COUNCIL ASSESSMENT REPORT

Panel Reference	2017SSW037
DA Number	493/2016/DA-RA
LGA	Campbelltown
Proposed Development	Restoration of existing heritage-listed former CBC Bank building, demolition of existing commercial building at the rear of the site, construction of a 21 storey building at the rear of the site incorporating two levels of commercial tenancies and 101 residential apartments over 19 levels, and four levels of basement car parking
Street Address	Lots 1 and 2 SP 41598, 263 Queen Street, CAMPBELLTOWN
Applicant	Michael Brown Planning Strategies
Owner	Auchenflower Investments Pty Ltd
Date of DA lodgement	4 March 2016
Number of Submissions	26
Recommendation	Refusal
Regional Development Criteria	Development that has a capital investment value of more than $20 million
List of all relevant s4.15 matters	• Heritage Act 1977 • State Environmental Planning Policy 65 – Design Quality of Residential Flat Development • Apartment Design Guide • Campbelltown (Urban Area) Local Environmental Plan 2002 • Draft Campbelltown Local Environmental Plan 2014 • Campbelltown Sustainable City Development Control Plan 2014
List all documents submitted with this report for the Panel's consideration	Architectural and landscape plans Statement of Environmental Effects and addendum Statement of Heritage Impact Conservation Management Plan Conservation Schedule of Works Clause 4.6 objection Traffic, access and parking assessment
Report prepared by	Luke Joseph – Senior Town Planner
Report date	5 March 2018

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 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**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards	
If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	**Yes**
Special Infrastructure Contributions	
Does the DA require Special Infrastructure Contributions conditions?	**Not Applicable**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions	
Conditions	
Have draft conditions been provided to the applicant for comment?	**NA**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report	

Executive Summary

This application proposes the following works at the subject site:

• Restoration of existing heritage-listed former CBC Bank building, including removal of later additions to the building and reinstatement of its original form
• Demolition of the existing commercial building at the rear of the site
• Construction of a 21 storey building at the rear of the site, setback 18-20 metres from the bank building, incorporating two levels of commercial tenancies (ground and first floors) and 101 residential apartments over 19 levels, and four levels of basement car parking
• Construction of a covered walkway from the proposed building to the front property boundary
• Removal of one pine tree that is located immediately adjacent to the existing CBC Bank building on its southern side.
• The former CBC Bank building would be contained within a strata allotment together with the proposed building (although subdivision is not proposed under this application).

The subject site is located within the commercial core of the Campbelltown Regional City Centre, on the north-western side of Queen Street adjacent to its intersection with Allman Street. The site has an area of 2216sqm with a frontage to Queen Street of 32.055 metres. It contains a state heritage listed two storey sandstone building at the front of the site known as the former CBC Bank building, and a single storey commercial building with basement car parking at the rear of the site. The site contains two driveways, with the southern driveway functioning as the site's vehicular entry point and the northern driveway functioning as the site's vehicular exit point.

The site is the subject of a two-lot strata scheme, whereby the former CBC Bank building is contained within lot 1 whilst the single storey commercial building at the rear of the site is contained within lot 2. There is common property between the two buildings.

The site is surrounded by other commercial buildings within Campbelltown's commercial core. It is adjoined to the southwest by Campbelltown Mall, to the northwest by a Telstra Exchange building, to the southeast across Queen Street by commercial buildings and to the northeast by a state heritage listed building (Old Campbelltown Post Office). The site is located in close proximity to the Queen Street conservation area (shown in Attachment 1)

<u>Assessment summary</u>

This application has been assessed against the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979. Having regard to these provisions, the application has been found to be deficient in several areas.

Pursuant to Section 4.47 of the Environmental Planning and Assessment Act 1979, if an integrated development approval body informs the consent authority that it will not grant an approval that is required in order for the development to be lawfully carried out, the consent authority must refuse consent to the application. As the Heritage Council of NSW has refused to issue its General Terms of Approval in respect of the application, this report recommends refusal of the application.

In addition to the above, the proposed development fails to satisfy several of the design quality principles within SEPP 65, as well as several standards within the Apartment Design Guide. The application fails to comply with the applicable maximum building height for the site under the

draft Campbelltown Local Environmental Plan 2014 (now gazetted as Campbelltown Local Environmental Plan 2015) by a significant amount, and the applicant's objection to this standard under clause 4.6 of the LEP is not well founded. The height of the proposed building would cause significant amenity issues for the immediate locality as well as the City of Campbelltown in its entirety, as will be discussed in detail in this report. The application also fails to comply with several standards within the Campbelltown Development Control Plan 2014.

The proposed development has been found to be unsatisfactory with regard to traffic and vehicular access, geotechnical engineering, emergency vehicle access, and impact on trees. Numerous well-founded objections to the application by members of the community have been received, which the application fails to address.

For the reasons that are outlined in detail within this report, the subject site is not considered to be appropriate for the proposed development, and approval of the application would not be in the public interest. This report therefore recommends refusal of the application.

Background and History

In October 1879, Mansfield Brothers Architects, invited tenders "*for the erection and completion of new banking premises for the Commercial Banking Company at Campbelltown*". The building was completed by June 1880. Coinciding with the construction of the bank in 1880, the CBC transferred part of their site to the Government for a post and telegraph office.

The CBC Bank building in 1881

Gas lighting was installed in the bank in 1913. There was minimal building work at the bank until 1958 when a single-storey addition was built and the interior of the building was extensively remodelled to provide a modern banking chamber, additional working space and staff amenities. This addition was a standard addition by the Bank to premises of this kind, being almost identical to works at its other banks.

In the 1960s, a newer commercial building was built at the rear of the site, however there was no physical connection between it and the bank building. This 1960s building was demolished when the existing commercial development at the rear of the site was constructed.

Council approved an application in 1985 for internal modifications to the bank building, being removal of some existing walls, reuse of existing cedar joinery with additions to match, and restoration of a plaster ceiling over the former banking chamber. Accordingly, the banking chamber was altered and original bank fittings removed, but the stone domed vault was retained, as was the original staircase and other joinery.

In 1985, the Commercial Banking Company merged with National Australia Bank, and the bank vacated the building. A permanent conservation order was imposed on the site in May 1987.

In 1992 a major redevelopment took place at the rear of the site, whereby the stables/coach house was demolished after being archivally recorded and a single storey commercial building with basement car parking was constructed. The site was strata subdivided into its current configuration in 1992. The site's permanent conservation order was converted to a State Heritage Register listing in April 1999.

The CBC Bank building has had a variety of office uses since the CBC Bank vacated the site in 1985, and the building was most recently occupied and vacated by the Campbelltown-Macarthur Advertiser newspaper. The building is currently vacant.

This application was lodged and publicly exhibited in March 2016. Originally it proposed the construction of an 18 storey building with a setback of approximately 5 metres from the bank building, and proposed to retain the 1958 extensions to the building. The NSW Heritage Office reviewed the application and an on-site meeting with the applicant and proponent was held in June 2016. The Heritage Office raised concerns with the original proposal with regard to height, setback between the existing and proposed buildings, setting, alterations to the historic bank building, conservation of significant fabric, façade presentation of the proposed tower, archaeology, landscaping, and the nexus between the adaptive reuse of the historic structure and the proposed tower. The Heritage Office also advised that the heritage documentation supporting the application failed to provide an adequate, detailed heritage impact assessment. It did not highlight how the proposed scheme was considered to be appropriate and why and what mitigating measures have been employed to reduce adverse heritage impacts.

In December 2016 while assessment of the application was ongoing, the site was sold from one property developer to another. In April 2017, amended plans were lodged, which were publicly exhibited and referred to the NSW Heritage Office. In July 2017 Council raised numerous concerns with the application with the applicant (particularly the height of the proposed development), and in January 2018 Council received advice that the Heritage Council had resolved to not grant approval to the application.

It is noted that following advice from Council that a development of the height proposed would not be accepted, the applicant commenced preparing amended plans for a 15-storey building. As a 15-storey building would still exceed the applicable maximum building height by a significant amount, and the NSW Heritage Council has refused to grant its General Terms of Approval to the application, the applicant was advised that pursuant to clause 55 of the Environmental Planning and Assessment Regulation 2000, amended plans would not be accepted or assessed in respect of the application unless they showed a building with a

compliant height. The applicant subsequently advised that the height of the proposed building would not be reduced to less than 15 storeys.

Report

The development has been assessed in accordance with the heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters the following issues have been identified for further consideration.

1. Planning Provisions

1.1 Heritage Act 1977

Under Section 57 of the Heritage Act, when a listing on the State Heritage Register applies to a building, place or land, a person must not carry out any development in relation to the land on which the building, work or relic is situated, the land that comprises the place, or land within the precinct except in pursuance of an approval granted by the Heritage Council of New South Wales.

As the application seeks consent for works to the heritage building and development upon the land on which the building is located, the application was referred to the Heritage Council pursuant to the integrated development provisions of the Environmental Planning and Assessment Act 1979. The Heritage Council reviewed the application and advised that it will not grant approval to the application, for the following reasons:

1. The proposal is an overdevelopment of the site, particularly in terms of the height and scale of the new building. The height of any development in this location should not exceed the height limit of 32 metres outlined in the relevant planning controls.

2. The overdevelopment requires the provision of an excessive amount of car parking which requires extensive excavation to accommodate the deep basement. The proximity of this subsurface car park to the edge of the CBC Bank building poses a risk to the historic structure. Any basement car park should be no closer than 6 metres from the building to mitigate the effects of underpinning and to allow sufficient deep soil volume to establish mature tree planting;

3. The effect of the excavation for the proposed driveway ramp will form a pedestal under the bank building and substantially alter the proportions of the south-west elevation of the CBC Bank building. This will require underpinning and put the historic building at risk. Any future proposal should include a driveway at grade for the length of the building.

Following the Heritage Council's refusal to issue its General Terms of Approval in respect of the application, discussions with the Heritage Office have revealed that point 1 above is not merely a reiteration of Council's concerns with the building's failure to comply with Council's planning controls. Rather, there are heritage concerns that derive directly from the height of the proposed development that led to the Heritage Council's refusal.

Pursuant to Section 4.47 of the Environmental Planning and Assessment Act 1979, if an integrated development approval body informs the consent authority that it will not grant an approval that is required in order for the development to be lawfully carried out, the consent

authority must refuse consent to the application. In this regard, as the Heritage Council has recommended that the application be refused, and has not granted its approval to the proposed development, the consent authority is required to refuse the application. Accordingly, this report to the Panel recommends the refusal of the application.

1.2 State Environmental Planning Policy 65 – Design Quality of Residential Flat Development

SEPP 65 applies to the proposed residential flat building, and accordingly, the application has been assessed against this SEPP.

Part 4 of the SEPP states that in determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration the design quality of the development when evaluated in accordance with the design quality principles. Clause 50 the Environmental Planning and Assessment Regulation 2000 states that an application for development to which the SEPP applies must include a statement by a qualified designer, which must:

(a) verify that he or she designed, or directed the design, of the development, and
(b) provide an explanation that verifies how the development:
    (i) addresses how the design quality principles are achieved, and
    (ii) demonstrates, in terms of the Apartment Design Guide, how the objectives in Parts 3 and 4 of that guide have been achieved.

