Report to Sydney West Central Planning Panel

SWCCP reference	2017SWC005
DA No.	1271/2016
Date of receipt	22 December 2016.
Proposal	Tree removal, construction of a Residential Flat Building containing 344 units over basement car parking, with heights ranging between 6-20 storeys on Lot 4, associated site works, engineering works, and landscaping.
Street address	158 - 164 Hawkesbury Road and 1/2A Darcy Road, Westmead (Lot 4)
Property Description	Lot 7 DP 1077852 and Lot 2 DP 1211982
Applicant	Combined Projects Westmead Pty Ltd
Owner	Western Sydney University
Submissions	Eight
List of All Relevant s79C(1)(a) Matters	• Environmental Planning and Assessment Act and Regulations • State Environmental Planning Policy No. 55 • State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development) • State Environmental Planning Policy (Sydney Harbour Catchment) 2005 • State Environmental Planning Policy (Building Sustainability Index: BASIX) • State Environmental Planning Policy (State and Regional Development) 2011 • Infrastructure SEPP (ISEPP) • Parramatta Local Environmental Plan 2011 • Parramatta Development Control Plan 2011 • Parramatta S94A Contributions Plan
Recommendation	Approval
Council Officer	Denise Fernandez, Senior Development Assessment Officer

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

1. Executive summary

This report considers a proposal to construct two Residential Flat Buildings containing a combined 344 apartments over 4 levels of basement car parking. Building D comprises a part 6 storey, part 20 storey building, Part E comprises a part 9 and part 11 storey building and Building F comprises a part 4, part 11 storey building.

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

This report recommends that the Panel:

- Approve a variation to the building height and FSR controls in Parramatta Local Environment Plan 2011, via clause 4.6 of that plan.

2. Key issues

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

3. Site context

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

The site is:

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

Figure 1: Aerial photo of the WSU site

4. Site description and location

4.1 Background

4.1.1 Westmead Precinct

The WSU site is located within the Westmead Precinct. This precinct is identified as being of strategic value as it contains a regionally significant health and educational hub. Westmead

also provides a high density residential areas which support this primary function. Any redevelopment within the Westmead Precinct should provide additional opportunities for residential, retail, business, hospital, education and community facility development which is to be integrated with the existing public transport network.

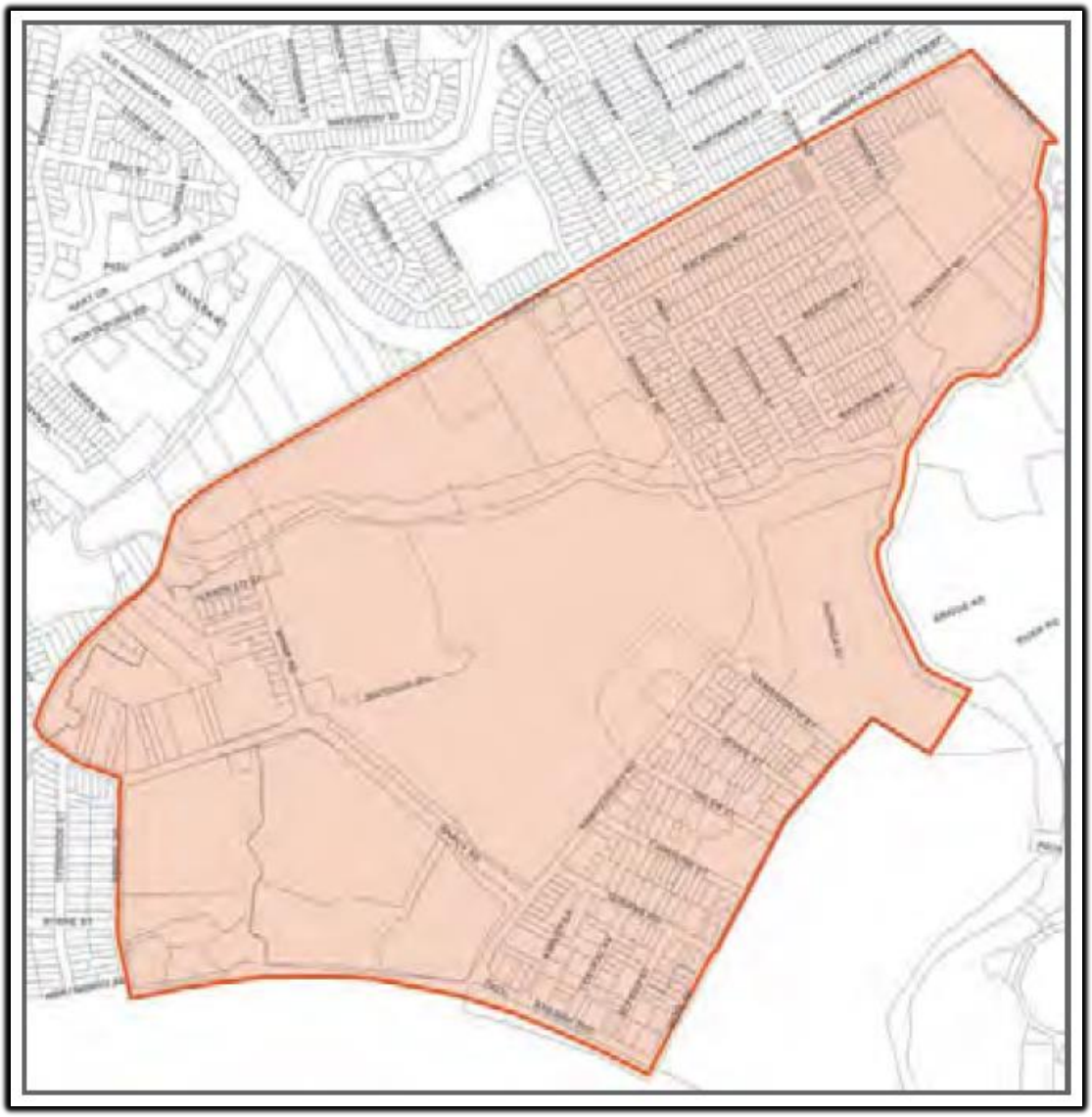

Figure 2: Westmead Precinct

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

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

The amendment to the LEP was gazetted on 2013. The amendments permitted building heights ranging from 31 – 40 metres and a FSR of 3.5:1 – 4:1 on Lot 4.

4.1.3 The Stage 1 Masterplan under DA/571/2014

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

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

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

It is noted however, that the applicant did not seek approval of the subdivision and building envelopes under Section 83B – Concept Development Applications of the EP&A Act. As such, the variations sough under the current application is not subject to Clause 83D of the EP&A Act.

Under delegation, **DA/699/2014** approved the subdivision of 2A Darcy Road, Westmead into 2 lots (Lot 1 and Lot 2). Lot 2 was acquired by WSU to facilitate the Stage 1 works approved under DA/571/2014. See Figure 3.

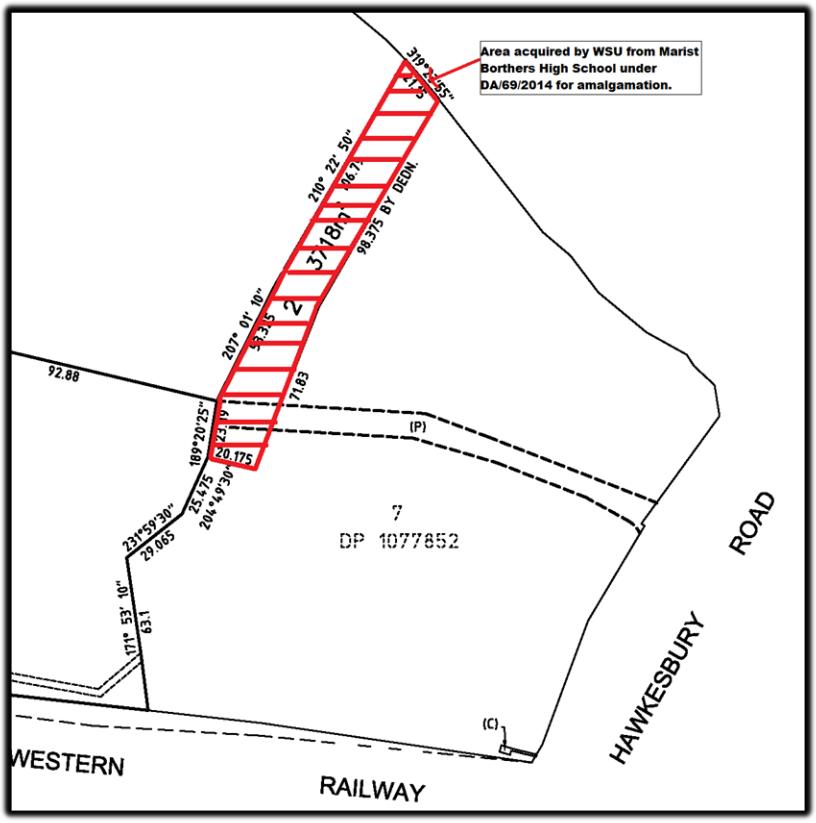

Figure 3: Area acquired by WSU from Parramatta Marist High school under DA 699/2014 for amalgamation.

