry & Associates	8 August 2016
Materials Board, Project No. 16001. Drawing No. DA-990-001. Revision H.	Turner Architects	2 August 2016
Engineering Plans to be prepared as per the conditions below.	N/A	To be prepared as per conditions.

Document(s)	Prepared By	Dated
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General Terms Of Approval – Water NSW	Water NSW	14 December 2016
General Terms of Approval – Sydney Trains	Transport Sydney Trains	6 July 2017
Natural Ventilation Study	Windtech	13 March 2017
Site Audit Report	JBS&G	14 June 2016
Fire Engineers Report	Affinity Fire Engineering	8 August 2016
Public Arts Plan	Turpin Crawford Studio	July 2016
Pedestrian Wind Environment Statement	Windtech	August 2016
Construction Management Plan	Barker Ryan Stewart	August 2016
Access Review	Morris Goding Accessibility Consulting	8 September 2016
Crime Prevention Assessment	Barker Ryan Stewart	August 2016
Arborist Report	The Ents Tree Consultancy	22 July 2016
Waste Management Plan	Elephants Foot	8 August 2016
BASIX Certificate No. 742824M	BASIX	4 August 2016
Acoustic Report	Acoustic Noise and Vibration Solutions P/L	9 August 2016
BCA Report	Vic Lilli	9 August 2016
Traffic and Parking Report	Barker Ryan Stewart	August 2016
Heritage Impact Statement	NBRS + Partners	8 August 2016
Geotech Report	El Australia	11 August 2016
Aviation Report	Landrum and Brown	July 2017

**Note:** In the event of any inconsistency between the architectural plan(s) and the landscape plan(s) and/or stormwater disposal plan(s) (if applicable), the architectural plan(s) shall prevail to the extent of the inconsistency.

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

 All building work must be carried out in accordance with the current provisions of the Building Code of Australia (National Construction Code).
 Reason: To comply with the Environmental Planning & Assessment Act 1979, as

amended and the Environmental Planning & Assessment Act 1979, as amended and the Environmental Planning & Assessment Regulation 2000.

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

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

4. The development must be constructed within the confines of the property boundary. No portion of the proposed structure, including footings/slabs, gates and doors during opening and closing operations must encroach upon Council's footpath area or the boundaries of the adjacent properties.

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

5. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council and the principal certifying authority immediately.

**Reason:** To ensure that the land is suitable for its proposed use and poses no risk to the environment and human health.

- 6. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified. **Reason:** As per Office of Water requirements.
- 7. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below- ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
- 8. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
  - (a) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
  - (b) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
  - (c) where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.

**Reason:** As per Office of Water requirements.

- Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
   Reason: As per Office of Water requirements.
- 10. Documentation (referred to as a 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process must be provided. Information will be required at several stages: prior to construction commencing (initial report which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions. Reason: As per Office of Water requirements.
- The Applicant is to engage an Artist/s to develop the artworks consistent to the proposed themes and treatment areas outlined in the Arts Plan.
   Reason: To deliver satisfactory public art.
- 12. On completion of the artwork design stage, the Applicant is required to submit all additional documentation to Council that details the realisation of the Arts Plan through

final design concepts, site plan for artworks, construction documentation and project management prior to its implementation.

**Reason:** To deliver satisfactory public art.

- 13. All excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings and recommendations detailed in the following documents:
  - Geotechnical Investigation prepared by EI Australia dated 11 August 2015 (Ref: E23033 GB\_Rev2).
  - Structural Report prepared by Bonacci Group dated 7 March 2017 (Ref:2021746).
  - Impact Assessment Report prepared by EI Australia dated 28 October 2016 (Ref: E23033 GC\_Rev2)
  - Following Structural Drawings prepared by Bonacci Group:
    - \$0005-P4
    - S0020-P4
    - S0025-P4
    - S0026-P4
    - S0027-P4
    - S0028-P4
    - S0029-P4
    - S0030-P4
    - S0031-P2
    - S0035-P4
    - S0036-P4

The Principal Certifying Authority is not to issue the Construction Certificate until the measures detailed in the documents approved/certified by Sydney Trains under this Condition are incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate (unless amended and subsequently endorsed by Sydney Trains in order to comply with the requirements of Condition A2). Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

**Reason:** As per Sydney Trains requirements.

# Prior to the Issue of the Construction Certificate

- 14. Residential building work, within the meaning of the Home Building Act 1989, must not be carried out unless the Certifying Authority for the development to which the work relates fulfils the following:
  - (a) In the case of work to be done by a licensee under the Home Building Act 1989; has been informed in writing of the licensee's name and contractor licence number; and is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989, or
  - (b) In the case of work to be done by any other person; has been informed in writing of the person's name and owner-builder permit number; or has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of the Home Building Act 1989, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

Note:	A certificate issued by an approved insurer under Part 6 of the Home		
	Building Act 1989 that states that a person is the holder of an insurance		
	policy issued for the purpose of that Part is, for the purposes of this		
	clause, sufficient evidence that the person has complied with the		
	requirements of that Part.		
Posson:	To comply with the Home Building Act 1080		

- **Reason:** I o comply with the Home Building Act 1989.
- The Construction Certificate is not to be issued unless the Certifying Authority is satisfied the required levy payable, under Section 34 of the Building and Construction Industry Long Service Payments Act 1986, has been paid.
   Reason: To ensure that the levy is paid.
- 16. A monetary contribution comprising **\$1681994.20** is payable to Parramatta City Council in accordance with Section 94A of the Environmental Planning and Assessment Act 1979 and the Parramatta Section 94A Development Contributions Plan (Amendment No. 2). Payment must be by EFTPOS, bank cheque or credit card only.

The contribution is to be paid to Council prior to the issue of a construction certificate.

The contribution levy is subject to indexation on a quarterly basis in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician. At the time of payment, the contribution levy may have been the subject of indexation.

Parramatta Section 94A Development Contributions Plan (Amendment No. 2) can be viewed on Council's website at:

http://www.parracity.nsw.gov.au/build/forms\_and\_planning\_controls/developer\_contributions

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

- 17. An Environmental Enforcement Service Charge must be paid to Council prior to the issue of a Construction Certificate. The fee will be in accordance with Council's adopted 'Fees and Charges' at the time of payment.
  - **Note:** Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524.
  - **Reason:** To comply with Council's adopted Fees and Charges Document and to ensure compliance with conditions of consent.
- An Infrastructure and Restoration Administration Fee must be paid to Council prior to the issue of a Construction Certificate. The fee will be in accordance with Councils adopted 'Fees and Charges' at the time of payment.

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

- Service ducts, plumbing installations and plant servicing the development must be concealed within the building to keep external walls free from service installations. Details are to be included within the plans and documentation accompanying the Construction Certificate to the satisfaction of the Certifying Authority.
   Reason: To ensure the quality built form of the development.
- 20. In accordance with Section 80A(6)(a) of the Environmental Planning and Assessment Act 1979, security bonds payable to Council for the protection of the adjacent road pavement and public assets during construction works. The bond(s) are to be lodged with Council prior to the issue of any application/approval associated with the allotment,

(being a Hoarding application, Construction Certificate) and prior to any demolition works being carried out where a Construction Certificate is not required.

The bond may be paid, by EFTPOS, bank cheque, or be an unconditional bank guarantee.

Should a bank guarantee be lodged it must:

- (a) Have no expiry date;
- (b) Be forwarded directly from the issuing bank with a cover letter that refers to Development Consent DA 968/2016;
- (c) Specifically reference the items and amounts being guaranteed. If a single bank guarantee is submitted for multiple items it must be itemised.

Should it become necessary for Council to uplift the bank guarantee, notice in writing will be forwarded to the applicant fourteen days prior to such action being taken. No bank guarantee will be accepted that has been issued directly by the applicant.

Nature Strip and Roadway (for 2 street frontages)	\$40.000
$\frac{1}{2} = \frac{1}{2} = \frac{1}$	φ.0,000

A dilapidation report is required to be prepared prior to any work or demolition commencing. This is required to be submitted to Parramatta City Council with the payment of the bond/s.

The dilapidation report is required to document/record any existing damage to kerbs, footpaths, roads, nature strips, street trees and furniture within street frontage/s bounding the site up to and including the centre of the road.

- **Reason:** To safe guard the public assets of council and to ensure that these assets are repaired/maintained in a timely manner so as not to cause any disruption or possible accidents to the public.
- 21. Design Verification issued by a registered architect is to be provided with the application for a Construction Certificate detailing the construction drawings and specifications are consistent with the design quality principles in State Environmental Planning Policy No-65. Design Quality of Residential Flat Development.

**Note:** Qualified designer in this condition is as per the definition in SEPP 65. **Reason:** To comply with the requirements of SEPP 65.

22. A noise management plan must be prepared in accordance with the NSW Department of Environment, Climate Change and Water 'Interim Noise Construction Guidelines 2009' and accompany the application for a Construction Certificate. The Certifying Authority must be satisfied the Construction Noise Management Plan will minimise noise impacts on the community during the construction of the development.

The Construction Noise Management Plan must include:

- (a) Identification of nearby residences and other sensitive land uses.
- (b) Assessment of expected noise impacts.
- (c) Detailed examination of feasible and reasonable work practices that will be implemented to minimise noise impacts.
- (d) Community Consultation and the methods that will be implemented for the whole project to liaise with affected community members to advise on and respond to noise related complaints and disputes.

**Reason:** To prevent loss of amenity to the area.

23. Documentary evidence to the satisfaction of the Certifying Authority is to accompany the application for a Construction Certificate confirming satisfactory arrangements have been made with the energy provider for the provision of electricity supply to the development.

If a substation is required of the energy provider, it must be located internally within a building/s.

Substations are not permitted within the front setback of the site or within the street elevation of the building; unless such a location has been outlined and approved on the Council stamped Development Application plans. Substations are not permitted within Council's road reserve.

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

24. The development must incorporate 56 adaptable dwellings. Plans submitted with the construction certificate must illustrate that the required adaptable dwellings have been designed in accordance with the requirements of AS 4299-1995 for a class C Adaptable House.

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

25. The approved plans must be submitted to a Sydney Water Quick Check agent or Sydney Water Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, storm water drains and/or easements, and if further requirements need to be met. This process will result in the plans being appropriately stamped.

The Principal Certifying Authority must ensure the plans are stamped by Sydney Water prior to the issue of any Construction Certificate and works commencing on site.

- **Notes:** For Quick Check agent details please refer to the web site www.sydneywater.com.au see Building and Developing then Quick Check or telephone 13 20 92. For Guidelines for Building Over/Adjacent to Sydney Water Assets see Building and Developing then Building and Renovating or telephone 13 20 92.
- **Reason:** To ensure the requirements of Sydney Water have been complied with.
- 26. Prior to any excavation on or near the subject site the person/s having benefit of this consent are required to contact the NSW Dial Before You Dig Service (NDBYD) on 1100 to receive written confirmation from NDBYD that the proposed excavation will not conflict with any underground utility services. The person/s having the benefit of this consent are required to forward the written confirmation from NDBYD to their Principal Certifying Authority (PCA) prior to any excavation occurring. Reason: To ensure Council's assets are not damaged.
- 27. A heavy duty vehicular crossing shall be constructed in accordance with Council's Standard Drawing numbers [DS9 & DS10]. Details must accompany an application for a Construction Certificate to the satisfaction of the Certifying Authority.

A Vehicle Crossing application must be submitted to Council together with the appropriate fee as outlined in Council's adopted Fees and Charges prior to any work commencing.

**Reason:** To ensure appropriate vehicular access is provided.

28. Where work is likely to disturb or impact upon a utility installations, (e.g. power pole, telecommunications infrastructure etc.) written confirmation from the affected utility provider that they raise no objections to the proposed works must accompany an application for a Construction Certificate to the satisfaction of the Certifying Authority. Reason: To ensure no unauthorised work to public utility installations and to minimise costs to Council.

29. Council property adjoining the construction site must be fully supported at all times during all demolition, excavation and construction works. Details of any required shoring, propping and anchoring devices adjoining Council property, are to be prepared by a qualified structural or geotechnical engineer. These details must accompany an application for a Construction Certificate and be to the satisfaction of the Principal Certifying Authority (PCA). A copy of these details must be forwarded to Council prior to any work being commenced.

Backfilling of excavations adjoining Council property or any void remaining at the completion of the construction between the building and Council property must be fully compacted prior to the completion of works.

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

- 30. The grades of the driveway, including transitions, must comply with Australian Standard 2890.1 (2004) "Off-street car parking" to prevent the underside of the vehicles scraping. Details are to be provided with the application for a Construction Certificate.
   Reason: To provide suitable vehicle access without disruption to pedestrian and vehicular traffic.
- Column locations are to be installed in accordance with Clause 5 and Figures 5.1 and 5.2 of AS 2890.1-2004.
   Reason: To comply with Australian Standards.
- 32. Documentary evidence to the satisfaction of the Certifying Authority is to accompany the application for a Construction Certificate confirming satisfactory arrangements have been made with the energy provider for the provision of electricity supply to the development.

If a substation is required of the energy provider, it must be located internally within a building/s.