A statement by Eugene Marchese of Marchese Partners Architects addressing the above requirements was submitted with the application. The architect's assessment against the design quality principles is provided below:

Principle One: Context and Neighbourhood Character	**Response**
Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.	The site is conveniently located close to key east-west transport corridors. The overall site the subject of this DA has a total area of approximately 2,130sqm single frontage and single access point from Queen Street. Its long axis runs in a north - south direction Existing development on the site currently consists of the heritage item which is to be retained and an existing warehouse to the rear. The site is largely free of constraints and gently slopes from west to east. The site is located in the city centre of Campbelltown and is surrounded by low to mid scale commercial and retail buildings. The proposed apartment buildings have been sited and planned in order to maximise the number of dwellings with a northern orientation (maximising views and northern sunlight). The floor plate will develop around a lift core with two lifts and fire stairs servicing the rectilinear building. The building in most levels incorporates four corner apartments, maximising the number of naturally cross ventilated apartments within the development, reducing corridor lengths and also enabling a greater break-down of the bulk and scale of the buildings. There is also a generous variety of 1, 2, and 3 bed types.

Principle Two: Built Form and Scale	**Response**
Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.	The built form and scale adopted for this project delivers a superior design outcome than what is envisaged in the development controls for the site. Delivering appropriate building forms that respond to the site's existing heritage and future growth that will define Campbelltown as one of Sydney's main city hubs. Providing a superior design option, built form, and amenity (internal and surrounding) outcome over and above what the planning controls dictate for the site. Offering a diversity of housing product to meet the local and future Campbelltown community's needs. Maximising opportunities for a ground level public /commercial precinct which would include ample space for landscaping and social interaction throughout the proposal. This in turn would provide an enhanced interaction with the sites existing heritage item that currently address the street. Maximising unique uninterrupted northerly views for the majority of the proposed dwellings. Maximising northern aspects for private open spaces for the majority of dwellings. Sensitively incorporating the provision of car parking required.

Principle Three: Density	**Response**
Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.	The proposed design provides a superior outcome in terms of the density provisions than what the planning controls would otherwise dictate for the site. The total number of residential dwellings proposed is 101 in order to provide additional housing options for residents wishing to reside in the suburb of Campbelltown and supporting the future growth of the area. The proposal also provides sufficient commercial and retail opportunities on the ground levels enhancing its location within the cities retail precinct. The development will enjoy access to Campbelltown's well established and regarded services, including transport, education, and proximity to key employment nodes.
Principle Four : Sustainability	**Response**
Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.	This proposed development is ideally located close to services, schools, recreation facilities and transport links which facilitates a very efficient use of resources and minimises the consumption of manmade fuels for the servicing of live, team work and play lifestyles of the future residents. A comprehensive analysis of the building has also been undertaken as part of the BASIX Assessment. We note the following inclusions as part of this proposal: • The SEPP 65 requirement for solar access and cross ventilation to the apartments has been achieved providing a level of comfort that will not strictly require air conditioning to maintain thermal comfort. More than 2 hours of solar access has been provided to 73% of the apartments (minimum 70%) of the residential apartments. Natural cross ventilation has been provided to 75% of the apartments. The apartments will have substantial natural light, unique view opportunities and excellent amenity. • Energy efficient appliances and fixtures as part of the internal fit out to minimise water consumption of resources. • Typical floor plates have been designed to minimise the impact on the existing structure and to minimise structural transfers and false ceilings, which substantially reduces building materials and wastages required to construct the building

Principle Five : Landscape	**Response**
Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for	The proposed design provides for high quality ground communal landscaped areas for use by the residents and the public. Entrance to the landscaped area is off Queen Street allowing an enhanced integration with the existing heritage item. The public precinct is created through pockets of green planting, integrated seating and paved areas that work together to produce a green space of high amenity. Also the rooftop provides an adequate outdoor setting, organised in order to maximise the views and provide spacious areas for the use of all residents.

Principle Six : Amenity	**Response**
Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.	The proposed development delivers a mix of residential apartments. All achieve a very high level of internal amenity. This is achieved by maximising the amount of dwellings that have a northern orientation and prioritising access to daylight by avoiding excessive depth of living areas. The high level of internal amenity of each apartment is supplemented with good sized balconies, with most having a northerly aspect with views of Campbelltown. The provision of a generous core with double lifts to the residential apartment buildings reduces common corridor lengths and the notion of anonymity therefore encouraging engagement with smaller groups of neighbours for the overall quality of the community. The residential apartment buildings are provided with private secure residential entry lobbies that are located on to the ground landscaped area. Large areas of glazing are provided to living spaces providing generous natural light and access to expansive views. All of the apartments have a balcony as their private open space. The depth and width of the space allows for various sitting arrangements. The apartments open directly onto these amenities, which provide good ventilation and flexible indoor-outdoor living opportunities. All units will achieve SEPP 65 cross flow ventilation and solar access requirements. Storage provided for the apartments is provided internally and within the basement. Secure parking is provided in the basement with direct lift and open stairs to all residential apartments. The landscaping experience for the development relies on a carefully selected combination of high quality soft and hard scape elements. Special consideration has been given to provide various layers of finer grain materials that complement the site’s unique setting, context and existing heritage item.

Principle Seven : Safety	**Response**
Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.	Safety and security will be provided for both the residents and any persons visiting the site through the following design measures: • The residential apartment building will be a secure environment. Access will be by electronic security devices at both the vehicle entry point to the secure basement car park and at the ground floor residential entry lobby • The common areas are to be well lit, with clearly defined paths. All residential entries will be lit with ceiling mounted down lights and monitored with security cameras. There is a clear definition between public and private spaces • Car park areas are to be well lit and the stairs and lift areas will have security control. Windows and balconies will provide good natural surveillance to the surrounding streets.
Principle Eight : Housing Diversity and Social Interaction	**Response**
Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.	The site is located close to excellent facilities, services, recreational areas and public transport. Apartments mix has generally prioritised well designed and efficient 1, 2 and 3 bedroom typologies, recognising the likely buyer demographic for this development. Smaller apartments have been provided to offer variety and to provide entry level opportunities for housing in close proximity to the well-established and serviced suburb of Campbelltown. The scheme provides 10% adaptable units recognising the need for access opportunities for all age groups and degrees of mobility. The scale of the proposed building, the building facade materials and architectural detail of the elevations combine to make a positive contribution to the urban environment and general streetscape now and for the future growth of the area.

Principle Nine : Aesthetics	Response
Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	The proposed development has been carefully considered with respect to the existing heritage building and natural environments. The design of the building is respectful and at the same time proposes a high standard of quality detailing, articulation and form. The design incorporates a number of design characteristics, which contribute to the overall aesthetics of the proposal. These include: The use of a limited pallet of materials and colours will provide a simple and timeless character to the building. The overall design is conservative and contemporary in nature and will fit well within its surroundings and proposed future growth. The design will help to enhance the northern aspect of apartments whilst provide a consistent articulated facade to the designed view. The gentle dialogue among the sleek design and finishes of the buildings and the new elements of landscape pockets will enhance the aesthetic qualities of both. A careful composition of building elements, colours and materials contribute to the urban character of the precinct and enhance the existing heritage item.

Council concurs with the architect's assessment against design principles 4, 5, 7 and 8 (Sustainability, Landscape, Safety and Housing Diversity and Social Interaction), however disagrees with his assessment against design principles 1, 2, 3, 6 and 9 (Context and Neighbourhood Character, Built Form and Scale, Density, Amenity and Aesthetics), for reasons that will be discussed in detail in this report.

2.3 Apartment Design Guide

Clause 30(2)(c) of SEPP 65 states that in determining a development application for consent to carry out a residential flat development, a consent authority is to take into consideration the Apartment Design Guide (ADG). An assessment of the application against the ADG prepared by Council is presented below.

Control	Required	Proposed	Compliance
Building depth	Use a range of appropriate maximum apartment depths of 12-18 metres from glass line to glass line	19 metres	No (No justification provided)
Building separation for massing and solar access (up to four storeys) **Building separation for massing and solar access (five to eight storeys)** **Building separation for massing and solar access (nine storeys and above)**	12m between habitable rooms/balconies 9m between habitable and non-habitable 6m between non-habitable 18m between habitable rooms/balconies 12m between habitable and non-habitable rooms 9m between non-habitable rooms Only one step in the built form as the height increases is desirable 24m between habitable rooms/balconies 18m between habitable and non-habitable rooms 12m between non-habitable rooms	There are no buildings above two storeys adjacent to the site, and no habitable buildings within the vicinity of the site. Accordingly, adjoining sites would achieve compliance with the building separation standards if/when they are developed. Given that the adjoining buildings are not habitable and are 1-2 storeys in height, the proposed building separation is considered to be satisfactory.	Satisfactory
Building separation for visual privacy (up to four storeys) **Building separation**	6m between habitable rooms and balconies 3m between non-habitable rooms 9m between habitable	There are no buildings above two storeys adjacent to the site, and no habitable buildings within the vicinity of the site. Accordingly, adjoining	Yes

Control	Required	Proposed	Compliance
for visual privacy (five to eight storeys) **Building Separation for visual privacy (nine storeys and above)**	rooms and balconies 4.5m between non-habitable rooms 12m between habitable rooms and balconies 6m between non-habitable rooms Recessed balconies and/or vertical fins should be used between adjacent balconies	sites would achieve compliance with the building separation standards if/when they are developed. Given that the adjoining buildings are not habitable and are 1-2 storeys in height, the proposed building separation is considered to be satisfactory. Adjacent balconies are all recessed and have appropriate separation.	 Yes
Street setbacks	In mixed use buildings a zero setback is appropriate. Street setbacks are to be consistent with existing/desired future setbacks.	The proposed building would be located towards the rear of the site to avoid the heritage item.	Satisfactory
Deep soil zones	Minimum 7% of site area Minimum width of 6 metres	The proposed deep soil zones would exceed 7% of the site area. Less than 6 metres	Yes No (No justification provided)
Communal Open space	Communal open space has a minimum area equal to 25% of the site. Developments must achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June. Communal open space should be consolidated into a well-designed,	The rooftop communal open space area would be 250sqm (25% of the part of the site containing the RFB). The rooftop communal open space area would achieve the required level of solar access. Communal open space is consolidated in the rooftop area.	Yes Yes Yes

Control	Required	Proposed	Compliance
	easily identified and usable area		
	Communal open space should have a minimum dimension of 3 metres.	The rooftop communal open space area is wider than 3 metres.	Yes
	Communal open space should be co-located with deep soil areas	This is not possible given the proposed rooftop COS area.	Yes
	Where communal open space cannot be provided at ground level, it should be provided on a podium or roof	A rooftop communal open space area is proposed.	Yes
	Facilities are provided within communal open spaces and common spaces for a range of age groups, incorporating some of the following elements: • seating for individuals or groups • barbecue areas • play equipment or play areas • swimming pools, gyms, tennis courts or common rooms	A barbeque area, seating area and swimming pool are proposed within the rooftop communal open space area	Yes
	The location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down drafts.	Pergolas for shade are proposed over the barbeque area and swimming pool.	Yes
	Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy. Design solutions may include:	The communal open space would not be visible from habitable rooms given its rooftop location, however the ground level public domain space would be visible from habitable rooms.	Yes

Control	Required	Proposed	Compliance
	• bay windows • corner windows • balconies		
Car and Bicycle Parking	For development on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area, the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.	The proposed residential flat building is within 800 metres of Campbelltown railway station, and therefore the parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments applies for the residential component of the development. The proposed development contains 101 apartments + 13 dual key apartments. (114 total). 39 one-bedroom apartments including dual key apartments requires 15.6 spaces at a rate of 0.4 67 two-bedroom apartments requires 46.9 spaces at a rate of 0.7 8 three-bedroom apartments requires 3.6 spaces at a rate of 1.2 Total apartment spaces required = 66.1 Total apartment spaces proposed = 114	Yes
	Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping	Fails to comply at rear of property.	No (No justification submitted)