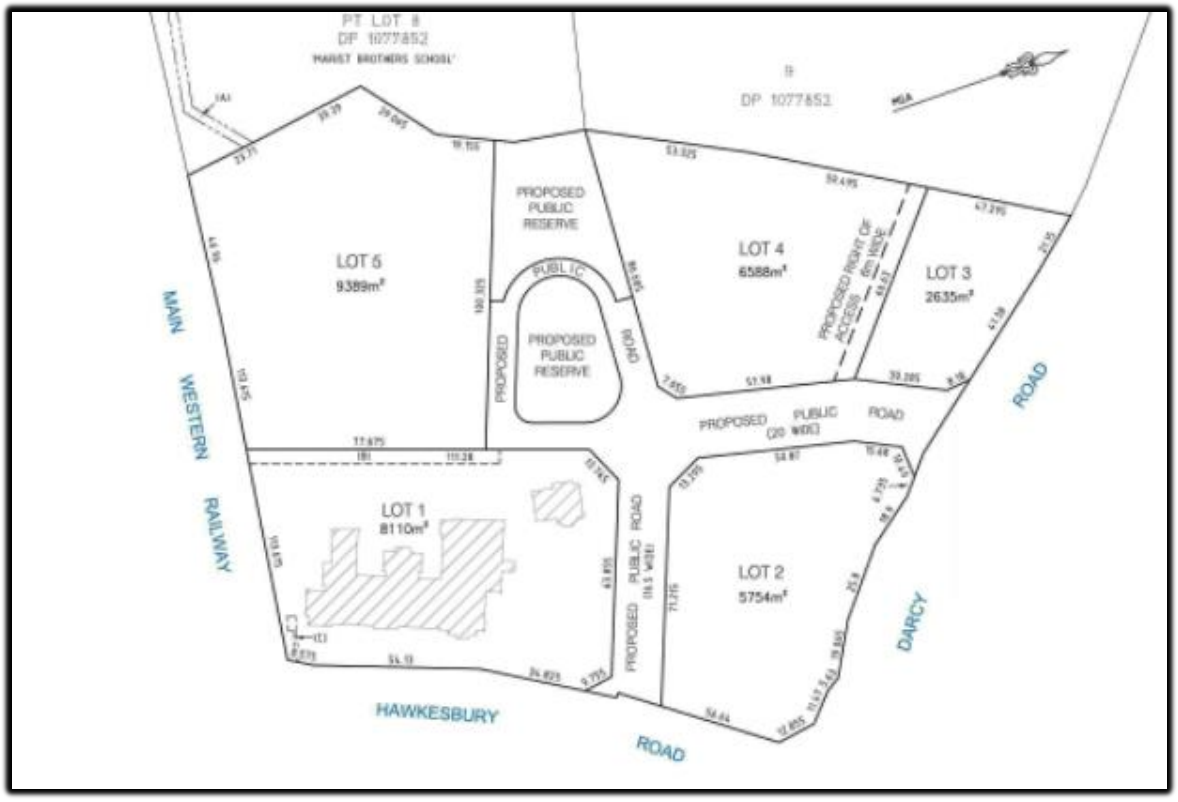

Figure 4: 5 lot subdivision approved under DA 571/2014.

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

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

The building envelopes approved have been designed to reflect the land uses for each subdivided lot. Lot 2 is designed with a plaza and an open piazza to Darcy Road to accommodate a commercial / retail space to service this precinct. Similarly, Lot 3 is located and designed to facilitate additional commercial uses given its proximity to the hospital opposite Darcy Street. Lot 4 and 5 are situated adjacent to the railway corridor to allow for higher density residential development with open landscaped areas whilst respecting the heritage items and curtilage that is located on Lot 1.

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

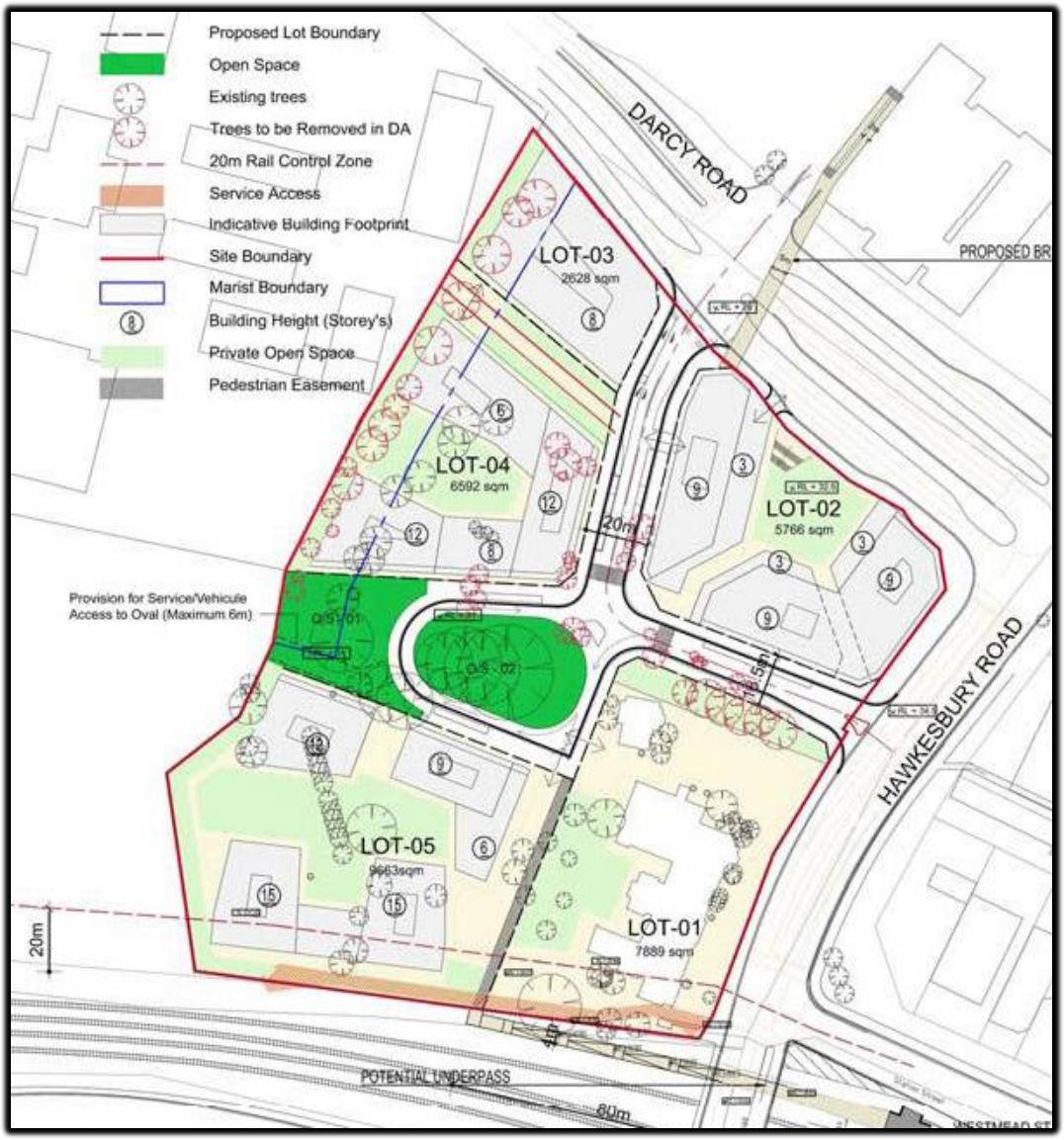

Figure 5: Approved building envelopes for each subdivided lot under DA 571/2014.

4.1.4 Lot 4 under the Masterplan

The development subject of DA/1271/2016 relates to Lot 4 of the Masterplan.

Figure 6: Lot 4 of the WSU site.

Under DA/571/2014, Lot 4 was approved with a U-shaped building envelope with the following dimensions:

- Site Area = 6588m^2
- Indicative Land use = Residential
- Gross Floor Area = 28,825m^2 (4.37:1)
- Height = Min. 6 storeys and max 12 storeys.

The design rationale behind the U-shaped building envelope is as follows:

- The provision of appropriate address (ie. limit development interface) at the boundary with the Marist Brothers school to the west.
- A central common open space area with ample landscaping. The provision of a central courtyard area also ensures that the northern and southern arm of the U-shaped building is able to achieve building separation under the Apartment Design Guidelines (ADG).
- The 6 storey development height of the northern arm of the U-shaped building provides a transition of scale whilst improving solar access to the southern arm of the building and the common courtyard area.