Substations are not permitted within the front setback of the site or within the street elevation of the building; unless such a location has been outlined and approved on the Council stamped Development Application plans. Substations are not permitted within Council's road reserve.

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

33. Prior to the issue of the Construction certificate, detailed plans are to be prepared in accordance with the requirements of the Public Domain Guidelines submitted to Council's Urban Design Team for review and approval. **Basean** 

**Reason:** To provide and ensure amenity of public domain.

- A maximum of 533 residential parking spaces and 107 visitor parking spaces (total of 654) are to be provided on site. Parking spaces are to be provided in accordance with the approved plans referenced in condition 1 and with AS 2890.1, AS2890.2 and AS 2890.6. Details are to be illustrated on plans submitted with the construction certificate.
   Reason: To comply with Council's parking requirements and Australian Standards.
- 35. The redundant spaces as a result of the reduction in car parking spaces in the basement are to be converted to storage areas. are to be accommodate storage areas. **Reason:** To provide appropriate storage areas.

- 36. 278 bicycle spaces/racks are to be provided on-site and used accordingly. The dimensions and layout of the bicycle storage/racks are to comply with AS 2890.3 2015. Details are to be illustrated on plans submitted with the construction certificate. Reason: To comply with Council's parking requirements.
- 37. Prior to the issue of the construction certificate, the PCA shall ascertain that any new element in the basement carpark not illustrated on the approved plans such as columns, garage doors, fire safety measures and the like do not compromise appropriate manoeuvring and that compliance is maintained with AS 2890.1, AS2890.2 and AS 2890.6. Details are to be illustrated on plans submitted with the construction certificate.

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

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

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

- 39. Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains for endorsement the following items:
  - i. Final Construction Drawings for Construction Certificate
  - ii. Confirmation from the Geotechnical Engineer confirming that the Ko values adopted for shotcrete design are acceptable.
  - iii. P2 pile details.
  - iv. Revised Monitoring Plan addressing the following:
    - a. The predicted wall movement as per the Structural Design Report page 4 is 10mm which is in excess of the nominated alarm/action level. Please confirm the alarm/action levels are appropriate given the predicted movements. It is expected that the anticipated deflection of the shoring wall would be greater than the movement at the site boundary, however in the excavation monitoring plan the deflection limit recommended for the site boundary is 5mm and the shoring wall is 4mm.
    - b. A hold point shall be added for the review of survey results and proposed action levels by the Civil Maintenance Engineer prior to commencement of works.
    - c. Nomination of a competent track person.
  - v. Revised Risk Assessment Management Plan addressing the following:
    - a. The Survey movement criteria is not consistent with the monitoring plan. The management plan needs to ensure that it appropriately references and/or is consistent with the ground movement and vibration monitoring plan.

The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied. In the event that the above documentation requires the amended of the documentation provided in Condition then the Construction Certificate shall be based on the amended documentation endorsed by Sydney Trains.

**Reason:** As per Sydney Trains requirements.

- 40. The following items are to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate:
  - Machinery to be used during excavation/construction.
  - Construction, Excavation and Demolition plan listing the vibration generating equipment, anticipated levels of vibration and proposed method of monitoring

The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

**Reason:** As per Sydney Trains requirements.

- 41. A final Electrolysis Report based on the final approved development is to be prepared prior to the issue of a construction certificate. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. **Reason:** As per Sydney Trains requirements.
- 42. The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

**Reason:** As per Sydney Trains requirements.

43. Prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains and Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

**Reason:** As per Sydney Trains requirements.

- 44. No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and catenary, contact and pull-off wires of the adjacent tracks, and to any high voltage aerial supplies within or adjacent to the rail corridor. **Reason:** As per Sydney Trains requirements.
- 45. Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied. **Reason:** As per Sydney Trains requirements.
- 46. Rainwater from the roof must not be projected and/or falling into the adjoining rail corridor and must be piped down the face of the building which faces the rail corridor. **Reason:** As per Sydney Trains requirements.
- 47. Prior to the issue of a Construction Certificate the Applicant is to submit to Sydney Trains the demolition, excavation and construction methodology and staging for review

and endorsement. The Principle Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

**Reason:** As per Sydney Trains requirements.

48. No work is permitted within the Sydney Trains land, or its easements, at any time unless prior approval or an Agreement has been entered into with Sydney Trains and/or Transport for NSW. Where the Applicant proposes to enter the rail corridor, the Principal Certifying Authority shall not issue a Construction Certificate until written confirmation has been received from those entities confirming that its approval has been granted.

**Reason:** As per Sydney Trains requirements.

- 49. The Applicant shall liaise with Sydney Trains regarding access to the rail corridor gates adjoining the site during and post development works. The Applicant shall comply with the requirements of Sydney Trains at all times. The final access road levels and road surface of the access road to the corridor gates are to be in accordance with Sydney Trains and Transport for NSW Asset Standards Authority requirements. If required by Sydney Trains a right of way or easement for access shall be placed on title in order to provide and maintain legal access for Sydney Trains to the rail corridor. **Reason:** As per Sydney Trains requirements.
- 50. Where a condition of consent requires Sydney Trains or Transport for NSW endorsement the Principal Certifying Authority is not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from those entities that the particular condition has been complied with. The issuing of staged Construction Certificates dealing with specific works and compliance conditions can be issued subject to written agreement from those entities to which the relevant conditions applies.

**Reason:** As per Sydney Trains requirements.

51. If no retaining walls are marked on the approved plans no approval is granted as part of this approval for the construction of any retaining wall that is greater than 600mm in height or within 900mm of any property boundary.

The provision of retaining walls along common boundary lines shall not impact on neighbouring properties. If impact upon neighbouring properties (including fences) is anticipated then written approval from the affected neighbour shall be obtained and submitted to the certifying authority prior commencement of the works.

Structural details, certified by a practicing structural engineer, shall accompany the application for a Construction Certificate for assessment and approval by the certifying authority.

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

- 52. The basement stormwater pump-out system, must be designed and constructed to include the following:
  - (a) A holding tank capable of storing the run-off from a 100 year ARI (average reoccurrence interval) 2 hour duration storm event, allowing for pump failure.
  - (b) A two pump system (on an alternate basis) capable of emptying the holding tank at a rate equal to the lower of:
    - (i) The permissible site discharge (PSD) rate; or
    - (ii) The rate of inflow for the one hour, 5 year ARI storm event.
  - (c) An alarm system comprising of basement pump-out failure warning sign together with a flashing strobe light and siren installed at a clearly visible location at the entrance to the basement in case of pump failure.

- (d) A 100 mm freeboard to all parking spaces.
- (e) Submission of full hydraulic details and pump manufacturers specifications.
- (f) Pump out system to be connected to a stilling pit and gravity line before discharge to the street gutter.

Plans and design calculations along with certification from the designer indicating that the design complies with the above requirements are to be submitted to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate. **Reason:** To ensure satisfactory storm water disposal.

- 53. All cleaning and washing of motor vehicles must be carried out in a designated area and must be drained to a sump and cleansed via a coalescing plate separator prior to discharge into the sewer. Documentary evidence is required from the Trade Waste Section of the Sydney Water Corporation Ltd confirming satisfactory arrangements have been made with the Corporation with respect to the disposal of dirty water into the sewerage system, prior to the issue of the Construction Certificate. **Reason:** To ensure satisfactory storm water disposal.
- 54. Prior to the issue of Construction Certificate, the applicant must obtain approval on the stormwater plan from council. In this regard, amended stormwater plan shall be submitted to the satisfaction of Council's Technical Specialist Team (Development Assessment Services). The following matters must be specifically addressed in the amended stormwater Plan:

# Water Quality Treatment (Filtration) System

The water quality treatment (Filtration) system shall be consistent with the following requirements:

- a. To allow the flow up to and equivalent to 1 in 3-month's storm event (First flush) into the filtration system, the outflow from the bottom of the high-flow bypass chamber (i.e. flow up to **1 in 3 month's** flow) to be directed into the filtration unit through a low-level outlet pipe fitted with orifice of suitable diameter, and the overflow from the high-flow bypass chamber (that exceeds **1 in 3 month's** flow) (from upper level outlet), to be directed into the OSD system.
- b. The size of the high-flow bypass chamber should such that it fills up quickly to generate the required head to result the flow of **1** in **3** month's flow into the filtration chamber. In this regard the high-flow bypass chamber should not be large than  $1m \times 1m$  in area.
- c. The floor/ invert of the high-flow bypass chamber should be at least 150mm higher than the invert of the filtration chamber to ensure that there is not backflow of the polluted water from the filtration chamber.
- d. The overflow level in the High-flow bypass chamber should be higher than water level in the filtration chamber and approximately match the Top Water Level (1:100-year's event) in the OSD storage chamber to ensure that no backflow occurs into the high-flow bypass chamber from the OSD tank.
- e. The outflow (bottom outlet) from the filtration system to be directed into the overflow pit (past the OSD system) and then equivalent flow to be reduced from the PSD in the OSD calculation. It is recommended that the outflow from the filtration unit be directed into overflow pit.
- f. The holding tank of the filtration system should be sufficient enough to hold **1 in 3 month's** flow and that no overflow of the polluted water from the filtration occurs that bypass the filtration system.

In this regard, stormwater plan shall address the following issues.

i. High-flow bypass chamber

In order for the water quality treatment device (filtration system) to function appropriately, the high-flow bypass chamber be re-designed taking into account of the followings

- hydraulic grade line and the hydraulic head over the orifice within High-flow bypass chamber and
- ensure that head over the orifice within the high-flow bypass chamber does not exceed the designed head for 1 in 3 month's flow (by inundation /backflow from the OSD /high early discharge pit),

In this regard the following adjustments may be considered:

i. raise the invert level of the high-flow bypass chamber to *IL29.15mAHD* (lower level outlet should be at least 150mm higher than false floor of filtration chamber), and overflow weir to *RL30.70mAHD* (upper level outlet).

## ii. Filtration chamber

Invert level of the filtration chamber (surface level of the false floor) should be adjusted in order to maintain the filtration head to **930mm** (the floor may be raised).

In addition to the above the followings issue also need to be addressed.

#### iii. Habitable area over the OSD tank

The habitable area of the units that lie above the OSD tank should be separated by a layer of free unenclosed space. In this regard, the following adjustment need to be made.

- Raise the habitable floor level by 300mm to RL 31.70mAHD or lower the surface level of OSD tank by 400mm to RL 31.00mAHD.
- The portion of the OSD tank cover slab lying under the building shall not be enclosed and be freely ventilated. (the submitted plan shows an enclosed space)

## iv. Emergency Overflow weir

Overflow Weir level for **1:100 year's** storm event, which also acts as emergency overflow, shall be at least **1m wide** with the overflow weir level at **RL 30. 80m.or** as appropriate such that there is storage volume of at least **470m**<sup>3</sup>

#### v. Inconsistencies between the plans.

The levels shown on the layout plan is inconsistent with that shown on the crosssectional details (e.g. weir level from OSD HED pit).

- **Reason:** To ensure that WSUD system is appropriately incorporated into stormwater OSD system and functions efficiently.
- 55. Full engineering construction details of the stormwater system, including OSD structures, pipe networks and calculations as per following points, shall be submitted for the approval of the PCA prior to release of the Construction Certificate for any work on the site.
  - (a) The stormwater drainage detail design shall be prepared by a Registered Stormwater Design Engineer and shall be generally in accordance with the following Stormwater Plans approved by this consent and with Council's

Stormwater Disposal Policy, Council's Design and Development Guidelines, The Upper Parramatta River Catchment Trust On Site Detention Hand book (Third or Fourth Edition), the relevant Australian Standards and the National Construction Code.

(i) The final drainage plans are consistent with the submitted Drainage Plans i.e. "Stormwater Plans (Drawing ref # 0789-SC05:Basement Level 1 Drainage Plan, -SC02:Basement Level4 Drainage Plan, -SC06 & SC7:Ground Level Drainage Plan, -SC33 &SC34:OSD and StormFilter plan and Cross sectional details), Revision "G" dated 07/07/2017 prepared by Neil Lowrey & Associates Pty Ltd (6 sheets) together with the notes and rectification as required and address the issues.

## • High-flow bypass chamber

In order for the water quality treatment device (filtration system) to function appropriately, the high-flow bypass chamber be re-designed taking into account of the followings

- hydraulic grade line and the hydraulic head over the orifice within High-flow bypass chamber and
- ensure that head over the orifice within the high-flow bypass chamber does not exceed the designed head for 1 in 3 month's flow (by inundation /backflow from the OSD /high early discharge pit),

In this regard the following adjustments may be considered:

i. raise the invert level of the high-flow bypass chamber to *IL29.15mAHD* (lower level outlet should be at least 150mm higher than false floor of filtration chamber), and overflow weir to *RL30.70mAHD* (upper level outlet).

# • Filtration chamber

Invert level of the filtration chamber (surface level of the false floor) should be adjusted in order to maintain the filtration head to **930mm** (the floor may be raised)

In addition to the above the followings issue also need to be addressed.