Control	Required	Proposed	Compliance
	sites.		
Visitor Parking	Visitor parking required – 1 space per 7 units = 16.3	Visitor parking spaces proposed = 14	No
Bicycle Parking	Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas.	Secure bicycle parking is proposed.	Yes
Site access	Car park entries should be located behind the building line	The car park entry point would be behind the building line of the front building.	Yes
	Vehicle entries should be located at the lowest point of the site minimising ramp lengths, excavation and impacts on the building form and layout	The vehicle entry point cannot be at the lowest point of the site, as this point is between two state-heritage listed buildings and would limit their appreciation.	Satisfactory
	Car park entry and access should be located on secondary streets or lanes where available	There is no secondary street/lane available to the subject site.	Yes
	Access point locations should avoid headlight glare to habitable rooms	Satisfactory	Yes
Apartment layout	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	Complies	Yes
	Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry space)	Complies	Yes

Control	Required	Proposed	Compliance
	A window should be visible from any point in a habitable room	Complies	Yes
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Units 19.03 and 20.03 fail to comply	No
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Units 19.03 and 20.03 fail to comply	No
	Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space)	Several bedrooms fail to comply	No
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Complies	Yes
	Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments	2.03, 3.03(to 5.03), 6.02 (to 18.02) fail to comply	No
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	No cross-over/cross-through apartments are proposed.	Yes
	Access to bedrooms, bathrooms and laundries is separated from living areas minimising direct openings between living and service areas	2.07, 6.05-18.05 fail to comply	No

Control	Required	Proposed	Compliance
	All bedrooms allow a minimum length of 1.5m for robes	Complies	Yes
	The main bedroom of an apartment or a studio apartment should be provided with a wardrobe of a minimum 1.8m long, 0.6m deep and 2.1m high	Complies	Yes
Apartment mix	A variety of apartment types is to be provided The apartment mix is appropriate, taking into consideration: • the distance to public transport, employment and education centres • the current market demands and projected future demographic trends • the demand for social and affordable housing • different cultural and socioeconomic groups	A Mixture of studios, 1, 2 and 3 bedroom apartments and dual key apartments is proposed.	Yes
Minimum Apartment Sizes	Studio – 35sqm 1 bedroom – 50sqm 2 bedroom – 70sqm 3 bedroom – 90sqm	All of the proposed apartments exceed the minimum sizes.	Yes
	The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each	Complies	Yes
Balcony size, Depth and Configuration	Studios – 4sqm 1 bedroom - 8sqm 2 bedroom – 10sqm 3+ bedroom – 12sqm	All balconies comply with the minimum size requirements.	Yes
	Depth: 1 bedroom - 2m 2 bedroom – 2m 3+ bedroom – 2.4m	19.03 and 20.03 fail to comply and have insufficient depth for a table and chairs	No
	The minimum balcony depth to be counted as contributing to the balcony area is 1 metre	Satisfactory	Yes

Control	Required	Proposed	Compliance
	Primary open space and balconies should be located adjacent to the living room, dining room or kitchen to extend the living space	Complies	Yes
	Private open spaces and balconies predominantly face north, east or west	Complies	Yes
	Primary open space and balconies should be orientated with the longer side facing outwards or be open to the sky to optimise daylight access into adjacent rooms	Satisfactory	Yes
Ceiling heights	2.7 metres minimum for apartments	Complies	Yes
	3.3 metres minimum for commercial component	First floor fails to comply – 3 metres	No
Internal Access	Entry from circulation core to maximum of eight units	Complies	Yes
	Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed.	Satisfactory – no ground floor apartments proposed.	Yes
Storage	Studio – 4m³ 1-bed unit – 6m³ 2-bed unit – 8m³ 3-bed unit – 10m³	Complies	Yes
	At least 50% of the required storage is to be located within the apartment	Complies	Yes
	Storage is accessible from either circulation or living areas	Complies	Yes

Solar access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area	75 apartments receive compliant solar access. That constitutes 74% when dual-key apartments are ignored. When dual-key apartments are included, only 65% of apartments comply.	No
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	17 of 101 apartments (17%) would receive no direct sunlight (excluding dual-key apartments). 30 of 114 apartments (26%) would receive no direct sunlight when dual dual-key apartments are included.	No
	The design maximises north aspect and the number of single aspect south facing apartments is minimised	Generally satisfactory	Yes
	Single aspect, single storey apartments should have a northerly or easterly aspect	All of the proposed dual key apartments are south-facing.	No
	Living areas are best located to the north and service areas to the south and west of apartments	Generally satisfactory	Yes
	To optimise the direct sunlight to habitable rooms and balconies a number of the following design features are used: • dual aspect apartments • shallow apartment layouts • two storey and mezzanine level apartments • bay windows	Generally satisfactory	Yes

	A number of the following design features are used: • balconies or sun shading that extend far enough to shade summer sun, but allow winter sun to penetrate living areas • shading devices such as eaves, awnings, balconies, pergolas, external louvres and planting • horizontal shading to north facing windows • vertical shading to east and particularly west facing windows • operable shading to allow adjustment and choice • high performance glass that minimises external glare off windows, with consideration given to reduced tint glass or glass with a reflectance level below 20% (reflective films are avoided)	Generally satisfactory	Yes
	Overshadowing of neighbouring properties is minimised during mid-winter - Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access	No residences would be overshadowed by the proposed development.	Yes
Natural ventilation	The building's orientation maximises capture and use of prevailing breezes for natural ventilation in habitable rooms	Satisfactory	Yes
	Depths of habitable rooms support natural	Satisfactory	Yes

	ventilation		
	The area of unobstructed window openings should be equal to at least 5% of the floor area served	Satisfactory	Yes
	Doors and openable windows maximise natural ventilation opportunities by using the following design solutions: • adjustable windows with large effective openable areas • a variety of window types that provide safety and flexibility such as awnings and louvres • windows which the occupants can reconfigure to funnel breezes into the apartment such as vertical louvres, casement windows and externally opening doors	Satisfactory	Yes
	Apartment depths are limited to maximise ventilation and airflow	Satisfactory	Yes
	Natural ventilation to single aspect apartments is achieved with the following design solutions: • primary windows are augmented with plenums and light wells (generally not suitable for cross ventilation) • stack effect ventilation / solar chimneys or similar to naturally ventilate internal building areas or rooms such as bathrooms and laundries • courtyards or building indentations have a width to depth ratio of	Satisfactory	Yes

	2:1 or 3:1 to ensure effective air circulation and avoid trapped smells		
	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	Satisfactory	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	No cross-over or cross-through apartments are proposed.	NA
	The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths	Corner apartments are proposed, and the depths of all apartments are reasonable.	Yes
Facades	Design solutions for front building facades may include: • a composition of varied building elements • a defined base, middle and top of buildings • revealing and concealing certain elements • changes in texture, material, detail and colour to modify the prominence of elements	The side-facing facades are bland with almost no activation. Small windows are proposed and limited fenestration. Minimal colour variation and blank column elements are proposed. Given the proposed building's high level of visibility, all facades should be treated like front facades in terms of their architectural significance.	No
	Building services should be integrated within the overall	Substation/pump room are concealed	Yes

	facade		
	Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. Design solutions may include: • well composed horizontal and vertical elements • variation in floor heights to enhance the human scale • elements that are proportional and arranged in patterns • public artwork or treatments to exterior blank walls • grouping of floors or elements such as balconies and windows on taller buildings	The side-facing facades are bland with almost no activation. Small windows are proposed and limited fenestration. Minimal colour variation and blank column elements are proposed. Given the proposed building's high level of visibility, all facades should be treated like front facades in terms of their architectural significance.	No
	Building facades relate to key datum lines of adjacent buildings through upper level setbacks, parapets, cornices, awnings or colonnade heights	The ground/first floor facades relate well to heights of nearby heritage buildings in terms of their height.	Yes
	Shadow is created on the facade throughout the day with building articulation, balconies and deeper window reveals	Satisfactory	Yes
	Building entries should be clearly defined	Satisfactory	Yes
	Important corners are given visual prominence through a change in articulation, materials or colour, roof expression or changes in height	Satisfactory	Yes
	The apartment layout should be expressed externally through facade features such	Balcony floor slabs are visible within the building's facades.	Yes

	as party walls and floor slabs		
Roof Design	Roof design relates to the street. Design solutions may include: • special roof features and strong corners • use of skillion or very low pitch hipped roofs • breaking down the massing of the roof by using smaller elements to avoid bulk • using materials or a pitched form complementary to adjacent buildings Roof treatments should be integrated with the building design. Design solutions may include: • roof design proportionate to the overall building size, scale and form • roof materials compliment the building • service elements are integrated Roof design maximises solar access to apartments during winter and provides shade during summer. Design solutions may include: • the roof lifts to the north • eaves and overhangs shade walls and windows from summer sun	The proposed building fails to incorporate interesting roof features. Satisfactory	No Yes
Universal Design	Developments achieve a benchmark of 20% of the total apartments incorporating the Livable Housing Guideline's silver level universal design features	The application does not clarify whether this standard would be achieved.	No
Energy Efficiency	A number of the following design solutions are used: • the use of smart glass	Satisfactory	Yes

	or other technologies on north and west elevations • thermal mass in the floors and walls of north facing rooms is maximised • polished concrete floors, tiles or timber rather than carpet • insulated roofs, walls and floors and seals on window and door openings • overhangs and shading devices such as awnings, blinds and screens A number of the following design solutions are used: • rooms with similar usage are grouped together • natural cross ventilation for apartments is optimised • natural ventilation is provided to all habitable rooms and as many non-habitable rooms, common areas and circulation spaces as possible		
Water Management and Conservation	Rainwater should be collected, stored and reused on site	A rainwater tank has not been provided.	No
Waste management	A waste management plan should be prepared Circulation design allows bins to be easily manoeuvred between storage and collection points	A Waste Management Plan was provided with the application. The application fails to demonstrate that on-site waste collection could work in a functional manner.	Yes No
Mixed Use	Development shall address the street Active frontages shall be provided Blank walls at the	Complies Complies Complies	Yes Yes Yes

	ground level shall be avoided		
	Residential entries shall be separated from commercial entries and directly accessible from the street.	The proposed development fails to comply the residential and commercial entry points would be shared.	No
	Commercial service areas shall be separated from residential components	Complies	Yes
	Residential car parking and communal facilities are separated or secured.	The proposed development fails to comply as basement areas would not be separated.	No
	Security at entries and safe pedestrian routes are to be provided.	Satisfactory	Yes
	Concealment opportunities are to be avoided.	Satisfactory	Yes
Awnings	Awnings should be located along streets with high pedestrian activity and active frontages	The proposed building would be set back from the street, and an awning along the front of the site (attached to the heritage item) would not be appropriate.	Satisfactory

2.4 Campbelltown (Urban Area) Local Environmental Plan 2002

Zoning

The subject site is zoned 10(a) - Regional Comprehensive Centre Zone under the provisions of Campbelltown (Urban Area) Local Environmental Plan 2002. The proposed development is defined as a residential flat building and commercial premises, and both of these land uses are permissible with Council's development consent within the zone.

Zone objectives

The objectives of the 10(a) zone are listed below:

(a) to provide land for the City of Campbelltown and the Macarthur region's largest centre of commerce, and
(b) to encourage employment and economic growth, and
(c) to accommodate tertiary education and hospital facilities for the City of Campbelltown and the Macarthur region, and
(d) to accommodate a wide range of cultural, entertainment and like facilities, and
(e) to permit limited industrial uses that are compatible with the proper operation of a major regional centre, and
(f) to encourage a variety of forms of higher density housing, including accommodation for older people and people with disabilities in locations which are accessible to public transport, employment, retail, commercial and service facilities
(g) A further objective of the zone is to encourage a high quality standard of development, which is aesthetically pleasing, functional and relates sympathetically to nearby and adjoining development.