- The eastern portion of the U-shaped building envelope is proposed at 12 storeys to define the street edge.
- A landscape buffer is provided along the western boundary to ameliorate amenity impacts to the adjacent school.
- The bulk of the development is located on the eastern and southern portions of Lot 4 where it is suitably located adjacent to the public reserves, Lot 5 and the plaza on Lot 2.
- The Masterplan and intended design outcomes for Lot 4 are considered to be the benchmark for considering any impacts of the current proposal.

4.1.5 Variation to height and FSR under the current application on Lot 4

The proposal on Lot 4 seeks to depart from the FSR and height standards that apply under the Parramatta Local Environmental Plan 2011.

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

The Stage 1 Masterplan approved under the DA/571/2014 improves the original design for WSU and Lot 4. However, upon further design analysis by the applicant including detailed modelling incorporating the ADG's and design controls contained in the PDCP 2011, it was deemed that further departures were required to realise the development potential for the site, in particular the height for Lot 4 in a manner that did not unduly impact on the quality of the final outcome.

4.1.6 Approved development on Lot 5

On 6 September 2017, the Sydney West Central Planning Panel approved the construction of 2 residential flat buildings on Lot 5 comprising of:

- Building A: part 4, part 12 storey building comprising 118 residential apartments;
- Building B: part 9, part 24 storey building comprising 438 residential apartments; and
- 5 levels of car parking including a lower ground level and 4 basement levels with a total of 704 parking spaces comprising of 595 residential spaces, 107 visitor spaces and 2 car share spaces

5. The proposal

The current proposal comprises the following primary elements:

- Building D (7 to 20 storeys) is to comprise of 199 residential apartments;
- Building E (9 - 10 storeys) is to comprise of 75 residential apartments;
- Building F (4 to 11 storeys) is to comprise of 70 residential apartments; and
- 5 levels of car parking including a lower ground level and 4 basement levels with a total of 414 parking spaces comprising of 309 residential spaces, 71 visitor spaces and 34 accessible spaces.

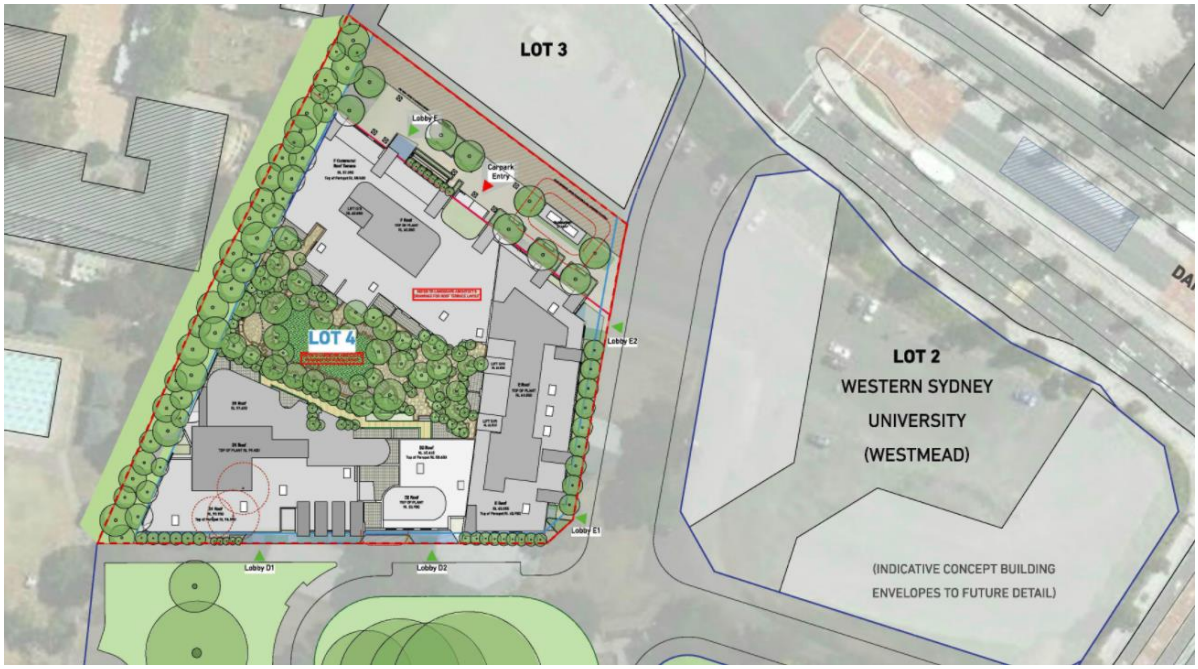

Figure 7: Diagram illustrating location of Building D, E and F in relation to Lot 4.

The application also includes:

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

6. Public notification

The notification period was 19 January 2017 – 21 February 2017. Eight submissions were received.

Upon submission of amended plans, the application was re-advertised between 10 August 2017 – 11 September 2017. No submissions were received.

7. Referrals

Any matters arising from internal/external referrals not dealt with by conditions	No

8. Environmental Planning and Assessment Act 1979

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

9. Consideration of SEPPs

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

10. Parramatta Local Environmental Plan 2011

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

Table 1: LEP compliance

	Comment or non- compliances
Zones	• R4 High Density Residential
Definition	• Residential flat building
Part 2 Permitted or prohibited development	• Permissible in the zone • Consistent with zone objectives
Part 4 Principal development standards	• Non-compliance - Building height The development standard is 31m and 40m. o Building D – 72.15m (Non- compliance is 32.15m or 80.3% variation to the 40m height control) o Building E – 37.1m (Non–compliance is 6.1m or 19.3% variation to the 31m height control) o Building F – 38.35m

	(Non–compliance is 7.35m or 23.7% variation to the 31m height control) • Non-compliance - FSR The development standards are 4:1 and 3.5:1. The total FSR for the development is 4.34:1 A request under clause 4.6 has been provided. The variations are supported.
Part 5 Miscellaneous provisions	All relevant provisions satisfied
Part 6 Additional local provisions	All relevant provisions satisfied

11. Parramatta Development Control Plan 2011

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

Table 2: DCP compliance

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

12. Response to SWCPP briefing minutes

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

Site is excellent for development but the proposal exceeds FSR and height and other controls and will need careful justification

The Clause 4.6 variations for both height and FSR is discussed in detail in Section 2.7 – Parramatta Local Environmental Plan 2011.

Conclusion

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

RECOMMENDATION

A. That the Sydney West Central Planning Panel approve the variations to the building height control in clause 4.3 and FSR in clause 4.4 of Parramatta LEP 2011, being satisfied that the applicants written request has adequately addressed the matters

required to be demonstrated by Clause 4.6 of that Plan, and the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone; and

B. That pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 the Sydney West Central Planning Panel grant consent to Development Application DA/1271/2016 subject to the conditions in **Attachment A**.

C. That all the objectors be advised of the Sydney West Central Planning Panel's decision.

ATTACHMENT A- PLANNING ASSESSMENT

SWCCP reference	2017SWC005
DA No.	1271/2016

1. Overview

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

Table 1- Matters for consideration

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

The following internal and external referrals were undertaken:

Table 2: Referrals

Landscape	Satisfactory subject to conditions
Development Engineer	Satisfactory subject to conditions
Traffic	Satisfactory subject to conditions
Environmental Health (Waste)	Satisfactory subject to conditions

Environmental Health (Contamination)	Satisfactory subject to conditions
Environmental Health (Acoustic)	Satisfactory subject to conditions
Open Space & Recreation	Satisfactory subject to conditions
City Architect	Satisfactory
Urban Design (Public domain)	Satisfactory
Assets (Alignment)	Satisfactory
Heritage	Satisfactory
Public Art	Satisfactory
Sydney Trains	Satisfactory – concurrence and GTAs received
Water NSW	Satisfactory – concurrence and GTAs received
Endeavour Energy	Satisfactory subject to conditions
Sydney Water	Satisfactory
DEAP	Satisfactory
RMS	Satisfactory
CASA / DIRD	No response

2. Environmental planning instruments

Compliance with these instruments is addressed below.

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

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

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

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

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

results and findings from the site inspections confirming the effectiveness of the remediation works.

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

The report provides the following conclusion:

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

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

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

2.2 State Environmental Planning Policy BASIX

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

2.3 State Environmental Planning Policy (Infrastructure) SEPP

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

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

The application is subject to clause 85 of the SEPP as the development proposes works within proximity to a rail corridor. As such, Sydney Trains were notified of the proposal within 7 days of the application being made. In response, Sydney Trains provided comment and consequently their concurrence on 30 March 2017. These requirements form part of the recommendations.