## • Habitable area over the OSD tank

The habitable area of the units that lie above the OSD tank should be separated by a layer of free unenclosed space. In this regard, the following adjustment need to be made.

- Raise the habitable floor level by 300mm to RL 31.70mAHD or lower the surface level of OSD tank by 400mm to RL 31.00mAHD.
- ✓ The portion of the OSD tank cover slab lying under the building shall not be enclosed and be freely ventilated. (the submitted plan shows an enclosed space)

# • Emergency Overflow weir

Overflow Weir level for **1:100 year's** storm event, which also acts as emergency overflow, shall be at least **1m wide** with the overflow weir

level at RL 30. 80m.or as appropriate such that there is storage volume of at least  $470m^3$ .

#### • Inconsistencies between the plans.

The levels shown on the layout plan is inconsistent with that shown on the cross-sectional details (e.g. weir level from OSD HED pit).

- (b) A Site Storage Requirement of 470 m<sup>3</sup>/ha and a Permissible Site Discharge of 80L/s/ha (when using 3<sup>rd</sup> edition of UPRCT's handbook) with the minimum storage capacity of 469.95m<sup>3</sup>/ha as shown by the OSD design Calculation summary sheet.
- (c) Adequate grate(s) to be provided so the OSD tank storage area can be inspected from outside for silt and debris, and to ensure adequate cross ventilation within the tank.
- (d) Certificate from registered structural engineer certifying the structural design adequacy of the OSD tank structure against the loads/forces including buoyancy forces.
- (e) Any changes, other than that are of minor nature (such as minor relocation of pits and pipes), or the changes that affect the approved landscaping require prior approval from the council.
- (f) The OSD Detailed Design Submission (Form B9) and OSD Detailed Calculation Summary Sheets (from B1) are to be submitted with the documentation accompanying he construction certificate application.

A calculation table showing the available storage volume with the pyramid volume and prismatic volume calculation method is to be shown on the plan.

**Reason:** To minimise the quantity of storm water run-off from the site, surcharge from the existing drainage system and to manage downstream flooding.

- 56. As a part accomplishment of Water Sensitive Urban Design principles under section 3.3.6.1 of Parramatta City Council Development Control Plan 2011, the following pollution reduction and stormwater quality improvement measures shall be implemented in accordance with the stormwater plan. Special consideration shall be given to the consistency in the Hydraulic Grade line (HGL) at various critical points of each component.
  - (a) All the surface pits at the basement car park shall be fitted with the filtration/screening basket fitted with the oil & grease-trapping pad of Enviropod make or equivalent that are capable or capturing sediments and spilled hydrocarbon.
  - (b) Filtration system consisting of at least seven (7) numbers of 690mm dia StormFilter cartridges (Stormwater360 make or equivalent with demonstrated performance) that provide water quality flow (Filtration) rate of 9.95/s in normal condition,
  - (c) The filter media shall be "**Phosphosorb**", or similar perlite based media that has demonstrated performance characteristics equivalent or better.
  - (d) Filtration chamber of at least  $30m^2$  area with sufficient holding capacity  $(11x.0.930=10.3m^3)$ ,
  - (e) The hydraulic head drop (head difference between the inlet invert level and the outlet tail water level) of at least **930mm** shall be maintained at any time/ event. The water quality flow (filtration) rate of the filtration system shall be no less than **9.95I/s**. If the head drop or water quality flow (filtration) rate cannot

be maintained additional cartridges shall be provided proportionately to maintain the designated flow rate.

(f) The construction and installation of the filtration system shall be in accordance with the manufacturer's specification and instruction.

**Reason:** To ensure appropriate water quality treatment measures are in place.

- 57. As a part accomplishment of Water Sensitive Urban Design principles under section 3.3.6.1 of Parramatta City Council Development Control Plan 2011, the following pollution reduction and stormwater quality improvement measures shall be implemented in accordance with the stormwater plan. Special consideration shall be given to the consistency in the Hydraulic Grade line (HGL) at various critical points of each component.
  - (a) All the surface pits at the basement car park shall be fitted with the filtration/screening basket fitted with the oil & grease-trapping pad of Enviropod make or equivalent that are capable or capturing sediments and spilled hydrocarbon.
  - (b) Filtration system consisting thirty (30) numbers of 690mm dia StormFilter cartridges (Stormwater360 make or equivalent with demonstrated performance) that provide water quality flow (Filtration) rate of 271/s in normal condition,
  - (c) The filter media shall be "**Phosphosorb**", or similar perlite based media that has demonstrated performance characteristics equivalent or better.
  - (d) Filtration chamber of at least 40m<sup>2</sup> area as shown on the stormwater plan with sufficient holding capacity of 30m<sup>3</sup> for first flush (flow equivalent to 1:3 month's flow)
  - (e) The hydraulic head drop (head difference between the inlet invert level and the outlet tail water level) of at least 930mm shall be maintained at any time/ event. The water quality flow (filtration) rate of the filtration system shall be no less than 271/s. If the head drop or water quality flow (filtration) rate cannot be maintained additional cartridges shall be provided proportionately to maintain the designated flow rate.
  - (f) The construction and installation of the filtration system shall be in accordance with the manufacturer's specification and instruction.

**Reason:** To ensure appropriate water quality treatment measures are in place.

58. Electricity provision within the site is to be designed so that in the future the electrical connection from this site can be made to an underground connection within the street. Certification from an energy provider addressing their requirements for this provision is to be forwarded to the Certifying Authority with the application for a Construction Certificate.

**Reason:** To enable future upgrading of electricity services.

59. Where shoring will be located on or will support Council property, engineering details of the shoring are to be prepared by an appropriately qualified and practising structural engineer. These details are to include the proposed shoring devices, the extent of encroachment and the method of removal and de-stressing of the shoring elements. These details shall accompany the application for a Construction Certificate. A copy of this documentation must be provided to Council for record purposes. All recommendations made by the qualified practising structural engineer must be complied with.

**Reason:** To ensure the protection of existing public infrastructure and adjoining properties.

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

- 61. Where a security roller shutter or boom gate prevents access to visitor carparking, an intercom system is required to be installed to enable visitor access to the car parking area. Details of the system and where it is to be located is to accompany an application for a Construction Certificate to the satisfaction of the Certifying Authority. **Reason:** To ensure visitor carparking is accessible.
- 62. The grades of the driveway, including transitions, must comply with Australian Standard 2890.1 (2004) "Off-street car parking" to prevent the underside of the vehicles scraping. Details are to be provided with the application for a Construction Certificate.
   Reason: To provide suitable vehicle access without disruption to pedestrian and vehicular traffic.
- 63. The underground OSD storage tank structures shall be constructed as designed and certified by a Qualified Structural Engineer, taking into account of the structural loads including dead load and live load from the above and surrounding areas/structures including the buoyancy forces, which exert load on the tank structures. The principal certifying authority shall ensure that the designer has taken account of all loads influencing the tank structures, duly certified and provided the structural design certificate and comply with Australian Standard: AS3600-2009-concrete structures and AS3700-2001-Masonry structures.

Upon completion of construction, a Certified Practicing Engineer to the satisfaction of the principal certifying authority shall certify the work. The principal certifying authority shall ensure that a practicing certified Engineer upon completion of the works duly certifies the construction works.

**Reason:** To ensure that the structural stability of the underground tank structure.

# Prior to the Work Commencing

- 64. Prior to commencement of work, the person having the benefit of the Development Consent and Construction Certificate approval must:
  - (a) Appoint a Principal Certifying Authority (PCA) and notify Council in writing of the appointment (irrespective of whether Council or an accredited private certifier) within 7 days; and
  - (b) Notify Council in writing a minimum of 48 hours prior to work commencing of the intended date of commencement.

The Principal Certifying Authority must determine and advise the person having the benefit of the Construction Certificate when inspections, certification and compliance certificates are required.

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

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

**Reason:** To ensure public safety.

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

- 66. A sign must be erected in a prominent position on any site involving excavation, erection or demolition of a building in accordance with Clause 98 A (2) of the Environmental Planning and Assessment Regulations 2000 detailing:
  - (a) Unauthorised entry of the work site is prohibited;
  - (b) The name of the principal contractor (or person in charge of the work site), their telephone number enabling 24hour contact; and
  - (c) The name, address and telephone number of the Principal Certifying Authority;
  - (d) The development consent approved construction hours;

The sign must be maintained during excavation, demolition and building work, and removed when the work has been completed. **Reason:** Statutory requirement.

- 67. Prior to work commencing, adequate toilet facilities are to be provided on the work site. **Reason:** To ensure adequate toilet facilities are provided.
- 68. Public risk insurance in the amount of not less than \$20 million or such other amount as Council may require by notice) must be obtained and furnished to Council before any works authorised by this consent are conducted:
  - (a) Above;
  - (b) Below; or
  - (c) On

Any public land owned or controlled by Council. The public risk insurance must be maintained for the period during which these works re being undertaken.

The public risk insurance must be satisfactory to Council and list Council as an insured and/or interested party.

A copy of the insurance policy obtained must be forwarded to Council before any of the works commence.

- **Note:** Applications for hoarding permits, vehicular crossing etc. will require evidence of insurance upon lodgement of the application.
- **Reason:** To ensure the community is protected from the cost of any claim for damages arising from works authorised by this consent conducted above, below or on any public land owned or controlled by Council.
- 69. Prior to the commencement of work, a registered surveyor is to undertake a set out survey to identify the location of all footings, slabs, posts and walls adjacent to a boundary This is to ensure the development when complete, will be constructed wholly within the confines of the subject allotment. This set out survey showing the location of the development relative to the boundaries of the site, is to be forwarded to the Principal Certifying Authority prior to pouring of any footings or slabs and/or the construction of any walls/posts.

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

70. The applicant must apply for a road-opening permit where a new pipeline is proposed to be constructed within or across Council owned land. Additional road opening permits and fees may be necessary where connections to public utilities are required (e.g. telephone, electricity, sewer, water or gas).

No drainage work can be carried out within the Council owned land without this permit being issued. A copy is required to be kept on site.

**Reason:** To protect Council's assets throughout the development process.

71. Prior to the commencement of any excavation works on site, the applicant must submit for approval by the Principal Certifying Authority (with a copy forwarded to Council) a dilapidation report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the excavation face to a depth of twice that of the excavation.

The report must include a photographic survey of the adjoining properties detailing their physical condition, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items. The report must be completed by a consulting structural/geotechnical engineer in accordance with the recommendation of the geotechnical report. A copy of the dilapidation report must be submitted to Council.

In the event access to adjoining allotments for the completion of a dilapidation survey is denied, the applicant must demonstrate in writing that all reasonable steps have been taken to advise the adjoining allotment owners of the benefit of this survey and details of failure to gain consent for access to the satisfaction of the Principle Certifying Authority.

- **Note:** This documentation is for record keeping purposes only, and can be made available to an applicant or affected property owner should it be requested to resolve any dispute over damage to adjoining properties arising from works. It is in the applicant's and adjoining owner's interest for it to be as detailed as possible.
- **Reason:** Management of records.
- 72. Prior to the commencement of any excavation works on site the applicant must submit, for approval by the Principal Certifying Authority (PCA), a geotechnical/civil engineering report which addresses (but is not limited to) the following:
  - (a) The type and extent of substrata formations. A minimum of 4 representative bore hole logs which are to provide a full description of all material from the ground surface to a minimum of 1.0m below the finished basement floor level. The report is to include the location and description of any anomalies encountered in the profile, and the surface and depth of the bore hole logs shall be to Australian Height Datum.
  - (b) Having regard to the findings of the bore hole testing, details of the appropriate method of excavation/shoring together with the proximity to adjacent property and structures can be ascertained. As a result potential vibration caused by the method of excavation and how it will impact on nearby footings/foundations must be established together with methods to ameliorate any impact.
  - (c) The proposed methods for temporary and permanent support required by the extent of excavation can be established.
  - (d) The impact on groundwater levels in relation to the basement structure.
  - (e) The drawdown effects if any on adjacent properties (including the road reserve), resulting from the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater.

Where it is considered there is potential for the excavation to create a "dam" for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development. This design is to ensure there is no change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path of groundwater results, artificial drains such as perimeter drains and through drainage may be utilised.

(f) The recommendations resulting from the investigations are to demonstrate the works can be satisfactorily implemented. An implementation program is to be prepared along with a suitable monitoring program (where required) including

control levels for vibration, shoring support, ground level and groundwater level movements during construction.

The implementation program is to nominate suitable hold points for the various stages of the works in order verify the design intent before certification can be issued and before proceeding with subsequent stages.

The geotechnical report must be prepared by a suitably qualified consulting geotechnical/hydrogeological engineer with demonstrated experience in such investigations and reporting. It is the responsibility of the engaged geotechnical specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent properties and structures both during and after construction. The report must contain site specific geotechnical recommendations and must specify the necessary hold/inspection points by relevant professionals as appropriate. The design principles for the geotechnical report are as follows:

- (i) No ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure.
- (ii) No changes to the ground water level are to occur as a result of the development that is sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
- (iii) No changes to the ground water level are to occur during the construction of the development that is sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
- (iv) Vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development.
- (v) Appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these design principles.
- (vi) An adverse impact can be assumed to be crack damage which would be classified as Category 2 or greater damage according to the classification given in Table Cl of AS 2870 - 1996.
- **Reason:** To ensure the ongoing safety and protection of property.
- 73. Erosion and sediment control measures are to be installed in accordance with the publication 'Urban Stormwater: Soils and Construction "The Blue Book" 2004 (4th edition) prior to the commencement of any demolition, excavation or construction works upon the site. These measures are to be maintained throughout the entire works.