Consent must not be granted for development on land within the 10(a) zone unless the consent authority is of the opinion that carrying out the proposed development would be consistent with one or more of the objectives of this zone. The proposed development is consistent with objectives a, b, and f listed above, and therefore the consent authority is able to approve the application should it deem appropriate to do so.

Protection of heritage items

Clause 44 of the CLEP 2002 applies to development involving erecting a building on land on which a heritage item is located. Before granting consent pursuant to this clause, the consent authority must assess the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

The application proposes to construct a building on the site, which contains a heritage item, and is therefore affected by this clause. However the clause is somewhat superfluous in this case, given that the heritage item is a state-listed heritage item and any works on the site requires approval under section 57 of the Heritage Act 1977. Council has largely deferred to the assessment of the NSW Heritage Council concerning heritage matters. As discussed in detail earlier in this report, the Heritage Council reviewed the application and recommended refusal of the application.

2.5 Draft Campbelltown Local Environmental Plan 2014

The application was lodged after the commencement of the exhibition of the Draft Campbelltown Local Environmental Plan 2014 on 12 June 2014, which has now been gazetted as Campbelltown Local Environmental Plan 2015. Accordingly, under Section 79C(1)(a)(ii), the provisions of the draft Plan must be taken into consideration in the assessment of the application. Given that the Plan has now been gazetted, it should be given significant weight in the assessment of this application, consistent with previous Land and Environment Court judgments concerning the imminence of a draft environmental planning policy's adoption. An assessment of the application against the relevant provisions of the Plan is presented below:

Zoning

The draft zoning of the subject property under the Draft CLEP 2014 is B3 Commercial Core. Commercial premises and shop top housing are permissible within the B3 zone.

Zone objectives

The objectives of the B4 zone are as follows:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To accommodate the redevelopment, enhancement and vitality of centres by facilitating mixed use development.

The proposed development satisfies these objectives.

Maximum building height

The objectives of this clause are as follows:

(a) To nominate a range of building heights that will provide a transition in built form and land use intensity across the Campbelltown Local Government Area;
(b) To ensure that the heights of buildings reflect the intended scale of development appropriate to the locality and the proximity within and to business centres and transport facilities;
(c) To provide for built form that is compatible with the hierarchy and role of centres;
(d) To assist in the minimisation of opportunities for undesirable visual impact, disruption to views, loss of privacy and loss of solar access to existing and future development and to the public domain.

Under the draft CLEP 2014, the maximum building height applying to the subject site is 32 metres. The proposed residential flat building would have a height of 74 metres and therefore fails to comply with the height standard by a significant margin. The application includes a clause 4.6 objection in respect of this standard, which is discussed below.

Exceptions to development standards (Clause 4.6)

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

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

The proposed development exceeds the applicable maximum building height standard, which is not a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

A written request from the applicant that seeks to justify the contravention of the development standard was provided with the application, which is attached to this report. The applicant's arguments in support of the proposed height variation are summarised below, with a response to each argument:

- Clause 5.10(10) (Conservation incentives) of the Local Environmental Plan permits the consent authority to grant consent to a development that would not be permitted, if the conservation of the heritage item is proposed. The adaptive reuse of the building will ensure that the heritage item, being the former CBC Bank Building, will be conserved and preserved. As the proposed development would conserve the heritage building, Council can approve the development that exceeds the building height.

Council response: Clause 5.10(10) does allow a consent authority to approve a development on land containing a heritage item, despite it not being allowed under the Plan, but it does not oblige the consent authority to approve a non-complying development because of the mere presence of a heritage item on the land. The applicant's use of this clause is discussed in further detail later in this report and is assessed against the qualifying subclauses that require the consent authority's satisfaction in order to allow the use of the conservation incentives. The assessment of the application has found that the proposed development fails to satisfy several of the qualifying subclauses. However, importantly, even if the proposed development did satisfy all of the relevant qualifying subclauses, this would still not oblige the consent authority to approve a development that does not comply with the Plan.

- The site is highly constrained by the existing heritage building that restricts the building to a portion of the property. A building could be constructed on the property at 32 metres in height, but it would result in the heritage building being removed. As the building is of state significance, this has required the building to be more vertical, rather than

horizontal (wider and longer) or indeed two towers over ground floor commercial development. As such a different built form outcome could have been achieved.

Council response: This is an invalid argument that fails to treat the heritage item as a site constraint. Rather, it presupposes that any development on the site must be able to achieve a yield commensurate with that which would have been achieved if the heritage item were not present on the site. There is no provision within the applicable planning legislation that guarantees that this should be the case. A consent authority is not obliged to in effect, compensate a developer for the "loss" of developable site area because of the presence of a heritage item by approving a taller building. The expected yield should be calculated by taking into consideration the applicable development standards as well as pre-existing site constraints. The presence of a heritage item is clearly identified on the title of the land, and its presence cannot be used as justification for the consent authority to approve a development that would have clear amenity impacts and would create broader planning and precedent implications for the Campbelltown Regional City Centre.

- The visual character of the immediate area will alter over the years as development potential is realised as a result of the studies undertaken by Council and the Department of Planning and Environment. There is no doubt that over the ensuing years, the skyline of Queen Street and the CBD will change dramatically as a result of the LEP and the position of the Department of Planning and Environment for the Corridor Strategy from Glenfield to Macarthur. This corridor proposes residential apartments within mixed use developments for the eastern side of the railway corridor.

Council response: The final version of the Glenfield to Macarthur Corridor Strategy was released in December 2017. The Department of Planning and Environment advised that rezoning within these precincts can now occur through:

- Planning proposals submitted by landowners to Campbelltown City Council. These proposals need to be consistent with the relevant precinct plan,
- Council–led local environmental plan amendments, or
- State Government–led amendments for certain precincts.

A Section 117 Planning Direction accompanied the precinct plans, which requires that planning proposals submitted to rezone land in the corridor are consistent with the long term vision for these precincts.

At present, a Planning Proposal for the Campbelltown Regional City Centre is not imminent. Council is at the very early stages of planning for the development of the Campbelltown Regional City Centre over the next 20 to 30 years. Similarly, a State Government-led Planning Proposal is not being prepared, and the landowner has not prepared a Planning Proposal.

The Glenfield to Macarthur Corridor Strategy is a strategic policy document that provides a basis for future rezonings and Planning Proposals. It cannot be used as the basis to approve a building that is more than double the applicable maximum building height. The Campbelltown Precinct Plan details no building heights for the commercial and retail core of the precinct. Other areas within the Campbelltown precinct (e.g. the high rise residential and mixed use areas) include suggested building heights. The lack of suggested building heights for the commercial and retail core suggests that either the current building heights are appropriate or that further strategic planning work is required due to the complex environment in this area. It may be the case that as a result of the corridor strategy Campbelltown's skyline will change significantly in the future. However, approval of the proposed development would be premature in the sense

that it would presuppose that the outcome of any future rezonings would be a built form within the Campbelltown Regional City Centre that is compatible with the height of the proposed building, whereas that may not be the case.

Strategic planning work to be undertaken subsequent to the release of the Glenfield to Macarthur Corridor Strategy would include traffic and parking assessments for the Campbelltown Regional City Centre as well as view corridor and visual amenity analysis. The Corridor Strategy also makes provision for infrastructure upgrades that would be required by an uplift in development intensity within Campbelltown. In the absence of certainty about these strategic considerations, which is not presently available, the standards within the Campbelltown Local Environmental Plan 2015 should prevail, as these were implemented following detailed strategic planning analysis and public consultation in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* in the local context. Accordingly, the argument that the inevitable changes to Campbelltown's Regional City Centre in the future should be used as justification for approving in the present a building that is more than double the applicable height limit is not accepted.

- The development would not unreasonably impact on the visual plane along Queen Street, nor from distant views. From Queen Street the building is partially screened by existing buildings. The massing of the building has been carefully considered in the context of 'fitting in' with the character of the area and more importantly the heritage listing of the subject property and the conservation area in general. The articulated contemporary design makes use of attractive vertical and horizontal building elements while also varying the material, finishes and colours of the building's facade. This provides visual interest when viewing the development from the public domain and ensures that the proposed building will make a positive contribution to the redevelopment of the locality and the Campbelltown Town Centre generally.

Council response: No evidence has been provided to demonstrate that the proposed development would not negatively impact upon distant view corridors. A building of the height proposed is likely to significant affect views of the Campbelltown Regional City Centre, however there is no analysis within the application about what effect the proposed development would have in this regard. Notwithstanding this, view corridor analysis is an important element of strategic planning that would be likely to occur as part of any Planning Proposal for the Campbelltown City Centre. This proposal seeks to precede such strategic planning efforts and for this reason, this argument is rejected.

In terms of the architectural design of the proposed development, the building is considered to be deficient in a number of key areas. The side-facing facades (north and south elevations) are bland and contain very little activation. Small windows are proposed in these locations with limited fenestration. The side elevations contain minimal colour variation, and contain blank vertical column elements. The proposed building would have a high level of visibility from all sides, and accordingly, all of the building's facades should be treated like front facades in terms of their architectural significance. As the side-facing elevations of the building fail to achieve an appropriate level of architectural significance, the argument that the proposed building will make a positive contribution to the Campbelltown Town Centre is not accepted.

- The proposed building has been designed to minimise amenity impacts such as overshadowing, visual privacy and bulk and scale.

Council response: Council agrees that the proposed building would not create visual privacy issues, however does not agree that the overshadowing and scale of the proposal would be minimal.

The scale of the proposal as measured by its height clearly far exceeds that envisaged by the Campbelltown Local Environmental Plan 2015, and far exceeds that of any other surrounding building.

With regard to overshadowing, the height of the proposed building is such that it would significantly overshadow buildings within the Queen Street heritage precinct between approximately 11am to 1pm. Reducing the sunlight received by a heritage item can cause issues with damp and can negatively affect the amenity of these places. If this occurred it in turn reduces the likelihood that heritage items would be occupied and affects the heritage item's overall likelihood of long term survival.

- The design of the proposed building is generally consistent with applicable planning controls contained within the CLEP 2015 and CDCP 2015. The height, boundary setbacks, depth and length of levels, deep soil landscaping, car parking, and solar access are generally compliant with development standards and controls in the CLEP 2015 and CDCP 2015 that are applicable to the site.

Council response: This assessment report shows that the proposed development fails to comply with several standards within the CLEP 2015 and CDCP 2015, including building height, side and rear setbacks, deep soil landscaping width and car parking. It should also be noted that even if the proposed development was fully compliant in this regard, that would not constitute justification for exceeding the maximum building height.