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

conditions with regards to the acoustic impacts on the development from rail noise. The acoustic report will be included as a recommendation for inclusion in the consent.

The application is not subject to clause 101 of the SEPP as the site does not have frontage to a classified road.

The application is not subject to clause 102 of the SEPP as the average daily traffic within the WSU site is less than 40,000 vehicles.

The application is subject to Clause 104 as the proposal seeks approval for a residential flat building with more than 300 dwellings with access to any road. In accordance with this clause, Council referred the application to RMS on 5 January 2017. To date, no response has been received from RMS. As more than 21 days have lapsed since the RMS were notified of the application and which Council has not received written submission from RMS, Council assumes that RMS do not wish to provide comment.

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

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

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

Design Excellence Advisory Panel (DEAP)

The proposal was considered by DEAP at pre-lodgement stage, as a formal development application and again upon submission of amended plans. The amended plans were reviewed by DEAP at its meeting on 27 July 2017. The DEAP comments, applicant's response and Council's comments are tabled below.

Table 3: DEAP comments and response

DEAP Comments	Applicant Response	Planning Comment
This project has been previously reviewed by the Design Excellence Advisory Panel at an early planning stage in October 2016 and again in March 2017. It is noted that this proposal and others on the site have struggled to achieve the density provided in the master plan, and that the Panel has been consistently supportive of a considered variation to the height controls in order to achieve the density with good amenity in this key location between Westmead Hospital and the railway station.	Noted	Noted
The applicant has provided detailed written responses to the Panel's report from the March meeting. The Panel asked the	Noted	Noted

applicant to review these and explain how they have been addressed. Generally, the applicant has addressed most of the Panel's comments, and the following further advice is provided:		
1. Item 6 from previous comments – the reconfiguration of built form along the northern boundary is a marked improvement in terms of articulation and solar access to the courtyard.	Noted	Noted
2. Item 7 from previous comments – the applicant claims compliance with ADG natural cross ventilation requirements, Council to further assess.	Westmead Lot 4 consists of 3 independent towers which are connected by lower buildings of 4 to 6 storeys that wrap the podium car park. These gaps between the towers allow for distinct corners to the buildings with unobstructed air flows. Turner have indicated the location of naturally cross ventilated apartments on the Cross Ventilation Diagrams DA-720-001 to DA-720-003. We note 60.7% are compliant as per the ADG definition. This has been reviewed and verified by Windtech, in their expert opinion.	As the report was prepared by qualified engineers, its recommendations are considered to be acceptable and which did not require an independent review.
3. Item 10 from previous comments (built form aesthetics) – as noted the northern street elevation is now working well, however the Panel considers that built form facing east remains visually bulky. This is exacerbated by the strongly graphic aesthetics as portrayed in the CGI's. The large blank vertical elements are monumentally scaled and only serve to accentuate the built forms height.	The premise of the design for Lot 4 has been the provision of a diversity of architectural styles within the precinct, and a clear difference in the architectural response between the adjacent Lots 4 & 5. Within Lot 4, each of the buildings have an individual character that is subtly tied together via a palette of complimentary materials and colours. The curved form of Building E on the south of the site is defined by the strong horizontal emphasis of the continuous concrete spandrels. The palette consists of contrasting whites and black, and feature timber soffits to penthouses and key corner balconies. Building E is defined by it's strong vertical emphasis and white brick materiality. The brick detailing	The applicant's response was reviewed by Council's Urban Designer as well as City Architect. Upon review of the information, both Council's Urban Designer and City Architect raised no objections to the proposal.

	gives this building warmth and complexity. The upper levels are marked by a series of dark grey metal clad boxes that animate the skyline of the building. The muted colour palette consists of a soft white brick, and dark grey metal cladding. The vertical graphic of Building E has been folded up onto the elevation of the south-east corner of the Building D tower, to form a visual link between the adjacent buildings, and provide for a playful building composition. Building F is a stepped building form which is 8 storeys facing south towards the courtyard and 11 storeys facing north towards the new northern street. The building consists of a warm palette of natural concrete, soft whites, browns, and feature perforated bronze metal. The building form is defined by concrete shards or fin walls, that slice the façade into a series of vertical components. The balconies are celebrated using a zig-zig profile to the perforated metal balustrades. The electro metallic powdercoat finish to these balustrades and screens gives a luminance to this north facing building. The top of the building is expressed with a feature sloped roof element between the vertical concrete fins. The lower 4 storey portion of Building F is treated as a jewel like element with perforated full height bronze metal bi-fold screens that give solar comfort and visual privacy to the large north facing apartment balconies. This composition includes the main car park entry at Lower Ground Floor, with the entry doors recessed back from the main façade line. The configuration of the building entry lobbies and associated canopies carefully grounds the building forms, and marks the key corners of the site. The strength of the design proposal is in the clarity of the graphic quality of the elevations.	

	Each building is clearly distinguishable within the grouping of building forms of the UWS Westmead precinct. Turner deem this an appropriate Urban Design response for the new network of streets. While the design has sought to reinforce the strong graphic quality of the facades, it has also looked at the finer grain via materiality such as the face brick, and feature metal clad projecting window boxes, via the landscaping at street level, or via the consistent activation of all elevations by entry lobbies, communal facilities and street level apartments.	
4. Items 11/12/14/15 from previous comments – the Panel is generally supportive of the proposed built form amendments to Building E and F.	Noted	Noted
5. Re-entrant internal corner adjacent to lobby E1- ensure fixed glazing to lobby, and window is screened and detailed to protect visual and aural privacy of adjacent terrace. There are other similar relationships that should be reviewed.	Turner have prepared a series of 1:50 detail plans which illustrate adequate visual and acoustic privacy between adjacent units, via translucent glazing, louvres, screens, etc. Care has been taken to maximize the distance between operable windows on adjacent facades.	The applicant's response was reviewed by Council's Urban Designer as well as City Architect. Upon review of the information, both Council's Urban Designer and City Architect raised no objections to the proposal.
6. The "shared zone" to the north of the development requires clarification in regard to public rights of usage, and how this space is to be conceived as a clear public domain spatial typology. The Panel recommends that it should be designed as a street with a wide central, continuous island and a U-turning space at the western end. The island should have large street trees and the substations carefully integrated. A connection to the school should be considered.	The shared zone has been designed to be consistent with the UWS Westmead campus Subdivision Private Domain Guidelines - shared zone. This will ensure that the space is read as publicly accessible and is integrated into the surrounding streets The design has been altered to include a central landscape strip that separates pedestrian and vehicular movement. Furthermore, it is understood that the development is required to maintain a 8m wide right of access to the northern site boundary against lot 3. Large street trees Magnolia grandillora have been included and the substation has shifted east to create a continuous tree canopy when entering the shared zone. A connection to the school has not	The applicant's response was reviewed by Council's Urban Designer as well as City Architect. Upon review of the information, both Council's Urban Designer and City Architect raised no objections to the proposal subject to conditions of consent.

	been included - there are currently two access points in the adjacent public reserve between lot 5 and lot 4 to the school. In addition to this we would anticipate that the school would prefer a screened boundary to create visual separation to between lot 4 and the existing sports fields and swimming pools.	
7. In regards to the *Streetscape improvements to existing internal roadways to the east and south of Lot 4;* a. The use of plants to 'visually reduce the scale of the building' is supported but the selection and spacing of the proposed Magnolia trees in the stepped planter should be reconsidered. The proposal to use the same street tree species (Magnolia grandiflora) as a 'hedge' against the building will detract from the impact of the existing avenue of street trees in this location. Given the proximity to the building and the growth habit and mature size of the Magnolias, a more suitable species should be selected for this location. b. In lieu of the challenges in attaining the necessary soil depth for healthy growth, a smaller tree/large shrub with complementary foliage will be more appropriate or alternatively, the use of large shrubs and climbers on frames.	a) Magnolia grandiflora is an existing street tree to the internal roads. The plans have not nominated this species in the stepped planter - plans nominate 'native buffer planting of large trees'. The indicative planting palette included in the design report) includes species such as Elaeocarpus reticulatus, Syzygium australe and Waterhousia floribunda which are in line with the DEAP comments. b) The stepped planter has been redesigned to reduce amount of walling - furthermore this landscaped area is on deep soil therefore there is no issue with soil depths. All planting that is not on deep soil is in accordance with section 4p of ADG guidelines.	The applicant's response was reviewed by Council's Urban Designer as well as City Architect. Upon review of the information, both Council's Urban Designer and City Architect raised no objections to the proposal.
8. In regards to the *Landscaped central open space on podium;* a. The proposal provides a range of spaces for passive outdoor relaxation including a barbeque area, seating spaces, lawns and landscaped screening. b. Provide sufficient soil depth and irrigation for healthy plant establishment. c. The extensive staggered concrete and sandstone flagging edges around the lawns could pose as a longer term lawn maintenance issue.	a) Noted b) Noted - all planting to the central open space will be in accordance with section 4P of ADG c) Noted - this particular - detail can be resolved with an edge treatment -typically documented during the construction phase e) Noted - The barbecue is not centralised in its designated space - circulation space has been sufficiently allowed for- all barbeque areas will be to AS 1428.1 standards.	The applicant's response was reviewed by Council's Urban Designer as well as City Architect. Upon review of the information, both Council's Urban Designer and City Architect raised no objections to the proposal.