**Reason:** To ensure soil and water management controls are in place before site works commence.

- 74. Prior to commencement of works and during construction works, the development site and any road verge immediately in front of the site must be maintained in a safe and tidy manner. In this regard the following must be undertaken:
  - (a) all existing buildings are to be secured and maintained to prevent unauthorised access and vandalism
  - (b) all site boundaries are to be secured and maintained to prevent unauthorised access to the site;
  - (c) all general refuge and/or litter (inclusive of any uncollected mail/advertising material) is to be removed from the site on a fortnightly basis;
  - (d) the site is to be maintained clear of weeds; and
  - (e) all grassed areas are to be mowed on a monthly basis.
  - **Reason:** To ensure public safety and maintenance of the amenity of the surrounding environment.
- 75. If development involves excavation that extends below the level of the base, of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the persons own expense:
  - (a) Protect and support the adjoining premises from possible damage from the excavation
  - (b) Where necessary, underpin the adjoining premises to prevent any such damage.
  - **Note:** If the person with the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to the condition not applying, this condition does not apply.
  - **Reason:** As prescribed under the Environmental Planning and Assessment Regulation 2000.
- 76. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development are to occur entirely within the property boundaries. The applicant, owner or builder must apply for specific permits if the following activities are required seeking approval pursuant to Section 138 of the Roads Act 1993:
  - (a) On-street mobile plant: E.g. Cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation and the area where the operation will occur, etc. Separate permits are required for each occasion and each piece of equipment. It is the applicant's, owner's and builder's responsibilities to take whatever steps are necessary to ensure the use of any equipment does not violate adjoining property owner's rights.
  - (b) Storage of building materials and building waste containers (skips) on Council's property.
  - (c) Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location they are to be stored. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded. Storage of building materials and waste containers within Council's open space areas, reserves and parks is prohibited.
  - (d) Kerbside restrictions construction zones:

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

The application is to be lodged with Council's Customer Service Centre.**Reason:**Proper management of public land.

77. The trees identified for retention and protection referenced in the submitted Arboricultural Impact Assessment Report prepared by The Ents Tree Consultancy dated 22 July 2016 and on the approved Landscape Plans shall be protected prior to and during the demolition/construction process in accordance with the documents referenced above.

**Reason:** To ensure the protection of the tree(s) to be retained on the site.

78. Retained trees or treed areas must be fenced with a 1.8 metre high chain-wire link or welded mesh fence. The fence is to be fully supported at grade, to minimise the disturbance of existing ground conditions within the canopy drip line or the setback nominated on the approved landscaping plan. The fencing is to be in place for the

duration of the construction works. "Tree Protection Zone" signage must be attached to the protective fencing.

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

79. Tree protection measures are to be installed and maintained, under the supervision of an Australian Qualifications Framework (AQF) Level 5 Arborist in accordance with AS4970 - "Protection of Trees on Development Sites".
 Reason: To ensure trees are protected during construction.

**Reason:** I o ensure trees are protected during construction

- 80. The following shall be included in the initial report:
  - (a) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
  - (b) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
  - (c) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
  - (d) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [Note that groundwater level measurements should be undertaken on a continuous basis using automatic loggers in monitoring bores.
- 81. The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
- 82. Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.
- 83. Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
- 84. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development

or measurement (e.g. permeability determined by slug-testing, pump-testing or other means).

- 85. A copy of a valid consent for the development shall be provided in the initial report.
- 86. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.
- 87. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient

groundwater in the vicinity of the reinjection site.

- 88. No rock anchors/bolts are to be placed into RailCorp's land or easements.
- 89. If required by Sydney Trains, a services search is to be undertaken prior to commencement of works. The Applicant is to contact the Sydney Trains Rail Corridor Management Group to confirm the need for this item.
- 90. All excavation works with 25m of the rail corridor are to be supervised by a geotechnical engineer experience with such excavation projects.
- 91. Prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.
  - 92. Prior to the commencement of works appropriate fencing/hoarding is to be in place along the rail corridor to prevent unauthorised access. Details of the type of fencing/hoarding and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing/hoarding work being undertaken.
  - 93. Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains. This insurance shall not contain any exclusion in relation to works on or near the rail corridor and rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.
  - 94. Prior to the undertaking of works or the issuing of a Construction Certificate (whichever occurs first), the Applicant is to contact Sydney Trains Rail Corridor

Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the entire works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to the issuing of the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.

95. Prior to commencement of any works, including demolition and excavation, the applicant is to submit to the Council of documentary evidence including photographic evidence of any existing damage to Council's property. Council's property includes footpaths, kerbs, gutters, drainage pits, pipes etc. A dilapidation survey of Council's assets, including photographs and written record, must be prepared by a suitably qualified person and submitted to Council's assets will render the applicant liable for the costs associated with any necessary repairs **Reason:** To ensure that the applicant bears the cost of all restoration works to

Council's property damaged during the course of this development.

### During Construction

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

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

- 97. Dust control measures shall be implemented during all periods of earth works, demolition, excavation and construction to minimise the dust nuisance on surrounding properties. In this regard, dust minimisation practices must be carried out in accordance with Council's Guidelines for Controlling Dust from Construction Sites and Section 126 of the Protection of the Environment Operations Act 1997. Reason: To protect the amenity of the area.
- 98. No building materials skip bins, concrete pumps, cranes, machinery, temporary traffic control, signs or vehicles associated with the construction, excavation or demolition shall be stored or placed on/in Council's footpath, nature strip, roadway, park or reserve without the prior approval being issued by Council under section 138 of the Roads Act 1993.

**Reason:** To ensure pedestrian access.

99. All work (excluding demolition which has seperate days and hours outlined below) including building, and excavation work; and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (e.g. loading and unloading of goods, transferring of tools, machinery etc.) in connection with the proposed development must only be carried out between the hours of 7.00am and 5.00pm on Monday to Fridays inclusive, and 8.00am to 5.00pm on Saturday. No work is to be carried out on Sunday or public holidays.

Demolition works are restricted to Monday to Friday between the hours of 7.00am to 5.00pm. No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays.

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

- 100. The applicant must record details of all complaints received during the construction period in an up to date complaints register. The register must record, but not necessarily be limited to:
  - (a) The date and time of the complaint;

- (b) The means by which the complaint was made;
- (c) Any personal details of the complainants that were provided, or if no details were provided, a note to that affect;
- (d) Nature of the complaints;
- (e) Any action(s) taken by the applicant in relation to the compliant, including any follow up contact with the complainant; and
- (f) If no action was taken by the applicant in relation to the complaint, the reason(s) why no action was taken.

The complaints register must be made available to Council and/or the principal certifying authority upon request.

**Reason:** To allow the Principal Certifying Authority/Council to respond to concerns raised by the public.

101. Noise emissions and vibration must be minimised, work is to be carried out in accordance with the NSW Department of Environment, Climate Change and Water's Interim Noise Construction Guidelines 2009 for noise emissions from demolition, excavation and construction activities.

Vibration levels resulting from demolition and excavation activities must not exceed 5mm/sec peal particle velocity (PPV) when measured at the footing of any nearby building.

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

- 102. A survey certificate is to be submitted to the Principal certifying Authority at footing and/or formwork stage. The certificate must indicate the location of the building in relation to all boundaries, and must confirm the floor level is consistent with that approved under this consent prior to any further work proceeding on the building. Reason: To ensure the development is being built as per the approved plans.
- 103. Works are not to result in sedimentation and or run-off from the approved works onto the adjoining properties and or public lands. The person having the benefit of this consent must ensure sediment is not tracked out from the development site. **Reason:** To ensure no adverse impacts on neighbouring properties.
- 104. Any damage to Council assets that impacts on public safety during construction is to be rectified immediately to the satisfaction of Council with all costs to be borne by the person having the benefit of the Development Consent.
   Reason: To protect public safety.
- 105. A footpath is to be constructed in accordance with Council Standard Drawing DS3 in front of the site within the road reserve. Details of the proposed footpath works shall be submitted to and approved by Council's Civil Asset Team prior to commencement of footpath works. All costs are to be borne by the applicant. Reason: To provide pedestrian passage.
- 106. Car parking area and internal accessways must be constructed, marked and signposted in accordance with AS2890.1 –2004 'Off Street Car Parking Facilities' prior to an Occupation Certificate being issued.
   Reason: To ensure appropriate car parking.
- 107. During construction of all public area civil and drainage works a qualified civil engineer must supervise the work to ensure it is completed in accordance with Council's "Guidelines for Public Domain Works". Certification is required to be provided with the Occupation Certificate.

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

- 108. Occupation of any part of the footpath or road at or above (carrying out work, storage of building materials and the like) during construction of the development shall require a Road Occupancy Permit from Council. The applicant is to be required to submit an application for a Road Occupancy Permit through Council's Traffic and Transport Services, prior to carrying out the construction/restoration works. Reason: To ensure proper management of Council assets.
- 109. Oversize vehicles using local roads require Council's approval. The applicant is to be required to submit an application for an Oversize Vehicle Access Permit through Council's Traffic and Transport Services, prior to driving through local roads within Parramatta LGA.

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

110. No materials (including waste and soil), equipment, structures or goods of any type are to be stored, kept or placed within 5m of the trunk of a tree or within the drip line of any tree.

**Reason:** To ensure the protection of the tree(s) to be retained on the site.

- 111. No service, structure, conduit or the like is permitted to be fixed or attached to any tree. **Reason:** To ensure the protection of the tree(s).
- 112. All trees planted as required by the approved landscape plan are to be a minimum 45 litre container size. All shrubs planted as part of the approved landscape plan are to have a minimum 200mm container size.
   Reason: To ensure appropriate landscaping.
- 113. All trees supplied above a 25L container size must be grown and planted in accordance with:

(a) Clarke, R 1996 Purchasing Landscape Trees: A guide to assessing tree quality.(b) Natspec Guide No.2.

Certification is to be forwarded to the Principal Certifying Authority upon completion of the planting, certifying the trees have been grown to Natspec guidelines. A copy of this certificate is to be forwarded to Council with the Occupation Certificate.

**Reason:** To minimise plant failure rate and ensure quality of stock utilised.

114. Trees to be removed are (refer to Arboricultural Impact Assessment Report: Prepared by The Ents Tree Consultancy dated 22 July 2016 for Tree No's & locations):

Species	Common Name	Location
Gleditsia triacanthos	Honey Locust	Grounds
Gleditsia triacanthos	Honey Locust	Grounds
Phoenix canariensis	Canary Island Date Palm	Grounds
Corymbia citriodora	Lemon Scented Gum	Grounds
Eucalyptus scoparia	Wallangarra White Gum	Grounds
	Species Gleditsia triacanthos Gleditsia triacanthos Phoenix canariensis Corymbia citriodora Eucalyptus scoparia	SpeciesCommon NameGleditsia triacanthosHoney LocustGleditsia triacanthosHoney LocustPhoenix canariensisCanary Island Date PalmCorymbia citriodoraLemon Scented GumEucalyptus scopariaWallangarra White Gum

**Reason:** To facilitate development.

115. All trees planted within the site must be of an adequate root volume and maturity so as not to require staking or mechanical support. Planting must be carried out in accordance with the approved Landscape Plans and conditions of consent. Reason: To ensure the trees planted within the site are able to reach their

To ensure the trees planted within the site are able to reach their required potential.

116. All approved tree removal must be supervised by an Australian Qualification Framework (AQF) Level 3 Arborist in accordance with the provisions of the Safe Work Australia Guide to managing risks of tree trimming and removal work. **Reason:** To ensure works are carried out in accordance the Safe Work Australia Guide to managing risks of tree trimming and removal work.

117. Where activity asbestos containing materials is undertaken, the contractor must submit to the Principal Certifying Authority, copies of all receipts issued by the EPA licensed waste facility for friable or non-friable asbestos waste as evidence of proof of proper disposal within 7 days of the issue of the receipts.