(4) Development consent must not be granted for development that contravenes a development standard unless:
    (a) the consent authority is satisfied that:
        (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
        (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

In response to the requirement that the development be in the public interest because it is consistent with the objectives of the particular standard and the zone objectives, the applicant provided the following information:

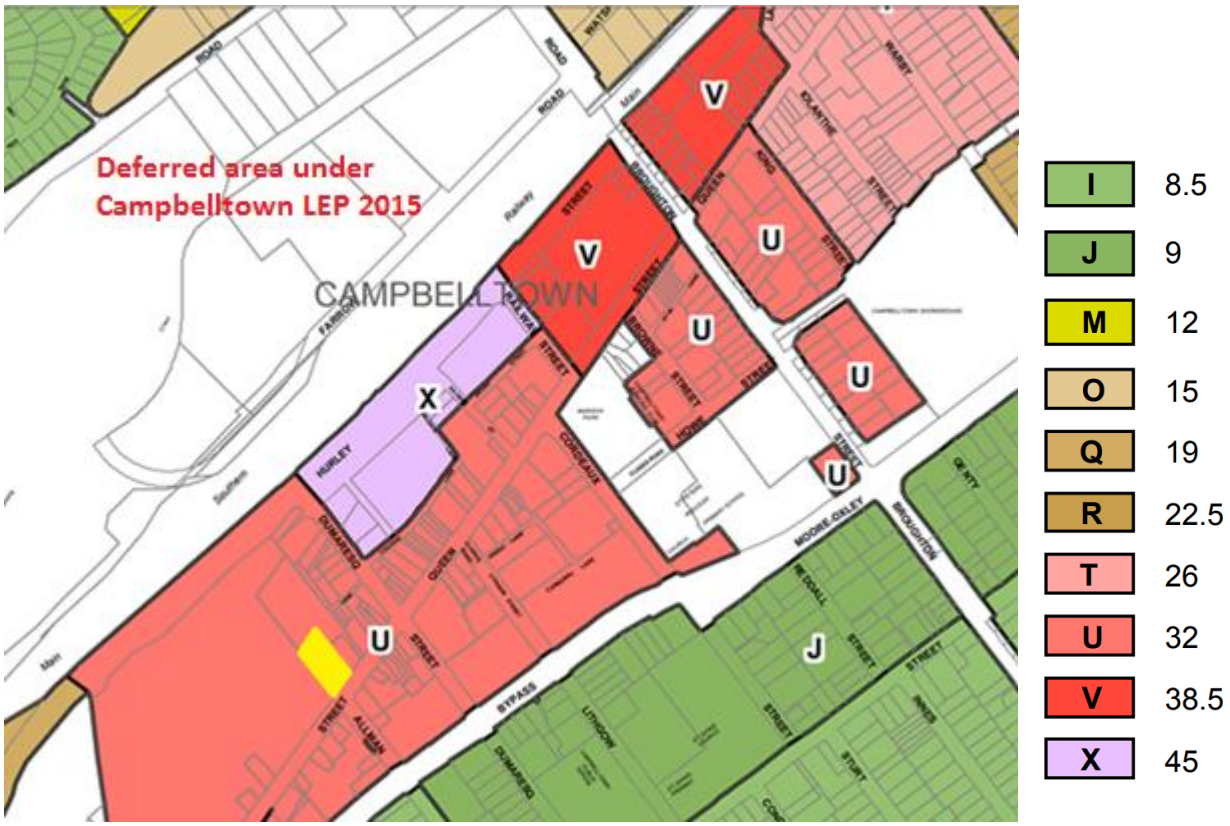
"It is considered that the public interest is better served as a consequence of the variation of the development standard of CLEP 2015 due to the constraints imposed by the heritage item on the property. Clearly the public interest is providing employment opportunities within the commercial component of the mixed use development and potentially in the hospitality industry for the growing population close to all amenities and services that are available in Campbelltown and more importantly conserving a significant state heritage item in the Campbelltown CBD and its adaptive reuse."

Council is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and is not satisfied that the proposed development is in the public interest, because it is inconsistent with the objectives of the height standard. The height of the proposed development is not supported for the following reasons:

- The first objective of Council's maximum building height standards, with the key phrase underlined, is listed below:

"To nominate a range of building heights that will provide a transition in built form and land use intensity across the Campbelltown Local Government Area"

The objective clearly specifies that there should be a transition in building heights. In this regard, an excerpt of the gazetted maximum building height is provided below, with the subject site highlighted in yellow.



The site is located within an area that has a maximum building height of 32 metres. As the building height map shows, the maximum building height is highest in close proximity to the Campbelltown Railway Station, and transitions gradually to lower building heights the further a site is from the railway station. At a height of 74 metres, the proposed building would clearly be inconsistent with the objective of establishing a height transition within Campbelltown (as would a building of 15 storeys or 45 metres in this location, as the developer is intending to proceed with). In fact, the proposed building would be higher than the maximum building height of any property within the Campbelltown Regional City Centre, and such an outcome would be clearly visually perceptible to the public as it would create a disorderly height plane for the city centre.

- The second objective of Council's maximum building height standards outlines certain considerations that go into the selection of maximum building heights. This objective is outlined below:

"*To ensure that the heights of buildings reflect the intended scale of development appropriate to the locality and the proximity within and to business centres and transport facilities"*

With regard to development that has an appropriate scale for its locality, it is noted that the area within the vicinity of the subject site, as well as the 32 metre maximum building height area generally, contains several heritage items, whereas the areas with maximum building heights of 38.5 metres and 45 metres are relatively unencumbered in this regard. Hence, lower building heights in these areas are more appropriate in order to avoid overshadowing impacts and incompatibility of built form with regard to these heritage items.

In addition, the parts of the City Centre that have the highest maximum building heights are the lowest points within the City Centre, as the terrain slopes downward in a generally east to west direction, so taller buildings in those areas would have less of an impact on distant view corridors within the Campbelltown local government area.

Similarly, with regard to proximity to transport facilities, the maximum building height plane has clearly been designed to locate higher scale development closer to Campbelltown Railway Station, with building height tapering down commensurate with the scale of development. Whilst Council's maximum building height map does not anticipate buildings of the height proposed, it would be expected that a building of the scale proposed would be located in very close proximity to the railway station. However, the subject site is located over 600 metres from the railway station, and its applicable maximum building height reflects its distance from the station.

- The fourth objective of Council's maximum building height standards is:

"To assist in the minimisation of opportunities for undesirable visual impact, disruption to views, loss of privacy and loss of solar access to existing and future development and to the public domain"

As previously mentioned, no evidence has been provided to demonstrate that the proposed development would not negatively impact upon distant view corridors, and in terms of the architectural design of the proposed development, the building is considered to be deficient in a number of key areas. Similarly, the proposed building would significantly overshadow buildings within the Queen Street heritage precinct. In this regard, the height of the building is considered to be inappropriate as it fails to satisfy this objective.

- Whilst there is no specified limit on the magnitude of a proposed variation to a development standard that is able to be considered under Clause 4.6, subclause 1(a) lists as one of the objectives of the clause, to provide "an appropriate degree" of flexibility in applying certain development standards to particular development. Given the extent of the variation proposed (a more than doubling of the applicable height standard) and the significant impacts that the proposed variation would have, as detailed in this report, it is considered that the proposed variation is outside the scope and intent of Clause 4.6. In this regard, a Planning Proposal, either for the site in isolation or the entire city centre, would be a more appropriate mechanism by which to consider a development of the scale proposed, given the strategic implications that approval of the proposal would have.

Subclause 4(b) of Clause 4.6 requires the concurrence of the Secretary to be obtained in respect of a proposed variation to a development standard, prior to which the Secretary must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
(b) the public benefit of maintaining the development standard, and
(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

In May 2008, Planning Circular PS 08-003 advised Councils that arrangements for the Director-General's concurrence can be assumed in respect of any environmental planning instrument that adopts clause 4.6 of the Standard Instrument or similar clause, which provide for exceptions to development standards, so a referral to the Director-General is not required in this case.

In terms of consideration of subclauses (a) and (b) above, which are particularly relevant, the following is noted:

- The public benefit of maintaining the development standard would be significant, given the plethora of detrimental impacts and adverse strategic outcomes that approval of the proposed variation to the standard would cause.

- Contravention of the development standard would indeed raise matters of significance for State and regional environmental planning. Approval of a development that deviates so far from the applicable development standards would jeopardise the strategic planning process that is currently occurring following the release of the Glenfield to Macarthur Corridor Strategy. Approval of this application would be premature in the sense that it would presuppose that the outcome of any future rezonings would be a built form within the Campbelltown Regional City Centre that is compatible with the height of the proposed building, whereas that may not be the case.

For the reasons outlined above, the applicant's objection to the maximum building height pursuant to clause 4.6 is not accepted.

<u>Height restrictions for certain residential accommodation</u>

A dwelling that is either contained within a residential flat building or that forms part of shop-top housing shall not be higher than two storeys. All of the apartments within the proposed building would be single storey, and the proposed development therefore satisfies this provision.

<u>Mixed use development in Zone B3 and Zone B4</u>

(1) The objective of this clause is to promote employment opportunities and mixed use development in Zone B3 Commercial Core and Zone B4 Mixed Use.

The building would contain a retail shop and business premises at street level and would therefore promote employment opportunities within the B4 Mixed Use zone.

(2) This clause applies to land in Zone B3 Commercial Core and Zone B4 Mixed Use.

The subject site has a zoning of B3 Commercial Core under the CLEP 2015.

(3) Development consent must not be granted to the erection of a building that will contain a residential component, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that:

(a) the building will have an active street frontage after its erection or change of use, and

The building would contain commercial premises at street level and would therefore have an active street frontage as defined by the definition below. It is also noted that the existing CBC Bank building gives the site an active frontage.

(b) the ground floor will only accommodate non-residential land uses, and

The ground floor will only accommodate non-residential land uses.

(c) if the land is in Zone B3 Commercial Core—the building will have at least one additional level of floor space, immediately above the required non-residential ground floor, that is also set aside for non-residential land uses.

The subject site is within Zone B3 Commercial Core. The first two levels of the building are proposed to contain retail/commercial premises only.

(4) Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following:
(a) entrances and lobbies (including as part of mixed use development),
(b) access for fire services,
(c) vehicular access.

An entrance/lobby, access for fire services and vehicular access are provided at ground level.

(5) In this clause:

active street frontage, of a building, means that all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.

non-residential land uses includes uses for the purposes of commercial premises, medical centres, recreation facilities (indoor) and other similar uses but does not include car parking.

Design Excellence

The objective of this clause is to deliver the highest standard of architectural and urban design, as part of the built environment. This clause applies to development involving the construction of a new building or external alterations to an existing building in the B3 Commercial Core zone.

Development consent must not be granted to development to which this clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.

In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:

(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,
(c) whether the proposed development detrimentally impacts on view corridors,
(d) how the proposed development addresses the following matters:
    (i) the suitability of the land for development,
    (ii) existing and proposed uses,
    (iii) heritage issues and streetscape constraints,
    (iv) bulk, massing and modulation of buildings,
    (v) street frontage heights,
    (vi) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,
    (vii) the achievement of the principles of ecologically sustainable development,
    (viii) pedestrian, cycle, vehicular and service access, circulation and requirements,
    (ix) impact on, and any proposed improvements to, the public domain,
    (x) the interface with the public domain,
    (xi) the quality and integration of landscape design.

There is significant concern that the proposed development would negatively impact upon distant view corridors. A building of the height proposed is likely to significant affect views of the Campbelltown Regional City Centre and may bisect views to and from high points within the semi-rural parts of Campbelltown. However, the application contains no analysis within the application about what effect the proposed development would have in this regard.

In terms of the architectural design of the proposed development, the building is considered to be deficient in a number of key areas. The side-facing facades (north and south elevations) are bland and contain very little activation. Small windows are proposed in these locations with limited fenestration. The side elevations contain minimal colour variation, and contain blank vertical column elements. The proposed building would have a high level of visibility from all sides, and accordingly, all of the building's facades should be treated like front facades in terms of their architectural significance. However, the side-facing elevations of the building fail to achieve an appropriate level of architectural significance that is appropriate for the proposed building's level of visibility.

For the reasons above, the proposed building is not considered to exhibit design excellence.

Heritage Conservation Incentives

Pursuant to this clause, the consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:
(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

The applicant has indicated that the application seeks to utilise this clause in seeking consent for a taller building than would otherwise be allowed by the CLEP 2015. However, the applicant has not sought to demonstrate how each of the above subclauses have been satisfied. Notwithstanding this, given that the Heritage Council has refused to issue its General Terms of Approval in respect of the proposal and that this report contends that the proposed development would indeed have significant adverse effects on the amenity of the surrounding area, it is considered that the criteria outlined above for the use of the heritage conservation incentives have not been met by the application.