d. Provide sufficient circulation area around the outdoor kitchen		
9. In regards to the *3. 6m wide perimeter buffer planting on western boundary;* a. This buffer area is to be densely planted with trees with the sole purpose of providing a visual barrier to the adjacent Marist Brothers school. The area has the potential to become a 'no man's land' with attendant safety concerns. b. Consideration should be given to improving the amenity of the precinct and enhancing the function, access and lighting to this area. Instead of the existing dense woodland character, an option could be to integrate a generous through-site pathway, together with lighting, loose hedge planting against the fence (e.g. Lilli Pilli) and appropriately spaced canopy trees.	a) 3.6m wide buffer planter 10 the western boundary has been densely planted with native tree species to provide separation to the adjacent school. Recently approved 1015 has a similar treatment - It is our understanding that Council wish to create privacy for the adjacent school fields and swimming pools. The area includes fire egress pathways and is also gated. Ensuring that it is not publicly accessible nor a 'no mans land' Furthermore the area has been densely planted to capitalise on the deep soil area. b) As per note 9 a - the area incorporates a fire egress pathway and gated entrances therefore we do not expect any SPTED issues. There have been no significant changes to this area of the site.	The applicant's response was reviewed by Council's Urban Designer as well as City Architect. Upon review of the information, both Council's Urban Designer and City Architect raised no objections to the proposal.
10. In regards to the *Roof gardens on Level 3 'Link' Building between D1 and E2, and Level 6 Building D 2;* a. The integration of roof gardens for resident use is supported. Roof gardens on the lower buildings also improve the outlook for residents in the tower. Provide sheltered seating areas where appropriate.	a) Noted - the current design includes sheltered seating areas	The applicant's response was reviewed by Council's Urban Designer as well as City Architect. Upon review of the information, both Council's Urban Designer and City Architect raised no objections to the proposal.
11. In regards to the *'Right of Access' way north of Building F*, this area is proposed as a paved, landscaped 'shared zone' in the Cox UWS Westmead Masterplan DCP. The current proposal does not address this nor provide the address and amenity expected of this space. Concerns relate to; a. the character and presentation of the 'shared zone' as publicly accessible space on private land. b. the location of the proposed public art piece and its attendant setting.	11. a – Noted 11.b – The Westmead Lot 4 Public Art proposal is located at a key corner of Lot 4 and is visible from 3 of the other 4 Lots within the precinct. It is located on the main entry road into the precinct and forms an important part of the entry sequence to the site. The proposal is a robust response to the Urban Design requirements of this new masterplan, and subtly reflects on the complex history of the site. The landscaping and paving have been	The applicant's response was reviewed by Council's Urban Designer as well as City Architect. Upon review of the information, both Council's Urban Designer and City Architect raised no objections to the proposal subject to conditions of consent.

c. location of the substation at entry to the precinct. d. the extent and location of the underground detention tank which precludes any deep soil planting for street trees. e. the two double width vehicle entries that dominate the ground floor at the expense of the unit entry lobby. f. use of Magnolia grandiflora (again) to distinguish the precinct g. integration with the public domain of the adjacent site	designed to give the proposed sculpture sufficient area to be seen from the adjacent roadway and sufficient separation from adjacent buildings, planter walls and Building E2 entry lobby. 11. c – The sub-station kiosk has been relocated further west along the right of way. This revised location allows for greater separation from the main central road to the east of the site. The location allows for improved landscaping at the junction of the right of way and the main central road, and reduces the impact of the kiosks within the streetscape. The landscaping has been carefully considered along this right of way and makes consideration of the new kiosk location. 11. d – The OSD tank has been relocated inside the footprint of the car park. It is located under Building F in the north west of the site. This change removes any issues related to deep soil for trees. 11. e – Turner has distributed the services, car park entry and loading dock around the perimeter of the Lot 4 site. Between these elements we have located the various lobbies and ground floor apartments which give a consistently activated façade. Loading Dock: The loading dock is located at Lower Ground Floor in Building F at the western end of the private right of access. This location is distant from the main central roadway that runs along the east of the site. and does not effect the two main public street elevations. The location allows for the safe movement of trucks in and out of the loading dock without affecting the main car park entry. The truck	

	is able to turn within the western portion of the private right of access and therefore reverse into the loading dock. Inside the loading dock there is sufficient area for garage collection - refer to the Lot 4 Waste Report. No refuse collection occurs outside of the lobby within the street - all collection happens inside the lobby. The loading dock swing doors have been considered within the architectural composition of Building F. The swing doors have perforated bronze metal panels that match the decorative balustrades of Building F above. The doors are framed by a projecting canopy that links back to the Building F lobby location. The composition has been carefully considered to mitigate the impact of the loading dock so that it fits comfortably within the design. Car Park Entry: The car park entry is located mid-way on the private right of access to the north of the site. The location has good sightlines and is not affected by truck movements at the loading dock. As part of the recent changes requested by Council. a portion of the north side of the Lot 4 buildings have been lowered from 9 to 4 storeys to improve the overall building massing and to allow improved solar access to the central courtyard. The resulting low 4 storey building has been stepped back from the street alignment of the adjacent towers to exaggerate this break in the building form. The location of the car park entry aligns with this lower portion of building and provides a recessed entry that is visually less intrusive. The swing doors of the car park have been considered within the architectural composition of this lower portion of building. The doors have bronze perforated metal panels that match the bi-fold screens to the balconies of the levels above. This apartments above the car park entrance. including F.G.06. F.1.06 and F.2.06. use bi-fold screens	

	along their balcony edge for further privacy. The landscaping has been carefully considered to mitigate the effect of the car park entry within the streetscape. The latest design for the landscaping have reduced the width of access way into the car park and further softened the area with increased planters. Refer also to the updated Scott Carver landscape drawings which describe the paving, planters and tree locations around the car park entry. 11. f – Landscape Plan was amended in accordance with the comments. 11. g– The Westmead Lot 4 DA provides a new street along it's northern boundary that is a clear extension of the adjacent streetscape. The 18 metre width is an appropriate urban design response, provides for ADG building separation compliance, and sits correctly within the hierarchy of street types within this new mixed-use precinct. The falls and typography of the street allow for clear unobstructed views to the western end of the street. The ability to see distant view lines to open sky is important for the visual enjoyment of the new streetscapes. The palette of materials, planting, details, lighting, and street furniture are the same as that used in the approved UWS Westmead Lot 5 shared way and associated Council discussions, and are based on the Council approved materials and details list. The paving used on the pedestrian pavement and carriage way is of the highest standards, and elevates the quality of this publicly assessable space.	

	The lobbies and street level apartments have entry points distributed along the length of the street to maximize activation and reinforce this as an important threshold space for the Lot 4 apartment buildings.	

Overall the Panel was supportive of the proposal, concluding:

The Parramatta Design Excellence Advisory Panel (The Panel) supports the proposal in its current form. The Panel advises that this is a well considered and presented scheme and that the architectural, urban design and landscape quality is of a high standard.

Design Quality Principles

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

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

Table 4: Response to SEPP 65 design principles

Principle	***Comment***
Context and neighbourhood character	The locality, in particular, this portion of the Westmead precinct is transforming to a high density residential/mixed use area. The development generally accords with the desired future character nominated by the LEP and DCP. The building will contribute to the quality and identity of the area.
Built form and scale	Notwithstanding the departures to the FSR and height for the site, the development responds to the intent of the Stage 1 concept plan. Site planning, building volume/ mass presentation and detailing are satisfactory noting the conclusions of the DEAP. Public domain outcomes are satisfactory.
Density	The proposed density is consistent with the precinct specific controls in the LEP and DCP. Those controls were developed with regard to the context of the site in terms of availability of infrastructure, public transport, community facilities and environmental quality.
Sustainability	Energy and water efficiency targets under SEPP (Basix) 2004 are achieved. The design is consistent with best practice design criteria for cross ventilation and solar access under the ADG.
Landscape	The landscape treatment is generally satisfactory.
Amenity	Amenity for the apartments is satisfactory when tested against best practice design criteria identified in the ADG which supports the SEPP. The scheme includes a range of communal facilities for the benefit of all residents.
Safety	Appropriate outcomes achieved through the design generally, and otherwise by conditions of consent as proposed.