**Reason**: To ensure appropriate disposal of asbestos materials.

- 118. All friable and non-friable asbestos-containing waste material on-site shall be handled and disposed off-site at an EPA licensed waste facility by an EPA licensed contractor in accordance with the requirements of the Protection of the Environment Operations (Waste) Regulation 2014 and the Waste Classification Guidelines – Part 1 Classifying Waste (EPA 2014) and any other regulatory instrument as amended. **Reason**: To ensure appropriate disposal of asbestos materials.
- 119. A Waste Data file is to be maintained, recording building/demolition contractors details and waste disposal receipts/dockets for any demolition or construction wastes from the site. These records must be retained and made available to Council on request. **Reason:** To confirm waste minimisation objectives under Parramatta
  - **n**: To confirm waste minimisation objectives under Parramatta Development Control Plan 2011 are met.
- 120. Hazardous or intractable wastes shall be removed and disposed of in accordance with the requirements of Work Cover NSW and the EPA, and with the provisions of:
  - (a) Work Health and Safety Act 2011
  - (b) NSW Protection Of the Environment Operations Act 1997 (NSW) and
  - (c) NSW Department of Environment and Climate Change Environmental Guidelines; Assessment, Classification and Management of Liquid and Non Liquid Wastes (1999).
  - **Reason:** To ensure that the land is suitable for the proposed development and any contaminating material required to be removed from the property is removed in accordance with the prescribed manner.
- 121. Any contamination material to be removed from the site shall be disposed of to an EPA licensed landfill.
  - **Reason**: To comply with the statutory requirements of the Protection of the Environment Operations Act 1997.
- 122. The planting of large trees in the vicinity of electricity infrastructure is not supported by Endeavour Energy. Suitable planting needs to be undertaken in proximity of electricity infrastructure. Accordingly only low growing shrubs not exceeding 3.0 metres in height, ground covers and smaller shrubs, with non-invasive root systems are the best plants to use. Landscaping that interferes with electricity infrastructure may become subject to Endeavour Energy's Vegetation Management program and/or the provisions of the *Electricity Supply Act 1995* (NSW) Section 48 'Interference with electricity works by trees' by which under certain circumstances the cost of carrying out such work may be recovered.

**Reason**: In accordance with Endeavour Energy Requirements.

123. Endeavour Energy's G/Net master facility model indicates that the site is in a locality identified or suspected of having asbestos or asbestos containing materials (ACM) present. Whilst Endeavour Energy's underground detail is not complete within G/Net in some areas, in older communities, cement piping was regularly used for the electricity distribution system and in some instances containing asbestos to strengthen the pipe; for insulation; lightness and cost saving.

When undertaking works on or in the vicinity of Endeavour Energy's electricity network, asbestos or ACM must be identified by a competent person employed by or contracted to the applicant and an asbestos management plan, including its proper disposal, is required whenever construction works has the potential to impact asbestos or ACM.

The company's potential locations of asbestos to which construction / electricity workers could be exposed include:

- o customer meter boards;
- o conduits in ground;
- o padmount substation culvert end panels; and
- o joint connection boxes and connection pits.

Further details are available by contacting Endeavour Energy's Health, Safety & Environment via Head Office enquiries on telephone: 133 718 or (02) 9853 6666 from 8am - 5:30pm.

**Reason**: In accordance with Endeavour Energy Requirements.

124. As the proposed development will involve work near electricity infrastructure, workers run the risk of receiving an electric shock and causing substantial damage to plant and equipment. I have attached Endeavour Energy's public safety training resources, which were developed to help general public / workers to understand why you may be at risk and what you can do to work safely. The public safety training resources are also available via Endeavour Energy's website via the following link:

#### http://www.endeavourenergy.com.au/wps/wcm/connect/ee/nsw/nsw+homepage/co mmunitynav/safety/safety+brochures

**Note:** In case of an emergency relating to Endeavour Energy's electrical network, the applicant should note Emergencies Telephone is 131 003 which can be contact 24 hours/7 days.

**Reason**: In accordance with Endeavour Energy Requirements.

- 125. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows. **Reason:** As per Office of Water requirements.
- 126. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.

**Reason:** As per Office of Water requirements.

127. Measurement and monitoring arrangements to the satisfaction of the approval body are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.

**Reason:** As per Office of Water requirements.

128. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/so The pH of discharge water shall be managed to

be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with. **Reason:** As per Office of Water requirements.

- 129. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity. **Reason:** As per Office of Water requirements.
- 130. The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation. Reason: As per Office of Water requirements.
- Access to groundwater management works used in the activity is to be provided to permit inspection when required by the approval body under appropriate safety procedures.
   Reason: As per Office of Water requirements.
- 132. Sydney Trains and Transport for NSW, and persons authorised by them for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought. **Reason:** As per Sydney Trains requirements.
- 133. Copies of any certificates, drawings or approvals given to or issued by Sydney Trains or Transport for NSW must be submitted to Council for its records.
   Reason: As per Sydney Trains requirements.
- 134. No scaffolding or hoarding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the proponent will be required to submit details of the scaffolding and hoarding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.

**Reason:** As per Sydney Trains requirements.

- 135. No drainage shall be discharged into the rail corridor. **Reason:** As per Sydney Trains requirements.
- 136. The proposed outlet pipe and connection works into the existing downstream kerb inlet pit within the public domain shall comply with the following requirements.
  - a) The connection into the stormwater system shall be in the direction of flow (not against the flow).
  - b) Connection into the existing downstream pit in accordance with council's Standard Plan (*Please contact the council's civil Infrastructure Unit for requirement details on kerb inlet pit type, connections requirements and the relevant standard plan number/drawing*).

- c) The connection work must be inspected by the qualified practicing engineer and approved prior to backfilling.
- d) Upon completion of works, the following documents shall be submitted to council.
  - i. Work-As-Executed Stormwater plan (layout and long section profile) prepared on the copies if the approved plan with the variations marked in RED ink and duly certified by a registered surveyor.
  - ii. A certificate of compliance a qualified drainage/hydraulic engineer. The person issuing the compliance certificate shall ensure that all the works have been completed and comply with the approved plans and the council's requirements.
- **Reason:** To ensure that the stormwater work comply with requirements of relevant authority.

### Prior to the issue of the Occupation Certificate

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

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

- 138. In accordance with Clause 162B of the Environmental Planning and Assessment Regulation 2000, the Principal Certifying Authority responsible for the critical stage inspections must make a record of each inspection as soon as practicable after it has been carried out. The record must include:
  - (a) The development application and Construction Certificate number as registered;
  - (b) The address of the property at which the inspection was carried out;
  - (c) The type of inspection;
  - (d) The date on which it was carried out;
  - (e) The name and accreditation number of the certifying authority by whom the inspection was carried out; and
  - (f) Whether or not the inspection was satisfactory in the opinion of the certifying authority who carried it out.

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

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

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

- 140. Under Clause 97A of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all design measures identified in the BASIX Certificate No. 742824M, will be complied with prior to occupation
  - **Reason:** To comply with legislative requirements of Clause 97A of the Environmental Planning & Assessment Regulation 2000.
- 141. Submission of documentation confirming satisfactory arrangements have been made for the provision of electricity services from an approved electrical energy provider prior to the issue of an Occupation Certificate. Reason: To ensure appropriate electricity services are provided.

142. A written application to Council's Civil Assets Team for the release of a bond must guote the following:

- (a) Council's Development Application number; and
- (b) Site address.

The bond is refundable only where Council is satisfied the public way has been adequately reinstated, and any necessary remediation/rectification works have been completed.

An Occupation Certificate is not to be issued until correspondence has been issued by Council detailing the bond has been released.

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

- **Reason:** To safe guard the public assets of council and to ensure that these assets are repaired/maintained in a timely manner.
- 143. Design Verification issued by a registered architect is to be provided with the application for a Occupation Certificate verifying that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No 65 Design Quality of Residential Flat Development.

**Note:** Qualified designer in this condition is as per the definition in SEPP 65. To comply with the requirements of SEPP 65.

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

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

145. The applicant shall engage a suitably qualified person to prepare a post construction dilapidation report at the completion of the construction works. This report is to ascertain whether the construction works created any structural damage to adjoining buildings and or infrastructure.

The report is to be submitted to the PCA prior to the issue of the occupation certificate. In ascertaining whether adverse structural damage has occurred to adjoining buildings/ infrastructure, the PCA must compare the post-construction dilapidation report with the pre-construction dilapidation report, and

A copy of this report is to be forwarded to Council.

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

- 146. All redundant lay-backs and vehicular crossings must be reinstated to conventional kerb and gutter, foot-paving or grassed verge in accordance with Council's Standard Plan No. SD004. The reinstatement must be completed prior to the issue of an Occupation Certificate. All costs must be borne by the applicant. Reason: To provide satisfactory drainage.
- 147. Works-As-Executed stormwater plans shall be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate, certifying that the stormwater drainage system has been constructed and completed in accordance with the approved stormwater plans. The person issuing the Occupation Certificate shall ensure that the following documentation is completed and submitted
  - a. The Work-As-Executed plans are prepared on the copies of the approved drainage plans issued with the Construction Certificate with the variations marked in red ink.
  - b. The Work-As-Executed plans have been prepared by a registered surveyor certifying the accuracy of dimensions, levels, storage volumes, etc.

- c. The "As-built" On-Site Detention (OSD) storage volumes are to be presented in a tabular form using the pyramid volume and prismatic volume calculation method.
- d. OSD WAE Survey certification form and WAE dimensions form (Form B10 and attachment B. Refer to UPRCT Handbook).
- e. Certificate of Hydraulic Compliance (Form B11) from a qualified drainage / hydraulic engineer (refer to UPRCT Handbook). The person issuing Hydraulic certificate shall ensure that all the works have been completed and comply with the approved plans.
- f. Approved verses installed Drainage Design (OSD) Calculation Sheet certified by a qualified practicing Hydraulic Engineer.
- g. Structural Engineer's Certificate for the OSD tank structure, basement pump out tank structure, OSD basin (retaining) wall etc.

The above is to be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate and another set of the documents shall be submitted to Council.

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

148. Prior to the issue of an Occupation Certificate a Positive Covenant and Restriction on the Use of Land under Section 88E of the Conveyancing Act 1919 must be created, burdening the owner with the requirement to maintain the on-site stormwater detention facilities on the lot.

The terms of the instruments are to be generally in accordance with Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" to Council's satisfaction.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created through via an application to the Land Titles Office using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the On-Site Detention facility, including its relationship to the building footprint.

Registered title documents showing the covenants and restrictions must be submitted to and approved by the Principal Certifying Authority prior **Reason:** To ensure maintenance of on-site detention facilities.

149. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained prior to the issue of any Occupation Certificate. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.

**Reason:** To ensure the requirements of Sydney Water have been complied with.

150. Prior to the issue of any Occupation Certificate, an application is required to be obtained from Council for any new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment.

All footpath crossings, laybacks and driveways are to be constructed according to Council's Specification for Construction or Reconstruction of Standard Footpath Crossings and in compliance with Standard Drawings DS1 (Kerbs & Laybacks); DS7

(Standard Passenger Car Clearance Profile); DS8 (Standard Vehicular Crossing); DS9 (Heavy Duty Vehicular Crossing) and DS10 (Vehicular Crossing Profiles).

The application for a driveway crossing requires the completion of the relevant application form and be accompanied by detailed plans showing, grades/levels and specifications that demonstrate compliance with Council's standards, without conflict with all internal finished surface levels. The detailed plan must be submitted to Council's Civil Assets Team for approval prior to commencement of the driveway crossing works. A fee in accordance with Councils adopted 'Fees and Charges' will need to be paid at the time of lodgement.

- **Note 1:** This development consent is for works wholly within the property. Development consent does not imply approval of the footpath or driveway levels, materials or location within the road reserve, regardless of whether the information is shown on the development application plans.
- **Note 2:** Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524.
- **Reason:** Pedestrian and Vehicle safety.
- 151. An application for street numbering must be lodged with Council for approval, prior to the issue of an Occupation Certificate or Subdivision Certificate whichever occurs first.
   Note: Notification of all relevant authorities of the approved street numbers must be carried out by Council.
  - **Reason:** To ensure all properties have clearly identified street numbering, particularly for safety and emergency situations.
- 152. All individual parcels of land holding a separate title within the development site must be consolidated into one lot. A plan of consolidation must be registered with the Land and Property Information Division of the Department of Lands, prior to an Occupation Certificate being issued.

**Reason:** To comply with the Conveyancing Act 1919.

153. A qualified Landscape Architect/Designer must certify that the completed works are in accordance with the approved landscape plan. All landscape works must be completed prior to the issue of an Occupation Certificate.

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

- 154. Traffic facilities to be installed, such as; wheel stops, bollards, kerbs, signposting, pavement markings, lighting and speed humps, shall comply with AS 2890.1-2004. **Reason:**To comply with Australian Standards.
- 155. The minimum available headroom clearance to be signposted at all entrances is to be 2.2m (for cars and light vans including all travel paths to and from parking spaces) and 2.5m (for parking spaces for people with disabilities) measured to the lowest projection of the roof (fire sprinkler, lighting, sign, and ventilation), according to AS 2890.1-2004 and 2890.6-2009.

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

156. A single master TV antenna not exceeding a height of 3.0m above the finished roof level must be installed on each building to service the development. A connection is to be provided internally to each dwelling/unit within the development.

Details of these connections are to be annotated on the plans and documentation accompanying the Occupation Certificate to the satisfaction of the Certifying Authority. **Reason:** To protect the visual amenity of the area.

- 157. Prior to the issue of an occupational certificate (Interim or Final) written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and City of Parramatta Council, stating that all works/methods/procedures/control measures approved by Council in the following report has been completed:
  - (a) Acoustic Report No. 2016-322, dated 9 August 2016, prepared by Acoustic Noise & Vibration Solutions P/L

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

158. Prior to issue of the occupation certificate, the applicant shall enter into a commercial contract for the collection of trade wastes and recyclable materials arising from business operations on site. A copy of all-waste contracts and receipts shall be kept on site and made available to Council officers on request.