2.6 Campbelltown (Sustainable City) Development Control Plan 2014

Part 2 – Requirements Applying to All Types of Development

The general provisions of Part 2 of the Plan apply to all types of development. Compliance with the relevant provisions of Part 2 of the Plan is discussed as follows:

Views and Vistas – The proposed development would not obstruct views of any of Campbelltown's important views and vistas.

Sustainable Building Design – A BASIX certificate has been submitted for the proposed apartment building demonstrating that the relevant water, energy and thermal comfort targets will be met. However, based on the roof size of the proposed building, a 5,000 litre rainwater tank is required to be provided, but this has not been included as part of the proposal.

Landscaping – A landscape plan has been prepared by a landscape architect, incorporating species from the Campbelltown Native Gardening Guide. The application provides an adequate amount of landscaping within the communal open space at the rear of the site and at the street and podium levels.

Stormwater – Council's Development Engineer reviewed the stormwater plans and advised that the plans contain the following deficiencies:

a) Stormwater runoff from all roof and paved areas within the property are required to be collected in a system of gutters, pits and pipelines and be discharged together with overflow pipelines from any rainwater tanks directly into Council's piped drainage system by gravity. This has not been demonstrated.
b) All plumbing within the site is required to be carried out in accordance with Australian Standard AS/NZS 3500.3-2015 Plumbing and Drainage – Stormwater Drainage. This has not been demonstrated.
c) The proposed 375mm diameter stormwater connection from the site to Council's gully pit would increase the pit loss coefficient. Calculations and hydraulic grade line analysis are required demonstrating that the proposed connection would not adversely impact on the operation of Council's stormwater system, however no such information has been provided. An onsite detention system may be required for the site if the downstream Council drainage system does not have sufficient capacity to cater for the additional stormwater from the site.
d) The effective storage area provided in the basement pump facility is inconsistent between the report, Statement of Environmental Effects, and stormwater drainage concept plan.
e) The basement pump rate has been set at the inflow, whereas the pump rate is required to be based on an allowable discharge rate determined from the capacity of the street drainage system.
f) The stormwater drainage concept plan fails to show all subsoil drains and fails to demonstrate that they would be located entirely within the property boundary.

Retaining Walls – In the case of retaining walls constructed to support proposed cut on an allotment, the retaining wall shall be setback a minimum of 450mm from the rear and side boundary of the lot containing the cut. The proposed development does not comply with this standard, as the edges of the proposed basement would abut the property boundaries. However, such a configuration is considered to be appropriate in a dense mixed use context, where eventually the adjoining site is likely to have a basement car park abutting its property boundary. In a high density residential context the risk of retaining wall failure (particularly for a basement car park) is considered to be very low.

Security – The proposed development is satisfactory with regard to security. Appropriate delineation between public and private space would be provided, and casual surveillance opportunities have been incorporated into the design. A satisfactory amount of external lighting is proposed.

Waste Management – The application was referred to Council's Waste Management section, who advised that the proposed development has the following deficiencies with regard to waste management:

a. The application does not demonstrate that on-site collection of bins would be able to be carried out. In this regard:

    i. Demonstration that a 10.4 metre long collection vehicle can safely enter and leave in a forward direction, by providing swept path vehicle turning templates, has not been provided.

ii. The plans indicate a ceiling height for the level 1 basement of approximately 4.5 metres, which is 700mm below the minimum operating height of 5.2 metres for servicing bins.

b. A garbage room is indicated on each residential floor containing two chutes and 1 x 240L Mobile Garbage Bins within each room. The purpose of a two-chute system is not explained and failing any justification, the proposed system is not supported. The concern with a two-chute system is that residents will use one for disposal of recyclables rather than using the dedicated commingled bin, which defeats the purpose of source separation resulting in the majority of recyclables entering the waste stream and landfilled over time.

c. Garbage bins should be 1,100 litres instead of 240 litres, in order to reduce bin numbers and enable servicing by a rear loader vehicle. This would also create space for storage of additional 'changeover' recycling Mobile Garbage Bins in the Bin Storage Room.

Part 5 – Residential Apartment Buildings and Mixed-Use Development

Control	Required	Proposed	Compliance
Height	Ten storeys	21 storeys	No
Building Design	Building design shall consider foremost the qualities (both natural and built) and character of the surrounding area including the significance of any heritage item on land. Building design shall incorporate the following features to assist in the achievement of high quality architectural outcomes:	The building would overshadow the nearby Queen Street heritage precinct, and fails to consider the impact on distant view corridors.	No
	i) incorporation of appropriate facade treatments that helps the development to properly address the relevant street frontages, key vistas and to add visual interest to the skyline;	The side elevations of the proposed building fail to properly address the relevant street frontages and key vistas and to add an appropriate level of visual interest to the skyline.	No
	ii) incorporation of articulation in walls, variety of roof pitch, architectural features (balconies, columns,	The sides of the building contain bland vertical elements, and the roof does not contain interesting	No

Control	Required	Proposed	Compliance
	porches, colours, materials etc.) into the facade of the building;	architectural features.	
	iii) variation in the planes of exterior walls in depth and/or direction;	Satisfactory	Yes
	iv) variation in the height of the building so that it appears to be divided into distinct base, middle and top massing elements;	Satisfactory	Yes
	v) articulation of all building's facade (including rear and side elevations visible from a public place) by appropriate use of colour, arrangement of facade elements, and variation in the types of materials used;	The side elevations of the buiding are not satisfactorily articulated and contain insufficient articulation.	Yes
	vi) utilisation of landscaping and architectural detailing at the ground level; and	Satisfactory	Yes
	vii) avoidance of blank walls at the ground and lower levels.	Satisfactory	Yes
	Building design shall demonstrate to Council's satisfaction that the development will:		
	i) facilitate casual surveillance of and active interaction with the street;	Satisfactory	Yes
	ii) be sufficiently setback from the property boundary to enable the planting of vegetation to soften the visual impact of the building; and	Satisfactory	Yes

Control	Required	Proposed	Compliance
	iii) maximise cross flow ventilation, therefore minimising the need for air conditioning.	Satisfactory	Yes
	e) Building colours, materials and finishes shall generally achieve subtle contrast. The use of highly reflective or gloss materials or colours shall be minimised.	Satisfactory	Yes
	f) Building materials shall be high quality, durable and low maintenance.	Satisfactory	Yes
Site Services	Development shall ensure that adequate provision has been made for all essential services (i.e. water, sewerage, electricity, gas, telephone, broadband and stormwater drainage)	Satisfactory	Yes
	All roof-mounted air conditioning or heating equipment, vents or ducts, lift wells and the like shall not be visible from any public place and shall be integrated into the design of the development.	The lift well is the tallest component of the building and protrudes well above the habitable part of the building. The magnitude of its protrusion appears to be unnecessary.	No
	All communication dishes, antennae and the like shall be located to minimise visual prominence.	None proposed.	Yes
	An external lighting plan shall be prepared by a suitably qualified person and submitted with the development application.	An external lighting plan was not provided with the application.	No
Minimum Site Area/Width	1,200sqm site area 30 metre width	2,216sqm 32.055 metres	Yes Yes

Control	Required	Proposed	Compliance
Setbacks	Zero setback from street boundary for commercial component and 5.5 metres for any residential component	Complies	Yes
	6.0 metres from any other boundary	The proposed development contains several protrusions into the required 6 metre setback. No justification for this was provided.	No
Design Requirements	A minimum of 5% of the total number of dwellings within a residential apartment building shall be one bedroom apartment(s) or a studio(s).	26 one bedroom apartments proposed (26%) plus 13 one-bedroom dual-key apartments.	Yes
	A minimum of 10% of the total number of dwellings within a residential apartment building shall be adaptable dwelling(s)	10 apartments (10%) would be adaptable.	Yes
	The floor space occupied by each dwelling within a residential apartment building shall no be less than: i) 40sqm in the case of a studio apartment; ii) 60sqm in the case of a one bedroom apartment; iii) 90sqm in the case of a two bedroom apartment; iv) 125sqm in case of a three bedroom apartment or more	The apartment sizes comply with those outlined within the Apartment Design Guidelines. Pursuant to SPP 65, if a DCP standard requires larger apartment sizes it shall be of no effect.	Satisfactory
	A maximum of 8 dwellings shall be accessible from a common lobby area or corridor on each level of a residential building	Complies	Yes

Control	Required	Proposed	Compliance
	All residential apartment buildings shall contain at least one lift for access from the basement to the upper most storey that provide access to a dwelling space.	Complies	Yes
	A maximum of 50 dwellings shall be accessible from a single common lift.	101 dwellings (114 including dual-key apartments) would be accessed from 2 lifts	No
	Access to lifts shall be direct and well illuminated.	Satisfactory	Yes
	A minimum of 25% of the required open space area, or 15% of the total site area, whichever is the greater, shall be available for deep soil planting.	The total deep soil areas (270sqm) would exceed 15% of the part of the site to be occupied by the proposed building.	Yes
Car Parking and Access	All car parking and access for vehicles, including disabled access spaces, shall be in accordance with AS2890 parts 1 and 2 (as amended)	The proposed development fails to achieve compliance with AS2890. This is discussed in detail later in this report.	No
	The minimum dimensions of any parking space shall be 2.5 x 5.5 metres.	Complies with Australian Standards.	Satisfactory
	The minimum width of any car parking space shall be increased by 300mm for each side that adjoins a vertical edge.	Complies	Yes
	For development incorporating 75 or more dwellings, the DA shall be accompanied by a 'Traffic Impact Assessment Report'.	Provided	Yes

Control	Required	Proposed	Compliance
	Where existing, vehicular entry points shall be located at the rear or side streets.	No rear/side streets available.	Yes
	Development containing three or more storeys shall provide all required car parking at basement level.	Complies	Yes
	Each dwelling shall be provided with a minimum of one car parking space, and: i) an additional car parking space for every four dwellings (or part thereof); and ii) an additional visitor car parking space for every 10 dwellings (or part thereof).	Complies with ADG/RMS parking requirements for sites within 800 metres of a train station.	Satisfactory
	No required car parking space shall be in a stacked configuration.	Six stacked car parking spaces are proposed.	No
	Each development shall make provision for bicycle storage at a rate of one space per five dwellings within common property.	Complies	Yes
	Adequate on-site parking, loading and unloading of all delivery/service vehicles	The development fails to make adequate provision for on-site waste collection.	No
Solar Access	Buildings shall be orientated and sited to maximise northern sunlight to internal living and open spaces.	Satisfactory	Yes
	A minimum 20sqm area of the required private open space on adjoining land, (having a minimum width of 3.0	The shadow cast by the proposed building would not reach any other residences.	Yes

Control	Required	Proposed	Compliance
	metres), shall receive three hours of continuous direct solar access on 21 June, between 9.00am and 3.00pm, measured at ground level.		
Balconies and Ground Level Courtyards	Apartments shall be provided with a private courtyard and/or balcony. Courtyards / balconies shall be:		
	i) not less than 8sqm in area and have a minimum depth of 2.0 metres;	Complies with ADG balcony standards.	Satisfactory
	ii) clearly defined and screened for private use;	There appears to be overlooking between balconies at the northern and southern ends of the building.	No
	iii) oriented to achieve comfortable year round use; and	Satisfactory	Yes
	iv) accessible from a main living area of the apartment.	Complies	Yes
Privacy	No window of a habitable room or balcony shall be directly face a window of another habitable room, balcony or private courtyard of another dwelling located within 9.0 metres of the proposed window or balcony.	There appears to be overlooking between balconies at the northern and southern ends of the building.	No
Communal Recreation Facilities	Each residential apartment building shall be provided with communal recreation facilities for the use of all the occupants of the building comprising: i) a recreation room with a minimum area of	A 100sqm recreation room is required,	No