Principle	*Comment*
Housing diversity and social interaction	The proposal skews the unit mix towards 1 and 2 bedroom units. The applicant has provided a Market Housing Report that demonstrates that 1 and 2 bedroom units are in demand in the locality. The required number of adaptable housing units is provided.
Aesthetics	The composition of building elements and materials is satisfactory.

Residential Flat Design Code

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

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

Table 4: Response to ADG

Element	*Comment*	*Complies*
Building separation	Up to 4 storeys - Min. 2.1m between blank wall and balcony - Min. 6m between balcony to balcony Up to 5 storeys - Min. 2.3m between wall and wall - Min. 6m between balcony to balcony Over 9 storeys - Min. 3.3m between wall and wall - Min. 3.7m between balcony and black wall The building separation between buildings are generally compliant. The non-compliance occurs where balconies are adjacent to the living rooms within each building. However, privacy screens, fencing and noise attenuation measures are provided to ensure that amenity impacts on occupiers of the development are limited.	**No, but acceptable**
Common Open Space	Required – 1647m^2 (25% of the site) Provided – 1321.91m^2 (20% of the site) Notwithstanding the non-compliance, the development provides adequate COS. The site is restricted due to the provision of a 6m landscape buffer along the eastern boundary and a Right of Access to the north, reducing the opportunities for COS on the ground floor. It is noted that the ground floor units are provided with generous private open space areas and that the upper level units are also provided with compliant balcony areas.	**No, but acceptable**

	DEAP has reviewed the provision of COS for this application and considers the location and amount of the COS as being acceptable.	
Deep Soil	Provided 697.34m^2 or 10.5% of the site	Yes
Visual privacy	The arrangement of units and privacy measures within the development ensures a satisfactory level of privacy between apartments and areas of private open space	Yes
Parking and Bicycle storage	The site is subject to maximum parking provisions under the PDCP 2011. A such, the development is not to exceed 342 residential parking spaces and 68.8 (69) visitor spaces. The development provides 309 residential spaces, 34 accessible spaces and 71 visitor spaces which exceeds the maximum rate at a total of 411 spaces. However, due to the minor non-compliance (3 parking spaces), Council's Traffic Engineer raised no objections to the provision of the excess as it is unlikely to contribute to any significant traffic movement within the site and in the locality.	**No, but acceptable**
Solar access and daylight	256 out of 344 dwellings (74.4%) receive a min. of 2 hours direct sunlight. The Level 3, Level 6 and ground floor COS will receive more than 2 hours of direct solar access during the winter solstice.	Yes
Common circulation	The development provides a maximum of 8 apartments per core.	Yes
Apartment size and layout	• Minimum unit sizes are achieved • Apartment layouts are efficient	Yes
Ceiling heights	• Minimum of 2.7m for habitable rooms is achieved	Yes
Private open space and balconies	• Balconies meet design criteria	Yes
Natural ventilation	• First 9 storeys – 60% (141 apartments) of units are ventilated (criteria is 60%)	Yes
Storage	Required supply of storage for each unit is achieved	Yes

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

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

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

be achieved through the imposition of suitable conditions to address the collection and discharge of water.

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

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

2.7 Parramatta Local Environmental Plan 2011

Zoning and permissibility

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

Zone objectives

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

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

The proposal is consistent with those objectives.

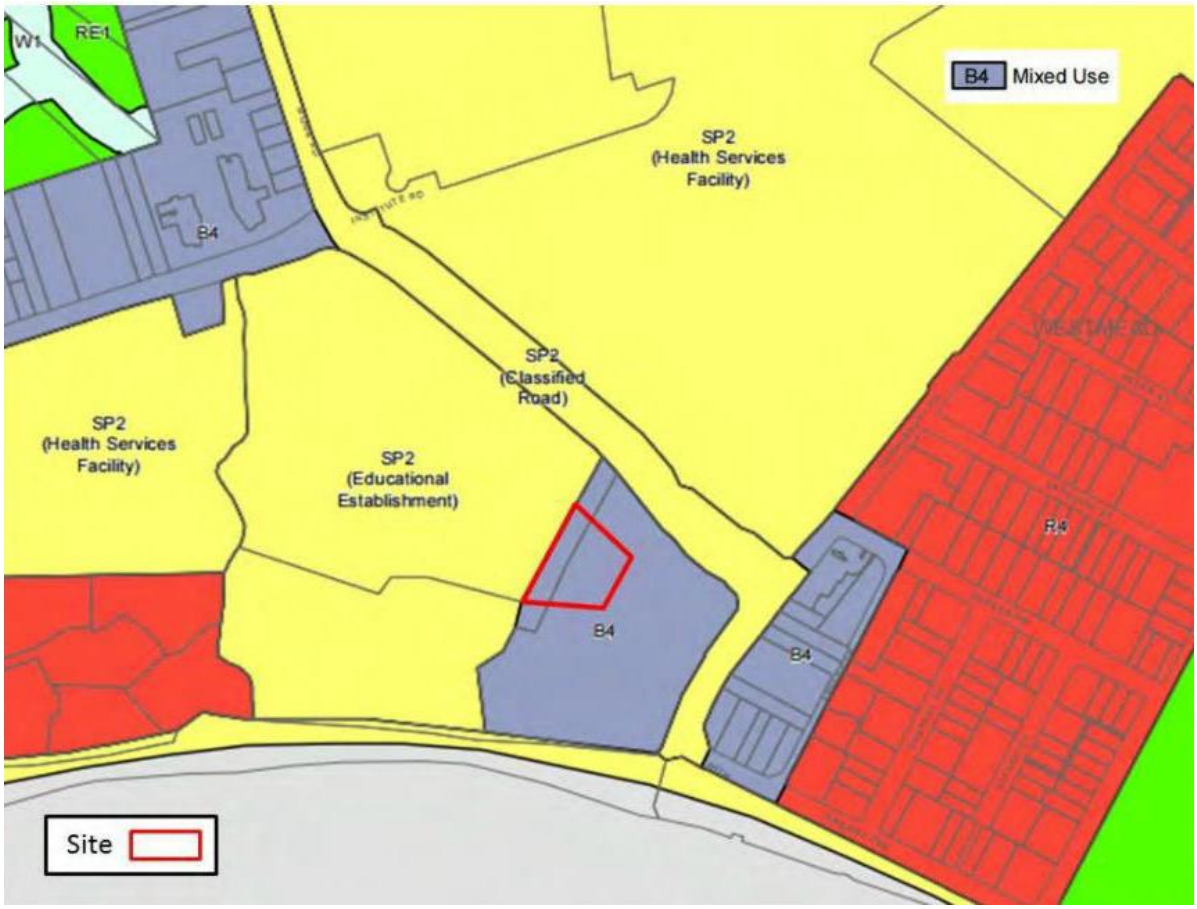

Figure 9: Extract from LEP zone map

Remaining provisions

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

Table 5: PLEP 2011 compliance table

Clause	*Comment*	*Complies*
Clause 2.7 Demolition	No demolition is proposed.	**N/A**
Clause 4.3 Building height	The development standard is 31m and 40m. The proposed heights are: ○ Building D – 72.15m (Non- compliance is 32.15m or 80.3% variation to the 40m height control) ○ Building E – 37.1m (Non–compliance is 6.1m or 19.3% variation to the 31m height control) ○ Building F – 38.35m (Non–compliance is 7.35m or 23.7% variation to the 31m height control)	**No, refer to clause 4.6**
Clause 4.4 Floor space ratio	The development standards are 4:1 and 3.5:1. The total FSR for the development is 4.34:1	**No, refer to clause 4.6**
Clause 4.6 Exceptions to standard	The application relies upon this clause to allow the exceedence of the height and FSR standard as noted above. See assessment following at the end of this table.	**Yes**

Clause 5.1 Relevant acquisition authority	Not applicable.	**N/A**
Clause 5.9 Preservation of trees	Eight trees require removal.	**Yes**
Clause 5.10 Heritage	• The site is not a listed heritage item, nor is it within a conservation area. • Lot 4 is within proximity to Lot 1 (to the south-east) which contains a heritage item. Council's Heritage Adviser has reviewed the proposal and raises not objections to the development given its distance from the heritage item.	**Yes**
Clause 6.1 Acid sulphate soils	• The site is identified a "Class 5" ASS. • The works do not trigger need for an ASS management plan.	**Yes**
Clause 6.2 Earthworks	• Consideration of potential impacts upon drainage patterns, and proximity to watercourses have been considered by Council's Development Engineer, who is satisfied the works can be managed without adverse impact. • Site works will not prejudice the future development of any adjoining land, or the amenity of that land. • Issues relating to soil quality are addressed via considerations of SEPP 55 • No circumstances identified to indicate potential for disturbing relics.	**Yes**
Clause 6.3 Flood Planning	The site is not identified on the flood planning map	**N/A**
Clause 6.4 Biodiversity	The site is not identified on the biodiversity map	**N/A**
Clause 6.5 Water protection	The site is not identified on water protection map	**N/A**
Clause 6.6 Landslide Risk	The site is not identified on the landslide risk map	**N/A**
Clause 6.7 Foreshore Building Line	The site is not identified on the foreshore building line map	**N/A**