**Reason:** To comply with the Requirements of the Protection of the Environment Operations Act 1997 and Regulations.

- 159. Following cessation of the dewatering operations, the applicant shall submit the completion report which shall include:
  - (a) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
  - (b) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
  - (c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

**Reason:** As per Office of Water requirements.

- 160. The completion report is to be assessed by the approval body prior to any certifying agency's approval for occupation or use of the completed construction. **Reason:** As per Office of Water requirements.
- 161. The artworks are to be completed in full in line with the documentation submitted and the artworks are installed to the satisfaction of Council prior to the issue of the Occupation Certificate. Reason: To ensure delivery of public art.
- 162. A final acoustic assessment based on the final approved development is to be prepared in compliance with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines" and submitted to Council.

**Reason:** To ensure the provision of acoustic treatments for the development.

163. The development shall have appropriate fencing fit for the future usage of the development site to prevent unauthorised access to the rail corridor by future occupants of the development. Prior to the issuing of an Occupation Certificate the Applicant shall liaise with Sydney Trains regarding the adequacy of any existing fencing along the rail corridor boundary. Details of the type of new fencing to be installed and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.

**Reason:** As per Sydney Trains requirements.

164. Prior to the issuing of an Occupation Certificate the Applicant is to submit the as-built drawings to Sydney Trains and Council. The as-built drawings shall indicate that there has been no encroachment into Sydney Trains land or easements. The Principal Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

**Reason:** As per Sydney Trains requirements.

- 165. Prior to issue of the Occupation Certificate the applicant must create a Positive Covenant and Restriction on the use of land under Section 88E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the Water Quality improvement of and facilities installed on the lot. The positive covenant and Restriction on the use of land shall be created only upon completion of the system and certification by a qualified practicing engineer to the satisfaction of the Principal Certifying Authority.
  - Note: The covenant is to be submitted to Council for approval prior to lodgement with the Land and Property Information Service of NSW. Documents relating proof of completion of the stormwater system according to the approved stormwater plan and certification of the compliance shall be submitted to the council together with the positive covenant and restriction.
     Reason: To ensure maintenance of on-site detention facilities
- 166. The applicant shall engage a suitably qualified person to prepare a post construction dilapidation report at the completion of the construction works. This report is to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads. The report is to be submitted to the PCA. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the PCA must:
  - (a) compare the post-construction dilapidation report with the pre-construction dilapidation report, and
  - (b) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.
  - (c) carry out site inspection to verify the report and ensure that any damage to the public infrastructure as a result of the construction work have been rectified immediately by the developer at his/her cost.
  - (d) Forward a copy of the dilapidation report with the PCA's comparison and assessment review report to Council.
  - **Reason:** To establish the condition of adjoining properties prior building work and ensure any damage as a result of the construction works have been rectified.

### Use of the Site

- 167. The owner/manager of the site/business is responsible for the removal of all graffiti from the building/structures/signage and/or fencing within 48 hours of its application.
   Reason: To ensure the removal of graffiti.
- 168. Any external plant/air-conditioning system must not exceed a noise level of 5dBA above the background noise level when measured at the boundaries of the property.
   Reason: To minimise noise impact of mechanical equipment.
- 169. All landscape works shall be maintained for a minimum period of two (2) years following the issue of a Final Occupation Certificate, in accordance with the approved landscape plan and conditions.

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

- 170. A waste storage room is to be provided on the premises and shall be constructed to comply with all the relevant provisions of Council's Development Control Plan (DCP) 2011 including:
  - (a) The size being large enough to accommodate all waste generated on the premises, with allowances for the separation of waste types;
  - (b) The floor being graded and drained to an approved drainage outlet connected to the sewer and having a smooth, even surface, coved at all intersections with walls;
  - (c) The walls being cement rendered to a smooth, even surface and coved at all intersections;
  - (d) Cold water being provided in the room with the outlet located in a position so that it cannot be damaged and a hose fitted with a nozzle being connected to the outlet;
  - (e) The room shall be adequately ventilated (either natural or mechanical) in accordance with the Building Code of Australia.

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

- 171. All putrescible waste shall be removed from the site with sufficient frequency to avoid nuisance from pests and odours.
   Reason: To ensure provision of adequate waste disposal arrangements.
- 172. All waste storage areas are to be maintained in a clean and tidy condition at all times. **Reason**: To ensure the ongoing management of waste storage areas.



# ATTACHMENT C – Clause 4.6 Statements for FSR and height

#### REQUEST FOR AN EXCEPTION TO THE FLOOR SPACE RATIO DEVELOPMENT STANDARD

#### Introduction

This request for an exception to a development standard is submitted in respect of the floor space ratio development standard contained within Clause 4.4(2) of the Parramatta Local Environmental Plan 2011 (PLEP 2011). The request relates to an application for the erection of a residential development at Lot 5, 158-164 Hawkesbury Road and 2A Darcy Road, Westmead.

#### Clause 4.6 Exceptions to development standards

Clause 4.6(2) of the PLEP 2011 provides that development consent may be granted for development even though the development would contravene a development standard imposed by the PLEP 2011 or any other environmental planning instrument.

However, clause 4.6(3) states that 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 circumstance of the case, and

(b) there are sufficient environmental planning grounds to justify contravening the development standard.

In accordance with clause 4.6(3) the applicant requests that the floor space ratio development standard be varied.

#### Development Standard to be varied

Clause 4.4 states:

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

(a) to regulate density of development and generation of vehicular and pedestrian traffic,

(b) to provide a transition in built form and land use intensity within the area covered by this Plan,

(c) to require the bulk and scale of future buildings to have regard to heritage sites and their settings,

(d) to reinforce and respect the existing character and scale of low density residential areas.

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

#### Floor space ratio is defined under Clause 4.5 of the PLEP as:

"the ratio of the gross floor area of all buildings within the site to the site area."

There are two maximum floor space ratio controls shown for the land on the Map for the site to which the proposed development relates being 4.0:1 in area 'X1' and 1.5:1 in area 'S1'.

#### Extent of Variation to the Development Standard

The allowable gross floor area under the approved Stage 1 Concept Plan was 42,470 square metres for Lot 5, and 122,995 square metres for the overall site. The proposal provides a gross floor area of 42,470 square metres and a floor space ratio of 4.52:1 which exceeds the floor space ratio development standards of 1.5:1 and 4:1 which apply to the site.

However, the Stage 1 development consent identified that the entire site benefitted from a total gross floor area of 122,995 square metres and sought to redistribute this gross floor area to individual sites in a manner which when combined did not exceed this total quantum despite the fact that the FSR control would be exceeded on some individual Lots. The Stage 1 development consent allocated 42,470 square metres of gross floor area to the subject site and the proposed gross floor area matches this figure.

## Clause 4.6(3)(a) is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Historically the most commonly invoked way to establish that a development standard was unreasonable or unnecessary was satisfaction of the first test of the five set out in Wehbe v Pittwater Council. [2007] NSWLEC 827 which requires that the objectives of the standard are achieved notwithstanding the non-compliance with the standard.

The Land and Environment Court in Four2Five Pty Ld v Ashfield Council [2015] NSWLEC 90 has recently required additional ways of establishing that compliance is unreasonable or unnecessary beyond consistency with the standard and zone objectives to be established. For completeness, this request addresses the five part test described in Wehbe v Pittwater Council [2007] NSWLEC 827, followed by a concluding position which demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case:

#### 1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;

The specific objectives of the floor space ratio development standard, as specified in clause 4.4(1) of the Parramatta Local Environmental Plan 2011 are identified below. A comment on the proposal's consistency with each objective is also provided.

(a) to regulate density of development and generation of vehicular and pedestrian traffic,

The approval of the Stage 1 Concept Plan recognised that the density proposed across the overall site was consistent with the density permitted pursuant to PLEP despite the individual allotments exceeding the permissible FSR. The density proposed on Lot 5 is consistent with the density approved under the Stage 1 Concept Plan. The application is accompanied by a Traffic and Parking Assessment which finds that the proposed development has good access to public transport and the traffic generated from the redevelopment of the site will not exceed the projected impacts of the residential component as outlined in the UWS Transport Assessment and therefore would not require any further remedial works to the accesses or surrounding road network. Further, the redevelopment of the overall site provides for a high level of pedestrian permeability and creates new linkages between the railway station and nearby schools and hospitals and a high level of connectivity with the existing urban fabric.

(b) to provide a transition in built form and land use intensity within the area covered by this Plan,

The proposed development is consistent with the density that was approved as part of the Stage 1 Concept Plan. The approval of the Stage 1 Concept Plan recognised the environmental capacity of the overall site having regard to its favourable location in proximity to a range of public transport and employment options. The proposed development will allow for a transition in built form and land use intensity commensurate with PLEP.

(c) to require the bulk and scale of future buildings to have regard to heritage sites and their settings,

The proposed distribution of built form and massing of the buildings across the site is the result of a considered analysis of the context of the site and the desire to deliver a positive urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located to the east. The height of the buildings increase away from the heritage significant buildings and are at their highest at the furthermost point from these buildings. The proposed materials and finishes have been chosen to compliment the St Vincent's Building with face brickwork proposed for the part of the development in close proximity to the heritage building. The proposed development will have an acceptable impact on views to and from heritage items. Overall the proposal will have an acceptable impact on the heritage significance of nearby heritage items and their settings.

(d) to reinforce and respect the existing character and scale of low density residential areas.

Low density residential development is located to the south of the site on the opposite side of the railway corridor and with frontage to Alexandra Avenue. Lot 5 is visually isolated from the low density residential development with frontage to Alexandra Avenue given the width of the railway corridor and the dense landscaping that surrounds the railway corridor. The level of separation between the subject site and nearby low density residential development will ensure that the character of these areas are respected and not unreasonably compromised by the proposed development.

2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

The underlying objectives and purpose of the floor space ratio control is relevant to the proposed development. However, the proposed development is consistent with those objectives on the basis that the proposed floor space ratio still results in a development which is consistent with the desired future character for the subject site and the Westmead precinct generally, conserves the significance of the existing heritage buildings and sits comfortably within the context of the site with no significant adverse impacts to adjacent properties.

 the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

The underlying objective of the floor space ratio control is to achieve an appropriate density on the site which is compatible with the context of the site. Due to the design, location and configuration of the proposed development, the proposal successfully achieves these objectives and will provide a considered built form response that will deliver a positive urban design outcome. However, strict compliance with the floor space ratio control would likely lead to a less satisfactory outcome as it would

result a development which fails to fulfil the environmental capacity of the site and would result in an inferior built form that would be contextually inappropriate. Accordingly, it is considered that strict compliance would likely defeat the underlying objective or purpose of the floor space ratio control because it would encourage a less desirable outcome for the site.

 the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

Council has historically adopted a relatively flexible approach to the implementation of the floor space ratio development standard in circumstances where the objectives of the control are achieved. The approval of the Stage 1 Concept Plan (DA/571/2014) for the overall site relied on variation to the floor space ratio standard to allow for 42,470 square metres for the site and Council have effectively abandoned the control as it relates to individual allotments within the broader site.

5. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

The proposed zoning of the land is considered to be reasonable and appropriate.

Strict compliance with the floor space ratio development standard is unreasonable and unnecessary in the circumstances of the case in that:

- The floor space ratio controls applicable to the overall site fail to provide for the provision of roadways and open space which are critical to the successful functionality of the overall site. The approval of the Stage 1 Concept Plan recognised that the density proposed across the overall site was consistent with the density permitted pursuant to PLEP despite the individual allotments exceeding the permissible floor space ratio. In this regard, Council have effectively abandoned the FSR provisions in the LEP as they relate to the individual allotments approved under the Stage 1 development consent in preference for the allocation of a quantum of gross floor area to each allotment. The density proposed on Lot 5 is consistent with the density approved under the Stage 1 Concept Plan.
- The proposed distribution of built form and massing of the buildings across the site is the result of a considered analysis of the context of the site and the desire to deliver a positive urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located on the site.
- The proposal will deliver a high quality transit orientated development that will increase the vibrancy of the precinct.
- The proposal is consistent with the desired future character outlined within PDCP 2011 for the subject site and the Westmead precinct generally.
- The density proposed does not prevent achievement of the 9 principles of SEPP 65.
- There are no unacceptable adverse impacts in terms of shadow, view, visual and acoustic privacy impacts resulting from the proposed variation to the floor space ratio development standard which would warrant strict compliance.
- The proposed density will not result in an acceptable impact on local traffic conditions.
- The proposed variation allows for the most efficient and economic use of the land.
- Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public.

 Having regard to the planning principle established in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191 most observers would not find the proposed development offensive, jarring or unsympathetic to its location and the proposed development will be compatible with its context.

As the proposal is consistent with the objectives of the floor space control, compliance with the development standard is considered to be unreasonable and unnecessary in the circumstances of the case.

Clause 4.6(3)(b) Are there are sufficient environmental planning grounds to justify contravening the development standard?