Control	Required	Proposed	Compliance
	a 50sqm per 50 dwellings (or part thereof); and	however no recreation room is proposed.	
	ii) a barbeque/outdoor dining area with a minimum area of 50sqm per 50 dwellings (or part thereof).	The proposed barbeque/ outdoor dining area would have an area of 80sqm, however this is compensated for by the proposed pool area.	Yes
	Communal recreation facilities shall not be located within the primary or secondary street boundary setback.	Communal recreation facilities would not be located within the primary or secondary street boundary setback.	Yes
	All communal recreational facilities shall be provided on the same land as the residential apartment building.	Communal recreational facilities would be provided on the same land as the residential apartment building.	Yes
Roof Terraces	Consideration will only be given to the provision of a roof top terrace as part of the communal open space, subject to appropriate landscaping treatment and recreation facilities being provided; and satisfying the respective provisions of the RFDC.	Rooftop communal open space is appropriate in this highly urban location, as ground level communal open space would have worse amenity than a rooftop area. Adequate recreation facilities would be provided on the rooftop as well as landscaping.	Yes

Part 6 – Commercial Development

Control	Required	Proposed	Compliance
Car parking	Ground level – 1 space per 25sqm GFA (7.32 based on 183sqm) First floor – 1 space per 35sqm GFA (8.54 based on 299sqm) Total commercial parking required = 15.86 (16)	12 commercial spaces	No
Loading	Loading bays shall be separated from parking and pedestrian access	Complies	Yes
	All loading shall take place wholly within the site	Complies	Yes
	No loading or unloading shall be carried out across parking spaces, landscaped areas, pedestrian aisles or on roadways	Complies	Yes
	Each new commercial unit having a gross floor area up to 200sqm shall provide a loading area to allow for a small rigid vehicle to manoeuvre on site	The loading area is shared with the residential garbage collection bay, which would not allow both functions to be carried out simultaneously.	No
	Loading areas shall not be visible from public places	Complies	Yes

2. Other Planning Issues

Geotechnical Engineering

As the proposed development includes significant excavation within the zone of influence of adjacent Heritage Buildings, a preliminary integrated Structural and Geotechnical Engineering report was requested, however was not provided. Of particular importance, the following information was requested for inclusion in such a report:

a) The appropriate means of excavation/shoring in light of proximity to adjacent properties and structures and specifically the heritage buildings.

b) The proposed method to temporarily and permanently support the excavation for the basement adjacent to the adjoining properties and structures.

c) Recommendations for the satisfactory implementation of the works, including control levels for vibration, shoring support, ground level and groundwater level movements during construction.

d) Recommendations to allow the passage of subsurface and ground water around the basement structure without impacting on adjoining properties.

Traffic engineering

The site's location within the road network as well as the location of the heritage building on the site and the presence of a significant heritage item adjoining the site to the northeast makes vehicular access to the site difficult.

At present, the site contains two driveways, one on either side of the heritage building, one of which is for ingress and one for egress. The Heritage Council of NSW has made clear that maintaining vehicular access on the north-eastern side of the heritage building (i.e. between the former bank building and former post office building) and in particular, the provision of a basement ramp in this location, would not be supported. This is because such a configuration would inhibit the appreciation and interpretation of the two heritage buildings in their original context.

Accordingly, the south-western portion of the site has been selected as the sole vehicular ingress and egress point. Two-way vehicle access is proposed in this location, for a length of approximately 12 metres into the site. The width of the driveway then tapers to 3.6 metres and becomes a one-way access system controlled by traffic signals. The 12 metre long two-way component allows for a holding area of two cars. The traffic signal system would operate on the following basis:

• The inbound lane would always be green except when an exiting vehicle generates a call away to red for an exit movement green (approximately 10 seconds).
• Inbound vehicles would be held on a red light at the top of the ramp (for approximately 10 seconds) in the event of an exiting vehicle.
• Once an exiting vehicle has cleared the ramp, inbound vehicles will resume with a green display signal and outbound vehicles will face a red display.

The applicant's traffic consultant contends that this arrangement would be satisfactory given the expected additional traffic volumes generated by the development would be 1.5 vehicles (either in or out) per minute in peak times.

It must be noted that whilst there is an existing driveway at the location of the proposed driveway, this location does not comply with Australian Standard AS2890.1:2004 – Parking Facilities, as it is within an intersection of two roads, and the proposed development would intensify the use of this vehicle access point.

Council's Traffic Engineers have reviewed the proposed development and have found it deficient in the following areas:

a. The impact of the proposed vehicular access arrangements on pedestrians in Queen Street has not been discussed or quantified, and addressed. Pedestrian/vehicular conflict has not been quantified or addressed, in particular how prioritised vehicular movements on the driveway would prevent queuing across the footpath and roadway.

b. The application does not address the impact of traffic on the local street network, in particular traffic distribution of vehicles entering and exiting the site within the immediate surrounding street network.

c. The application does not address the impact of the development on the neighbouring intersections and network. The traffic impact assessment has been undertaken only for the intersection of Queen Street and Allman Street, which is not sufficient to assess the impact of the proposed development on the traffic network. The following key intersections have not been assessed:
   - Hurley Street/Dumaresq Street
   - Hurley Street/Narellan Road
   - Dumaresq Street/Queen Street
   - Dumaresq Street/Moore Oxley Bypass
   - Queen Street/Allman Street/access driveway to 263 Queen Street
   - Queen Street/Camden Road
   - Queen Street/Broughton Street
   - Bradbury Avenue/Moore Oxley Bypass

d. The traffic modelling provided with the application does not consider the impact of future development within the Campbelltown City Centre.

e. Turning path diagrams have not been provided demonstrating that:
   i. Vehicles can satisfactorily gain access to and egress from the site across the footpath area.
   ii. Service vehicles can address the loading area from Queen Street and vice versa moving in a forward direction.
   iii. Adequate two-way vehicular movement in the basement car park particularly along the ramps between the different floors is achievable.

f. The proposed performance solution to address the situation of a traffic signal ingress/egress system at a prohibited access location is not acceptable, as the proposed inbound queuing area does not provide sufficient vehicular queuing with regard to the capacity of the car park and peak hourly in-flow of traffic. In addition, the outbound queuing area size and associated impact on vehicular manoeuvring into/out of parking

spaces as well and vehicular movement on the circulation driveway has not been adequately considered.

g. Manoeuvring onto internal ramps relies on vehicles moving across to the right hand side of the aisle, which would create confusion at some locations.

h. The gradient of the access driveway exceeds 5% for its first six metres, which fails to comply with AS2890.1:2004 – Parking facilities.

Emergency vehicle access

Council raised the issue of emergency vehicle access with the applicant, given that a fire truck or ambulance would be unlikely to gain access to the building in close proximity to the ground level, and if a fire truck parked within the development's driveway, it may prevent evacuation from the building. Council advised the applicant to consult with Fire and Rescue NSW regarding emergency vehicle access, however this does not appear to have occurred.

Trees

There are two trees located on the site (a Peruvian pepper tree and a Virginia juniper tree), located in the vicinity of the bank building on its southern side near the entrance to the site. The trees do not have heritage value. There is a row of native trees located on the adjoining site to the south (Campbelltown Mall), in close proximity to the boundary with the subject site. The application does not demonstrate that the health of these trees would not be detrimentally affected by excavation associated with the proposed development, as an arborist report was not submitted with the application.

3. Public Participation

The application was publicly exhibited and notified to nearby and adjoining residents on two occasions (once for the original proposal and once for the amended plans). Council has received 28 submissions raising the following issues:

Issue

The subject site is inappropriate for a 21 storey building as it contains an important heritage item and is located nearby the Queen Street heritage precinct.

Comment

This objection is considered to be sound and reasonable. The proposed building exceeds the applicable maximum building height by a significant amount, and the Heritage Council of NSW has refused to issue its concurrence to the application.

Issue

The proposed development would overshadow the former CBC Bank and the Queen Street heritage precinct and would negatively affect its visual integrity.

Comment

This objection is considered to be sound and reasonable. The extent of overshadowing of the surrounding heritage items and Heritage Conservation Area is significant, and would permanently alter the amenity of the area and potentially jeopardise the ongoing viability of the precinct.

Issue

The CBC Bank building and adjoining former post office building may be damaged by the proposed construction, particularly basement excavation. The application fails to mention subterranean water flow across the site.

Comment

As the proposed development includes significant excavation within the zone of influence of adjacent Heritage Buildings, a preliminary integrated Structural and Geotechnical Engineering report addressing these issues was requested, however was not provided by the applicant.

Issue

The construction process would cause noise and dust pollution and disruption to local businesses.

Comment

These issues are typically addressed via conditions and operational plans, and are not a reason for the application to be refused.

Issue

High density living and large scale overshadowing can cause mental health issues for residents.

Comment

Whilst this may be the case, it is beyond the scope of this application to address holistically for the entire local government area. However, it is noted that the proposed development fails to include an indoor recreation area as required by Council's Development Control Plan.

Issue

The height of the proposed building would be incompatible with Campbelltown's skyline, would affect views across the Campbelltown local government area, and would create an undesirable precedent that would cause Campbelltown to be indistinguishable from Liverpool or Parramatta.

Comment

This objection is considered to be sound and reasonable, and the proposal fails to consider the visual impact of a building of the height proposed within Campbelltown's particular topographical context or the need for a gradation of heights within the Campbelltown City Centre.

Issue

The proposed development would put pressure on car parking demand within the Campbelltown City Centre as the proposed number of car parking spaces is inadequate.

Comment

The Apartment Design Guide allows lower car parking rates to be used for apartments located within 800 metres of a railway station. The proposed development complies with these standards, however the proposed development fails to provide a compliant number of residential visitor parking spaces and commercial parking spaces.

Issue

Emergency vehicles may not be able to access and serve the proposed building's residents easily.

Comment

Council raised the issue of emergency vehicle access with the applicant, given that a fire truck or ambulance would be unlikely to gain access to the building in close proximity to the ground level. Council advised the applicant to consult with Fire and Rescue NSW regarding emergency vehicle access, however this does not appear to have occurred. Accordingly, this objection is considered to be sound and reasonable.

Issue

Vehicular access into and out of the site would conflict with the high levels of pedestrian movements along Queen Street.

Comment

As stated earlier, the impact of the proposed vehicular access arrangements on pedestrians in Queen Street has not been discussed or quantified by the application. Pedestrian/vehicular conflict has not been quantified or addressed either.

Issue

The proposed development fails to incorporate any affordable housing.

Comment

The planning controls applicable to this application do not require the provision of affordable housing.

Issue

The area provided for storage of waste bins would be inadequate.

Comment

Whilst the proposed waste storage area is adequate in size, the building's waste servicing arrangements are inadequate, as described earlier in this report, as the ceiling height of the basement would not be high enough to allow for on-site waste collection, and a garbage truck would not be able to collect waste while commercial loading operations are being undertaken.

Issue

Appropriate recreation facilities for families have not been incorporated into the proposed development.

Comment

This objection is considered to be sound and reasonable, as the proposed development fails to include an indoor recreation area as required by Council's Development Control Plan.

Issue

An acoustic assessment should be provided to demonstrate that Campbelltown Mall would not impact upon the proposed dwellings.

Comment

Were the application to be approved, an acoustic assessment could be required to be undertaken as a condition of approval, however this report recommends refusal of the application.

4. Conclusion

This application has been assessed against the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979. Having regard to these provisions, the application has been found to be deficient in several areas.

The Heritage Council of NSW has refused to issue its General Terms of Approval in respect of the application. Pursuant to Section 4.47 of the Environmental Planning and Assessment Act 1979, if an integrated development approval body informs the consent authority that it will not grant an approval that is required in order for the development to be lawfully carried out, the consent authority must refuse consent to the application.