Non-compliance with building height and FSR

Overview

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

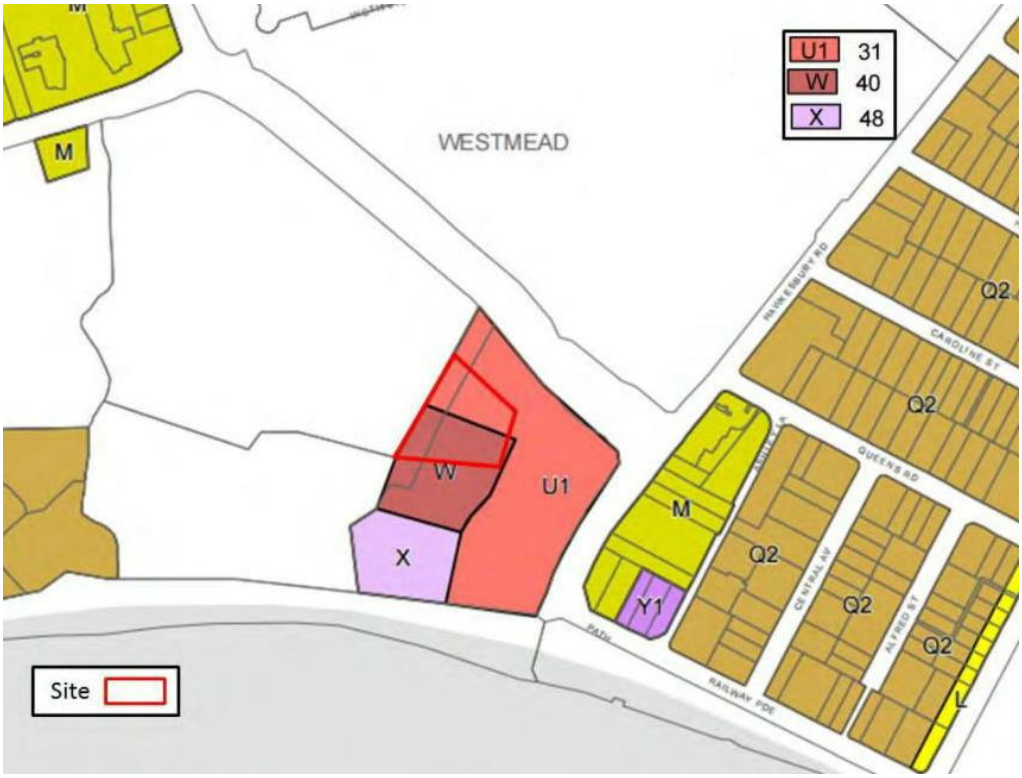

Figure 10: LEP height limits for the WSU site

The development also seeks to vary Clause 4.4 of PLEP 2011 – FSR – 4:1 and 3.5:1. See diagram below.

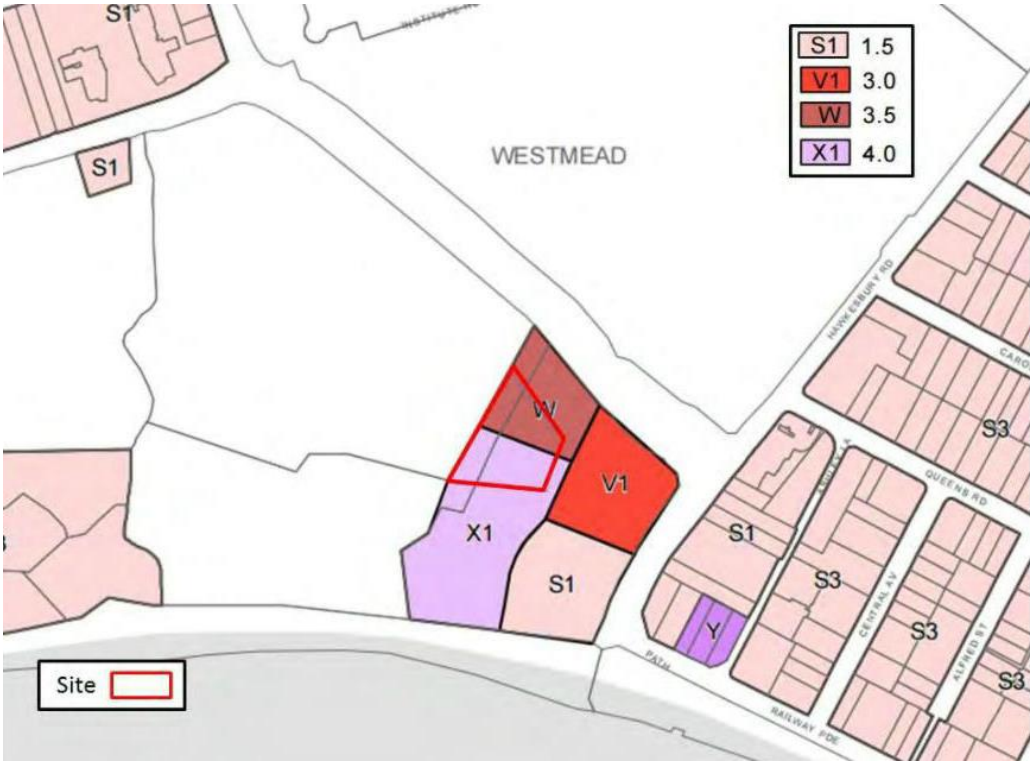

Figure 11: LEP FSR for the WSU site

Objectives of the standard/s	As per clause 4.3(1) of the LEP: *(a) to establish a maximum height of buildings to enable appropriate development density to be achieved, and*

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

As per clause 4.4(1) of the LEP:

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

Extent of the variations

The maximum defined heights and the % variations are:

- Building D – 72.15m (Non- compliance is 32.15m or 80.3% variation to the 40m height control)
- Building E – 37.1m (Non–compliance is 6.1m or 19.3% variation to the 31m height control)
- Building F – 38.35m (Non–compliance is 7.35m or 23.7% variation to the 31m height control)
- Non-compliance is 2301m^2 or 8.7% departure to the 4:1 FSR control.
- Non-compliance is 5595m^2 or 24.2% departure to the 3.5:1 FSR control.

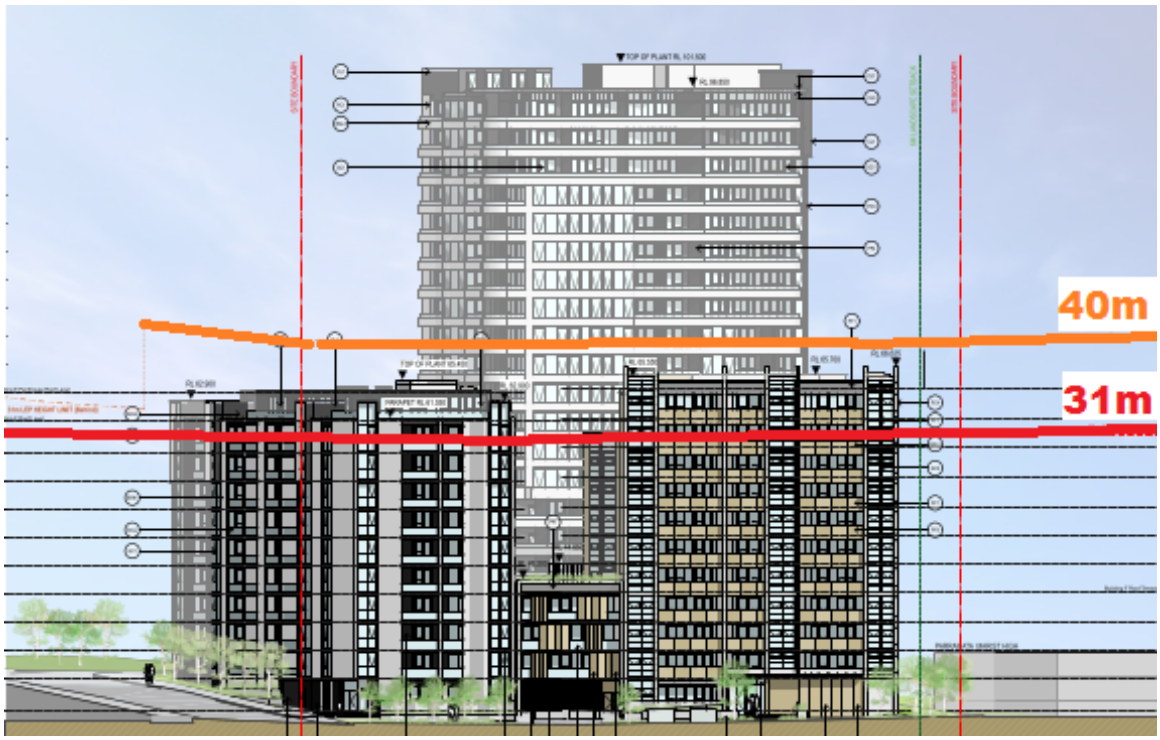

Figure 12: Extract of sectional drawing when viewed from the Northern Elevation.