The following environmental planning grounds are sufficient to justify contravention of the development standard:

- The proposed gross floor area complies with the allocated gross floor area under the Stage 1 development application.
- The proposal will deliver a high quality transit orientated development that will increase the vibrancy of the precinct whilst providing a greater diversity of housing to meet the demand generated by changing demographics and housing needs in an existing urban area with excellent access to public transport, health services, educational establishments, recreational opportunities and services and facilities.
- The proposed distribution of built form and massing of the buildings across the site is the result of a considered analysis of the context of the site and the desire to deliver a positive urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located on the site.
- Apartments within the development are provided with a high level of amenity.
- The development provides the required provision of car parking and will have an acceptable impact on local traffic conditions.
- There are no adverse impacts in terms of shadow, view, visual and acoustic privacy impacts resulting from the proposed variation to the floor space ratio development standard which would warrant strict compliance.

Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public and in this particular circumstance there are sufficient environmental planning grounds to warrant the proposed variation to the floor space ratio controls as the proposal will achieve a superior outcome with a higher level of residential amenity within the site and without any significant adverse impact to adjacent sites.

# Clause 4.6(4)(a)(i) consent authority satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3)

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

These matters are comprehensively addressed above in this written request with reference to the five part test described in Wehbe v Pittwater Council [2007] NSWLEC 827 for consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. In addition, the establishment of environmental planning grounds is provided, with reference to the matters specific to the proposal and site, sufficient to justify contravening the development standard.

## Clause 4.6(4)(a)(ii) consent authority satisfied that the proposal is in the public interest because it is consistent with the zone and development standard objectives

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that 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.

Whilst the objectives of the development standard have already been addressed previously in this written request, for the purpose of completeness these objectives are again considered below in specific reference to Clause 4.6(4)(a)(ii).

#### Objective of the Development Standard

The specific objectives of the floor space ratio development standard, as specified in clause 4.4(1) of the Parramatta Local Environmental Plan 2011 are identified below. A comment on the proposal's consistency with each objective is also provided.

(a) to regulate density of development and generation of vehicular and pedestrian traffic,

The approval of the Stage 1 Concept Plan recognised that the density proposed across the overall site was consistent with the density permitted pursuant to PLEP despite the individual allotments exceeding the permissible FSR. The density proposed on Lot 5 is consistent with the density approved under the Stage 1 Concept Plan. The application is accompanied by a Traffic and Parking Assessment which finds that the proposed development has good access to public transport and the traffic generated from the redevelopment of the site will not exceed the projected impacts of the residential component as outlined in the UWS Transport Assessment and therefore would not require any further remedial works to the accesses or surrounding road network. Further, the redevelopment of the overall site provides for a high level of pedestrian permeability and creates new linkages between the railway station and nearby schools and hospitals and a high level of connectivity with the existing urban fabric.

(b) to provide a transition in built form and land use intensity within the area covered by this Plan,

The proposed development is consistent with the density that was approved as part of the Stage 1 Concept Plan. The approval of the Stage 1 Concept Plan recognised the environmental capacity of the overall site having regard to its favourable location in proximity to a range of public transport and employment options. The proposed development will allow for a transition in built form and land use intensity commensurate with PLEP.

(c) to require the bulk and scale of future buildings to have regard to heritage sites and their settings,

The proposed distribution of built form and massing of the buildings across the site is the result of a considered analysis of the context of the site and the desire to deliver a positive urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located to the east. The height of the buildings increase away from the heritage significant buildings and are at their highest at the furthermost point from these buildings. The proposed materials and finishes have been chosen to compliment the St Vincent's Building with face brickwork proposed for the part of the development in close proximity to the heritage building. The proposed development will have an acceptable impact on

views to and from heritage items. Overall the proposal will have an acceptable impact on the heritage significance of nearby heritage items and their settings.

(d) to reinforce and respect the existing character and scale of low density residential areas.

Low density residential development is located to the south of the site on the opposite side of the railway corridor and with frontage to Alexandra Avenue. Lot 5 is visually isolated from the low density residential development with frontage to Alexandra Avenue given the width of the railway corridor and the dense landscaping that surrounds the railway corridor. The level of separation between the subject site and nearby low density residential development will ensure that the character of these areas are respected and not unreasonably compromised by the proposed development.

#### Objectives of the Zone

Clause 4.6(4) also requires consideration of the relevant zone objectives. The site is located within the B4 Mixed Use zone which has the following objectives:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To encourage development that contributes to an active, vibrant and sustainable neighbourhood.
- To create opportunities to improve the public domain and pedestrian links.
- To support the higher order Zone B3 Commercial Core while providing for the daily commercial needs of the locality.
- To protect and enhance the unique qualities and character of special areas within the Parramatta City Centre.

The vision for the overall site as outlined in the Master Plan that accompanied the Stage 1 development application has been for a transit-oriented development that intensifies and diversifies activity around public transport infrastructure allowing for multiple activities and services, local employment and diverse housing options. The site is extremely well located in terms of access to public transport infrastructure with the T-Way and Westmead railway station located in close proximity. The proposed residential development on Lot 5 will deliver additional housing choice within a regionally significant health and education hub that is in close proximity to a range of recreational opportunities and services and facilities and will maximise public transport patronage, cycling and walking.

The architecture of the development with buildings orientated where possible to the street and toward an internal common landscaped open space, combined with the development being set within a high quality public domain will result in activated and vibrant places that are used at all times of the day, increasing safety. The redevelopment of the overall site has been designed to provide a high level of pedestrian permeability and creates new linkages between the railway station and nearby schools and hospitals and a high level of connectivity with the existing urban fabric. The proposal exhibits a high level of environmental performance, provides a high level of amenity and an attractive contemporary architectural expression.

For the reasons given the proposal is considered to be consistent with the objectives of the B4 Mixed Use zone.

#### **Objectives of Clause 4.6**

The specific objectives of Clause 4.6 are:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The architectural package prepared by Turner Architects which accompanies the subject application illustrates the relationship of the proposed development within the context of the site. It demonstrates a high quality outcome for the site which will result in the delivery of an integrated community of buildings with significant separation set around a central open space area which collectively will contribute significantly to the amenity afforded to the general public and future occupants alike.

Allowing the flexible application of the floor space ratio development standard in this instance is not only reasonable but also desirable given the context of the site and that the site has the environmental capacity to absorb the proposed density.

Accordingly, it is considered that the consent authority can be satisfied that the proposal meets objective 1(a) of Clause 4.6 in that allowing flexibility in relation to the floor space ratio development standard will achieve a better urban design outcome in this instance in accordance with objective 1(b).

#### Conclusion

The proposed variation to the floor space ratio development standard contained within clause 4.4(2) of the Parramatta Local Environmental Plan 2011 has been found to be reasonable and necessary in the circumstances of the case. In addition there are sufficient environmental planning grounds to justify the variation. In this regard it is reasonable and appropriate to vary the floor space ratio development standard to the extent proposed.

#### REQUEST FOR AN EXCEPTION TO THE HEIGHT OF BUILDINGS DEVELOPMENT STANDARD

#### Introduction

This request for an exception to a development standard is submitted in respect of the development standard contained within Clause 4.3 of the Parramatta Local Environmental Plan 2011. The request relates to an application for the erection of a residential development at Lot 5, 158-164 Hawkesbury Road and 2A Darcy Road, Westmead.

#### Clause 4.6 Exceptions to development standards

Clause 4.6(2) of the Parramatta Local Environmental Plan 2011 provides that development consent may be granted for development even though the development would contravene a development standard imposed by the Parramatta Local Environmental Plan 2011, or any other environmental planning instrument.

However, clause 4.6(3) states that 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 circumstance of the case, and

(b) there are sufficient environmental planning grounds to justify contravening the development standard.

Clause 4.6 requires a qualitative merit assessment based on evaluative questions that are specific to each particular development application, and which must be assessed against the context of that particular site. It advocates an entirely performance-based approach to the assessment of each application, based upon the "the circumstances of the case", and whether compliance is subjectively considered by the consent authority to be "unreasonable or unnecessary" in the particular circumstances.

Clause 4.6 does not provide any quantitative or numerical limitation to cap the extent of non-compliance that may be approved. This conclusion has been confirmed by the Courts on a number of occasions such as the Court upheld decision of North Sydney Council to approve a building where the applicable FSR control was 3.5:1 and the approved FSR was 15:1 and the applicable height control was five storeys whereas the approved height was 17 storeys: Legal and General Life v North Sydney MC. (1989) 68 LGRA 192. Similarly, in another matter the Court approved an FSR of 5:1 on a site where the allowable FSR was 1:1: Hosking Munro Pty Limited v City of Sydney Council [2008] NSWLEC 1485.

In accordance with clause 4.6(3) the applicant requests that the height of buildings development standard be varied.

#### Development Standard to be varied

Clause 4.3 states:

(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.

Building height (or height of building) is defined as the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

There are three height controls applicable to the subject site being 31 metres (Zone U1) in the eastern portion of the site, 40 metres (Zone W) in the north-western portion of the site and 48 metres (Zone X) for the south western portion of the site.

#### Extent of Variation to the Development Standard

A comparison of the proposed heights against the development standard applicable to the site is illustrated below:

Element	Proposed Height	Variation to 31m control	Variation to 40m control	Variation to 48m control
Building A1	34.6m – parapet 39.6m - top of plant	+8.6m (27.7% over)	-0.4m (1% under)	-8.4m (17.5% under)
Building A2	13.5m – parapet	-17.5m (56.4% under)	N/A	-34.5m (71.8% under)
Building B1	47.6m – parapet 51.6m - top of plant	+20.6m (66.4% over)	N/A	+3.6m (7.5% over)
Building B2	26.4m – parapet 30.4m - top of plant	N/A	N/A	-17.6m (36.6% under)
Building B3	79.1m – parapet 83.1m - top of plant	N/A	N/A	+35.1m (73.1% over)

Clause 4.6(3)(a) is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Historically the most commonly invoked way to establish that a development standard was unreasonable or unnecessary was satisfaction of the first test of the five set out in Wehbe v Pittwater Council. [2007] NSWLEC 827 which requires that the objectives of the standard are achieved notwithstanding the non-compliance with the standard.

The Land and Environment Court in Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 has recently required additional ways of establishing that compliance is unreasonable or unnecessary beyond consistency with the standard and zone objectives to be established. For completeness, this request addresses the five part test described in Wehbe v Pittwater Council. [2007] NSWLEC 827, followed by a concluding position which demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case:

1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;

The specific objectives of the building height development standard, as specified in clause 4.3 of the Parramatta Local Environmental Plan 2011 are identified below. A comment on the proposal's consistency with each objective is also provided.

(a) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,

The proposed distribution of height across the site is to provide sufficient capacity to accommodate the floor space within slimmer buildings with much greater separation as well as providing an appropriate curtilage to the heritage buildings located to the east of Lot 5. The highest component of the proposed development (the 24 storey tower) is located on the south western portion of the site and is consistent with the intent of the LEP in terms of the distribution of height across the overall site. The proposal incorporates lower building heights on the northern and eastern portions of the site, and accordingly provides an appropriate transition in built form and land use intensity within the area.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,

There are no adverse impacts in terms of view, visual and acoustic privacy impacts resulting from the proposed variation to the height of buildings development standard which would warrant strict compliance. The solar analysis prepared by Turner Architects that accompanies the subject application demonstrates that the proposal does not result in a significant adverse impact to the surrounding properties.

(c) to require the height of future buildings to have regard to heritage sites and their settings,

The proposed distribution of built form and massing of the buildings across the site is the result of a considered analysis of the context of the site and the desire to deliver a positive urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located to the east. The height of the buildings increase away from the heritage significant buildings and are at their highest at the furthermost point from these buildings. The proposed materials and finishes have been chosen to compliment the St Vincent's Building with face brickwork proposed for the part of the development in close proximity to the heritage building. The proposed development will have an acceptable impact on views to and from heritage items. Overall the proposal will have an acceptable impact on the heritage significance of nearby heritage items and their settings.

(d) to ensure the preservation of historic views,

The proposed development will not have any meaningful impact on historic views.

(e) to reinforce and respect the existing character and scale of low density residential areas,

Low density residential development is located to the south of the site on the opposite side of the railway corridor and with frontage to Alexandra Avenue. Lot 5 is visually isolated from the low density residential development with frontage to Alexandra Avenue given the width of the railway corridor and the dense landscaping that surrounds the railway corridor. The level of separation between the subject site and nearby low density residential development will ensure that the character of these areas are respected and not unreasonably compromised by the proposed development.

(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.

The proposed variation to the height control allows the proposed floor space within the development to be accommodated within slimmer buildings which ensures that nearby properties and public domain areas are not disadvantaged in terms of exposure to sky and daylight.