In addition to the above, the proposed development fails to satisfy several design quality principles within SEPP 65, as well as several standards within the Apartment Design Guide. The application fails to comply with the applicable maximum building height for the site under the draft Campbelltown Local Environmental Plan 2014 (now gazetted as Campbelltown Local Environmental Plan 2015) by a significant amount, and the applicant's objection to this standard under clause 4.6 of the LEP is not well founded. The height of the proposed building would cause significant amenity issues for the immediate locality as well as the City of Campbelltown in its entirety, as discussed in this report. The application also fails to comply with several standards within the Campbelltown Development Control Plan 2014.

The proposed development has been found to be unsatisfactory with regard to traffic and vehicular access, geotechnical engineering, emergency vehicle access, and impact on trees. Numerous well-founded objections to the application by members of the community have been received, which reinforce the concerns raised within this report.

For the reasons outlined within this report, the subject site is not considered to be appropriate for the proposed development, and approval of the application would not be in the public interest.

Officer's Recommendation

That development application 493/2016/DA-RA proposing the restoration of the existing heritage-listed former CBC Bank building, demolition of the existing commercial building at the rear of the site, construction of a 21 storey building at the rear of the site incorporating two levels of commercial tenancies and 101 residential apartments over 19 levels, and four levels of basement car parking be refused for the reasons outlined below:

1. Pursuant to the provisions of section 4.47 of the Environmental Planning and Assessment Act 1979, the NSW Heritage Council has refused to grant General Terms of Approval to the proposed development, for the following reasons:

    a. The proposal is an overdevelopment of the site, particularly in terms of the height and scale of the new building. The height of any development in this location should not exceed the height limit of 32 metres outlined in the relevant planning controls.

    b. The overdevelopment requires the provision of an excessive amount of car parking which requires extensive excavation to accommodate the deep basement. The proximity of this subsurface car park to the edge of the CBC Bank building poses a risk to the historic structure. Any basement car park should be no closer than 6 metres from the building to mitigate the effects of underpinning and to allow sufficient deep soil volume to establish mature tree planting;

    c. The effect of the excavation for the proposed driveway ramp will form a pedestal under the bank building and substantially alter the proportions of the south-west elevation of the CBC Bank building. This will require underpinning and put the historic building at risk. Any future proposal should include a driveway at grade for the length of the building.

2. Pursuant to the provisions of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with several design principles outlined within State Environmental Planning Policy 65 – Design Quality of Residential Flat Development, and fails to comply with several standards within the Apartment Design Guide.

3. Pursuant to the provisions of section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, the proposed development fails to comply with the maximum building height for the site applicable under the Draft Campbelltown Local Environmental Plan 2014, and is inconsistent with the objectives of the maximum building height standard. The clause 4.6 objection seeking to vary this standard is not considered to be well-founded.

4. Pursuant to the provisions of section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, the application fails to demonstrate that use of the heritage conservation incentives provision would be justified in approving a development that would not otherwise be allowed.

5. Pursuant to the provisions of section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, the proposed development fails to exhibit design excellence.

6. Pursuant to the provisions of section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development fails to comply with several standards within the Campbelltown Sustainable City Development Control Plan 2014.

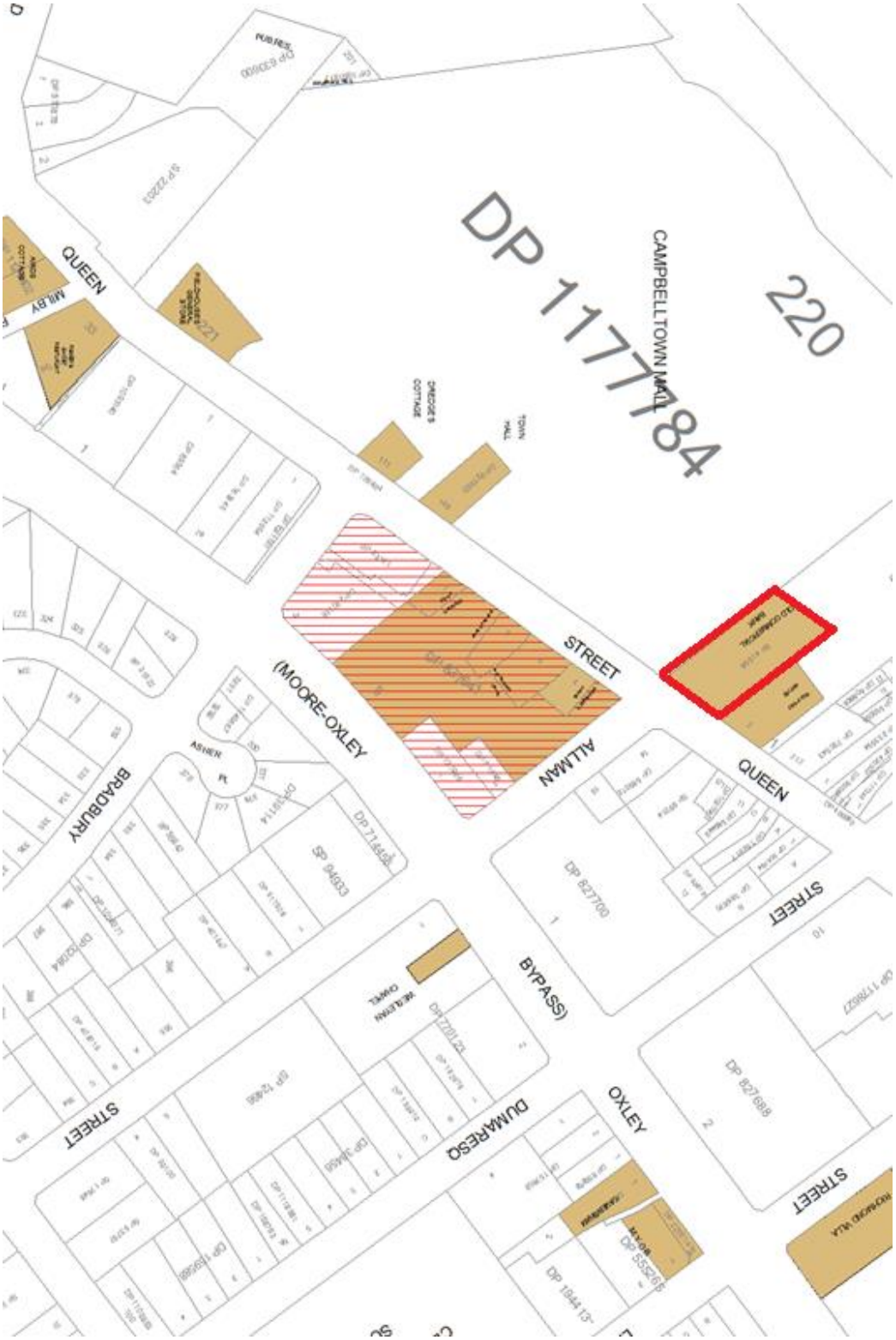
7. Pursuant to the provisions of section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory with regard to traffic management and safety, emergency vehicle access, impacts upon trees, stormwater disposal, waste management and geotechnical engineering.

8. Pursuant to the provisions of section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the subject site is not considered to be suitable for a building of the scale proposed.

9. Pursuant to the provisions of section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, the content of submissions received in response to the public exhibition and notification of the proposed development has not been addressed satisfactorily.

10. Pursuant to the provisions of section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, given that the proposed development would have far reaching consequences in a City-wide context and would compromise the strategic planning process for the future of the Campbelltown Regional City Centre, the proposed development is not considered to be in the public interest.

Attachment 1 – Map showing heritage-listed properties within the Campbelltown City Centre

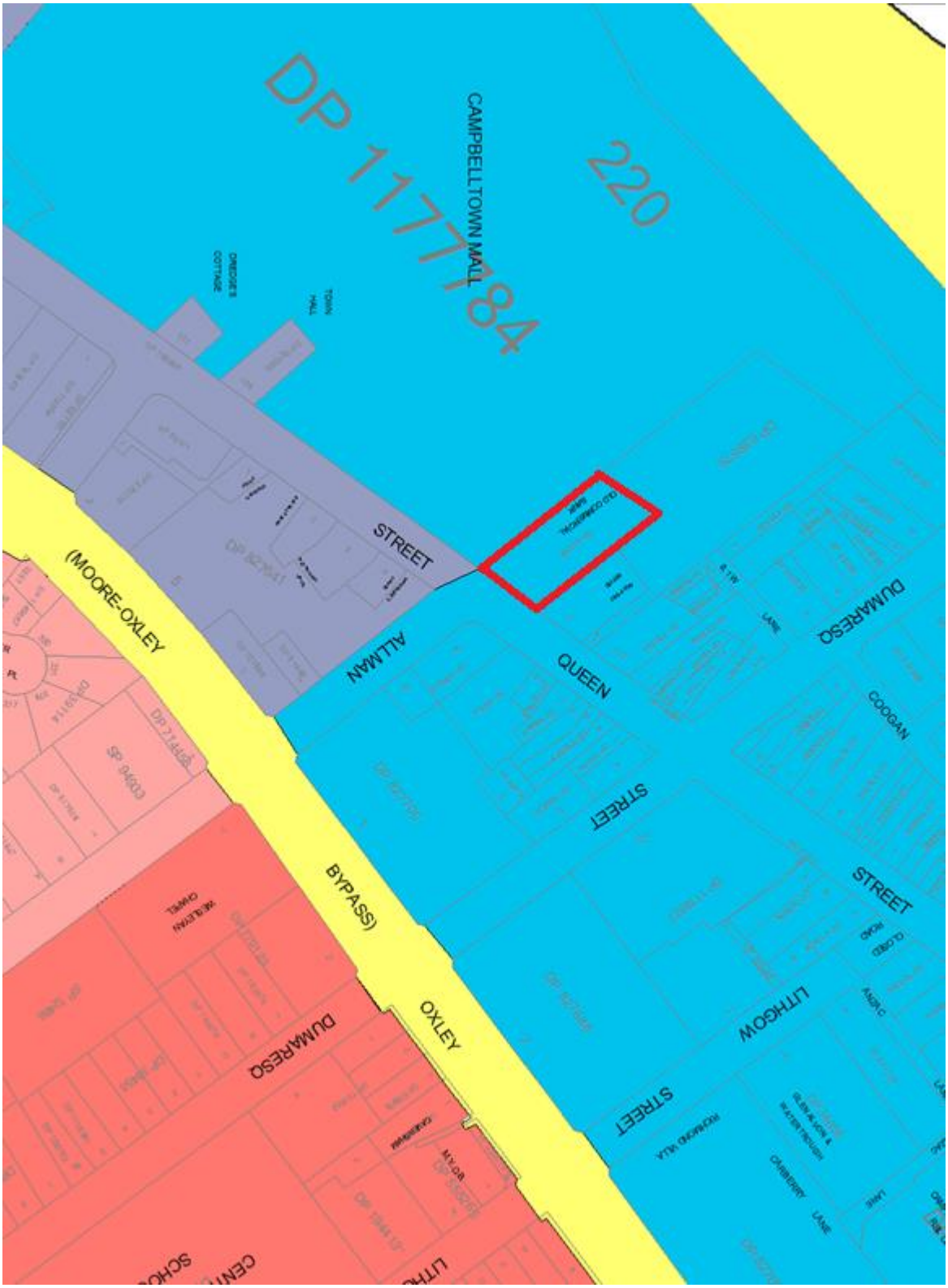


The boundaries of the subject site are outlined in red. The Queen Street Conservation Area is shown in red hatching.

Attachment 2 – Locality Plan

The boundaries of the subject site are outlined in red.

Attachment 3 – Zoning Map



The boundaries of the subject site are outlined in red.