2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

The underlying objectives and purpose of the height control is relevant to the proposed development. However, the proposed development is consistent with those objectives on the basis that the proposed height will facilitate an appropriate scale of development having regard to the location of Lot 5 within the overall site the subject of the Stage 1 Concept Plan as well as the Westmead precinct generally. The development will sit comfortably with the context of the site with no significant adverse impacts to surrounding properties.

 the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

The underlying objective of the height control is to achieve an appropriate height on the site which is compatible with the emerging context of the site. Due to the design, location and configuration of the proposed development, it successfully achieves these objectives. Strict compliance with the height control would lead to a less satisfactory outcome as it would require a redistribution of mass across the site and result in a bulkier built form. Accordingly, it is considered that strict compliance would likely result in the defeat of the underlying object and purpose of the height control because it would encourage a less desirable outcome for the subject site and surrounding area.

 the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

Council has historically adopted a relatively flexible approach to the implementation of the height control in circumstances where the objectives of the control are achieved and has indicated a

willingness to consider redistribution of height in such circumstances where this facilitates an improved urban design outcome.

The height controls for the site were derived from the ARUP masterplan which informed the Planning Proposal for the site. However, this masterplan has more recently been considered by Council to be "suboptimal" and Council has approved a substantially different site layout and suggested arrangement of buildings under Stage 1 Concept Plan (DA/571/2014) which relied upon a Clause 4.6 request in relation to height. As a result, the height controls and boundaries no longer correspond with the approved site arrangement and configuration as illustrated in Figure 1 below such that Council has effectively abandoned the height controls for the site. Notwithstanding this, the broad principles reflected by the height controls, with increasing height to the west and the south, are considered to remain relevant and the proposed development adheres to these principles with the tallest buildings along the souther end of the site



### Figure 1:

Site layout approved under the Stage 1 Concept Plan (DA/571/2014) with overlay of the PLEP height controls

5. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

The proposed zoning of the land is considered to be reasonable and appropriate.

The proposed variation to the building height development standard is reasonable and necessary in the circumstances of the case in that:

- The height controls for the site were derived from the ARUP masterplan which informed the Planning Proposal for the site. However, this masterplan has more recently been considered by Council to be "suboptimal" and Council has approved a substantially different site layout and suggested arrangement of buildings under Stage 1 Concept Plan (DA/571/2014) which relied upon a Clause 4.6 request in relation to height. As a result, the height controls and boundaries no longer correspond with the approved site arrangement and configuration such that Council has effectively abandoned the height controls for the site. Notwithstanding this, the broad principles reflected by the height controls, with increasing height to the west and the south, are considered to remain relevant and the proposed development adheres to these principles with the tallest buildings along the southern end of the site.
- The proposal provides a high quality architectural solution that is responsive to the location of the site on the southern edge of the Westmead precinct and will provide a clearly defined entry into Westmead from the south.
- The proposed massing of the development results in a high level of modulation with the building height decreasing toward the north and east to provide a transition in scale to the heritage significant buildings to the east and the open space areas to the north such that the proposed arrangement of heights is appropriate for the site and its context.
- The proposed variation to the height controls allows the floor area of the development to be accommodated within slimmer buildings with much greater separation as well as providing an appropriate curtilage to the heritage buildings located to the east of Lot 5. The proposed variation also facilitates a greater level of modulation in scale between the various buildings within the development as well as improved environmental performance within the development, reduced impacts on surrounding properties, and a much higher level of visual permeability throughout the site.
- The desired future character outlined for the subject site within section 4.3.4.1 of the PDCP indicates that the future built form on the site shall include taller, slender "statement" buildings located along the railway line to enable a strong visual relationship between the precinct and the CBD. The proposal appropriately responds to the desired future character, providing two towers adjacent to the railway corridor which are 15 and 24 storey in height. The two towers are proposed to be separated by an 8 storey building component, satisfying the requirement that tall slender statement buildings be provided to enable a visual connection between the Westmead precinct and the Parramatta CBD located to the east.
- The design of the proposal involves a dynamic architectural language and a façade treatment with a high level of materiality that will compliment and improve the character of the area.
- A solar analysis prepared by Turner Architects accompanies the subject application and demonstrates that the proposal does not result in a significant adverse impact to the surrounding properties.
- There are no adverse impacts in terms of overshadowing, views, visual and acoustic privacy impacts to adjacent sites resulting from the proposed variation to the height development standard which would warrant strict compliance.
- Apartments within the development are provided with a high level of amenity. The proposal provides for open space and deep soil in accordance with the relevant requirements.
- The proposed variation allows for the most efficient and economic use of the land.

- Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public.
- Having regard to the planning principle established in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191 most observers would not find the proposed development offensive, jarring or unsympathetic to its location and the proposed development will be compatible with its context.

As the proposal is consistent with the objectives of the height of buildings control, strict compliance with the development standard is considered to be unreasonable and unnecessary in the circumstances of the case.

# Clause 4.6(3)(b) Are there are sufficient environmental planning grounds to justify contravening the development standard?

The proposed distribution of built form and massing of the buildings across the site is the result of a considered analysis of the desired future character of the site and the Westmead precinct generally and the desire to deliver a positive urban design outcome.

The location and scale of the buildings have been specifically designed as a robust architectural solution for the site which optimises solar access both within the site and for adjacent sites as well as providing a high level of modulation to the skyline. The proposed arrangement of buildings across the site will facilitate the achievement of the identified floor space for the site whilst achieving compliant building separation, solar access and cross ventilation for the development. The proposed arrangement of buildings heights across the site will allow for an appropriate curtilage to the heritage significant buildings located to the east. In addition, the scale of each individual building within the overall development is also modulated which further assists in creating opportunities for differing architectural language and visual interest.

The scale of the proposed development does not result in any unreasonable impacts on the surrounding properties in terms of views, loss of privacy or visual impact. The architectural package includes a solar access analysis which demonstrates that the proposed scale of the development will not unreasonably overshadow development on surrounding properties.

The scale of the buildings will not be perceived as jarring or antipathetic in the future streetscape and urban design context which will develop in the area.

Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public and in this particular circumstance there are sufficient environmental planning grounds to warrant the proposed variation to the current height controls as the proposal will achieve a superior outcome with a higher level of residential amenity within the site and without any significant adverse impact to adjacent sites.

# Clause 4.6(4)(a)(i) consent authority satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3)

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

These matters are comprehensively addressed above in this written request with reference to the five part test described in Wehbe v Pittwater Council. [2007] NSWLEC 827 for consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. In addition, the establishment of environmental planning grounds is provided, with reference to the matters specific to the proposal and site, sufficient to justify contravening the development standard.

## Clause 4.6(4)(a)(ii) consent authority satisfied that the proposal is in the public interest because it is consistent with the zone and development standard objectives

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that 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.

Whilst the objectives of the development standard have already been addressed previously in this written request, for the purpose of completeness these objectives are again considered below in specific reference to Clause 4.6(4)(a)(ii)

#### Objective of the Development Standard

The specific objectives of the building height development standard, as specified in clause 4.3 of the Parramatta Local Environmental Plan 2011 are identified below. A comment on the proposal's consistency with each objective is also provided.

(a) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,

The proposed distribution of height across the site is to provide sufficient capacity to accommodate the floor space within slimmer buildings with much greater separation as well as providing an appropriate curtilage to the heritage buildings located to the east of Lot 5. The highest component of the proposed development (the 24 storey tower) is located on the south western portion of the site and is consistent with the intent of the LEP in terms of the distribution of height across the overall site. The proposal incorporates lower building heights on the northern and eastern portions of the site, and accordingly provides an appropriate transition in built form and land use intensity within the area.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,

There are no adverse impacts in terms of view, visual and acoustic privacy impacts resulting from the proposed variation to the height of buildings development standard which would warrant strict compliance. The solar analysis prepared by Turner Architects that accompanies the subject application demonstrates that the proposal does not result in a significant adverse impact to the surrounding properties.

(c) to require the height of future buildings to have regard to heritage sites and their settings,

The proposed distribution of built form and massing of the buildings across the site is the result of a considered analysis of the context of the site and the desire to deliver a positive urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located to the east. The

height of the buildings increase away from the heritage significant buildings and are at their highest at the furthermost point from these buildings. The proposed materials and finishes have been chosen to compliment the St Vincent's Building with face brickwork proposed for the part of the development in close proximity to the heritage building. The proposed development will have an acceptable impact on views to and from heritage items. Overall the proposal will have an acceptable impact on the heritage significance of nearby heritage items and their settings.

(d) to ensure the preservation of historic views,

The proposed development will have any meaningful impact on historic views.

(e) to reinforce and respect the existing character and scale of low density residential areas,

Low density residential development is located to the south of the site on the opposite side of the railway corridor and with frontage to Alexandra Avenue. Lot 5 is visually isolated from the low density residential development with frontage to Alexandra Avenue given the width of the railway corridor and the dense landscaping that surrounds the railway corridor. The level of separation between the subject site and nearby low density residential development will ensure that the character of these areas are respected and not unreasonably compromised by the proposed development.

(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.

The proposed variation to the height control allows the proposed floor space within the development to be accommodated within slimmer buildings which ensures that nearby properties and public domain areas are not disadvantaged in terms of exposure to sky and daylight.

#### Objective of the Zone

Clause 4.6(4) also requires consideration of the relevant zone objectives. The site is located within the B4 Mixed Use zone pursuant to the Parramatta Local Environmental Plan 2011 (PLEP) which has the following objectives:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To encourage development that contributes to an active, vibrant and sustainable neighbourhood.
- To create opportunities to improve the public domain and pedestrian links.
- To support the higher order Zone B3 Commercial Core while providing for the daily commercial needs of the locality.
- To protect and enhance the unique qualities and character of special areas within the Parramatta City Centre.

The vision for the overall site as outlined in the Master Plan that accompanied the Stage 1 development application has been for a transit-oriented development that intensifies and diversifies activity around public transport infrastructure allowing for multiple activities and services, local employment and diverse housing options. The site is extremely well located in terms of access to public transport infrastructure with the T-Way and Westmead railway station located in close proximity. The proposed residential development on Lot 5 will deliver additional housing choice within a regionally significant health and education hub that is in close proximity to a range of recreational opportunities and services and facilities and will maximise public transport patronage, cycling and walking.

The architecture of the development with buildings orientated where possible to the street and toward an internal common landscaped open space, combined with the development being set within a high quality public domain will result in activated and vibrant places that are used at all times of the day, increasing safety.

The redevelopment of the overall site has been designed to provide a high level of pedestrian permeability and creates new linkages between the railway station and nearby schools and hospitals and a high level of connectivity with the existing urban fabric. The proposal exhibits a high level of environmental performance, provides a high level of amenity and an attractive contemporary architectural expression.

For the reasons given the proposal is considered to be consistent with the objectives of the B4 Mixed Use zone.

#### **Objectives of Clause 4.6**

The specific objectives of Clause 4.6 are:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The architectural package prepared by Turner Architects which accompanies the subject application illustrates the relationship of the proposed development within the context of the site. It demonstrates a high quality outcome for the site which will result in the delivery of an integrated community of buildings with significant separation set around a central open space area which collectively will contribute significantly to the amenity afforded to the general public and future occupants alike.

The Urban Design Report prepared by Turner Architects also demonstrates a possible built form outcome which would occur with the achievement of the identified floor space for the site if strict compliance with the height control was required and demonstrates that the proposed development results in profoundly improved outcome for the site. This outcome is only possible with a variation to the height controls.

The development application has therefore demonstrated that it is appropriate in this circumstance to provide flexibility in the application of the building height development standard because this will achieve a significantly better urban design outcome in this instance.

#### Conclusion

The proposed variation to the height of buildings development standard contained within clause 4.3 of the Parramatta Local Environmental Plan 2011 has been found to be reasonable and necessary in the circumstances of the case. In addition there are sufficient environmental planning grounds to justify the

variation. In this regard it is reasonable and appropriate to vary the height of buildings development standard to the extent proposed in this circumstance.



# ATTACHMENT D – Urban Design comments regarding the evolution of planning controls on WSU site



Summary

URBAN DESIGN UNIT / PLANNING BACKGROUND 158-164 HAWKESBURY ROAD AND PART 2A DARCY ROAD, WESTMEAD






Improvements to massing and layout to ensure compliance with ADG building separationm solar access and cross ventilation
 Increased heights of tallest tower in south east comer from 15 > 24 storeys
 4 storey elevation to match heritage datum of st.vincents building

Varied building heights across the site to provide a dymanic and stepping skyline, and avoids the flattop' building massing of the

ndicative concept plan

The proposal is compliant with the 42,470sqm GFA as approved in the Stage 1 DA for Lot 5.
The proposad distribution of built form and massing across the site is the result of a considered analysis of the context of the site and the desire to deliver an improved urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located

to the east.

The proposed distribution of height across the site is to provide sufficient capacity to accomodate the floor space within slimmer buildings with much greater separation as well as providing an appropriate curtilage to the heritage buildings located to the east of lot 5. - Strict compliance with the height control would lead to a less satisfactory outcome as it would require a redistribution of mass across the site and result in buildings have been designed unlikely comply with the ADG. - Councils Urban Design Unit and Design Excellence Advisory Panel all concur the buildings have been designed to be highly article articulated with variances in material and form







URBAN DESIGN UNIT / PLANNING BACKGROUND 158-164 HAWKESBURY ROAD AND PART 2A DARCY ROAD, WESTMEAD