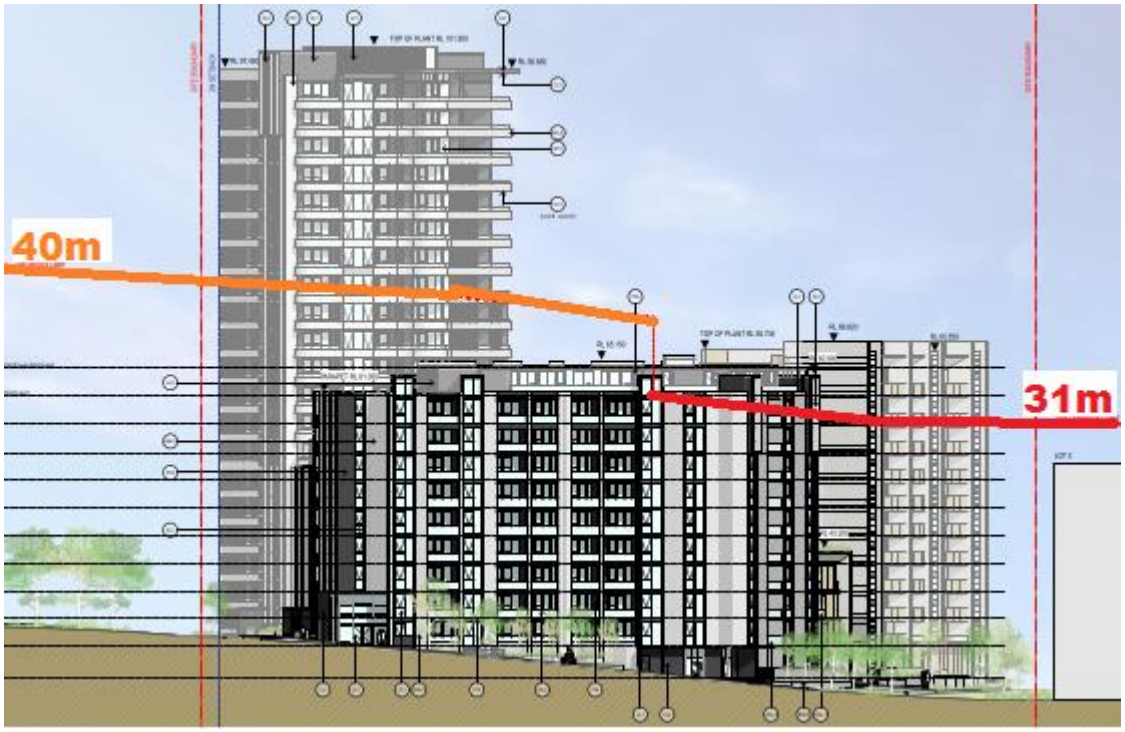

Figure 13: Extract of sectional drawing when viewed from the Eastern Elevation

Evaluation

Clause 4.6(1) of the LEP – Objectives of clause 4.6

The objectives of this clause are:

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

Clause 4.6(2) of the LEP – Operation of clause 4.6

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

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

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

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

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

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

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

- *The proposal provides a high quality architectural solution that is responsive to the location of the site toward the southern edge of the Westmead precinct and will provide a clearly defined entry into Westmead from the south.*

- *The proposed massing of the development results in a high level of modulation with the building height decreasing toward the north and east to provide a transition in scale to the future anticipated buildings surrounding the site as well as the heritage significant buildings to the south east such that the proposed arrangement of heights is appropriate for the site and its context.*

- *The proposed variation to the height controls allows the floor area of the development to be accommodated within a slimmer built form with much greater separation as well as providing an appropriate curtilage to the heritage buildings located to the south east of Lot 4. The proposed variation also facilitates a greater level of modulation in scale between the various built form elements of the building as well as improved environmental performance within the development, reduced impacts on surrounding properties, and a much higher level of visual permeability throughout the site.*

- *The desired future character outlined for the overall site within section 4.3.4.1 of the PDCP indicates that the future built form on the site shall include taller, slender "statement" buildings located along the railway line to enable a strong visual relationship between the precinct and the CBD. Whilst Lot 4 is not directly adjacent to the railway line, the proposal appropriately responds to the desired future character, providing a 21 storey tower in the south western corner of the site. The proposed tower will complement the two towers proposed on Lot 5 (DA/968/2016) adjacent to the railway corridor which are 15 and 24 storeys in height, satisfying the requirement that tall slender statement buildings be provided to enable a visual connection between the Westmead precinct and the Parramatta CBD located to the east.*

- *The design of the proposal involves a dynamic architectural language and a façade treatment with a high level of materiality that will compliment and improve the character of the area.*

- *A solar analysis prepared by Turner Architects accompanies the subject application and demonstrates that the proposal does not result in a significant adverse or non-complying impact to the surrounding properties.*

- *There are no adverse impacts in terms of overshadowing, views, visual and acoustic privacy impacts to adjacent sites resulting from the proposed variation to the height development standard which would warrant strict compliance.*

- *Apartments within the development are provided with a high level of amenity. The proposal provides for open space and deep soil in accordance with the relevant ADG requirements and the increased height provides for a slimmer built form and increased open space for the site.*

- *The proposed variation allows for the most efficient and economic use of the land.*

- *Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public.*

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

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

And with regards to the **FSR**:

- *The floor space ratio controls applicable to the overall site fail to provide for the provision of roadways and open space which are critical to the successful functionality of the overall site. The approval of the Stage 1 Concept Plan recognised that the density proposed across the overall site was consistent with the density permitted pursuant to PLEP despite the individual allotments exceeding the permissible floor space ratio. In this regard, Council have effectively abandoned the FSR provisions in the LEP as they relate to the individual allotments approved under the Stage 1 development consent in preference for the allocation of a quantum of gross floor area to each allotment. The density proposed on Lot 4 is consistent with the density approved under the Stage 1 Concept Plan.*

- *The proposed distribution of built form and massing of the building across the site is the result of a considered analysis of the contex1 of the site and the desire to deliver a positive urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located on the site.*

- *The proposal will deliver a high quality transit orientated development that will increase the vibrancy of the precinct.*

- *The proposal is consistent with the desired future character outlined within PDCP 2011 for the subject site and the Westmead precinct generally.*

- *The density proposed does not prevent achievement of the 9 principles of SEPP 65.*

- *There are no unacceptable adverse impacts in terms of shadow, view, visual and acoustic privacy impacts resulting from the proposed variation to the floor space ratio development standard which would warrant strict compliance.*

- *The proposed density will not result in an acceptable impact on local traffic conditions.*

- *The proposed variation allows for the most efficient and economic use of the land.*
- *Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public.*

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

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

Height

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

FSR

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

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

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

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

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

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

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

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

Conclusion

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

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

  However, in designing for the development on Lot 4, further modelling of the building envelopes approved under DA/571/2014 resulted in a built form that did not reflect the development potential for the site, in particular, the height for the site.

- The most significant departure to the height relates to building D which is located closest to Lot 5 which was approved with a development height of 24 storeys. Locating the tallest tower closest to the development on Lot 5 staggers the height throughout the site and concentrates the tallest element within proximity to the rail corridor and to the playing fields of Parramatta Marist High school to the west.

- The tallest building on Lot 4 being Building D is provided with ample building separation to the development located on Lot 5 to the south. Thus, the development does not in this instance result in significant solar access impacts to the development on Lot 5.

- Despite some loss of solar access to the trees located on the grove to the south of the site, the applicant has provided additional arborist advice. The arborist advice noted that the trees have adapted to obtain light where possible and that these trees are also in competition with each other for sunlight access. The arborist report concluded that the increase in shade to these trees will adapt to the changes in light. Provided that pruning of these trees are limited, survival of these trees should be optimal. The report was also reviewed by Council's Open Space and Natural Area Planner whom found the report to be satisfactory subject to conditions of consent.

- The lower buildings in lot 4 is located on the northern / north-eastern arm of the development to maximise solar access to the central common open space area.

- Locating the tallest point of the development to the south-western corner of Lot 4 does not in this instance obstruct any views to or from the site identified in Council's planning controls.

- The departure to the height in this instance does not result in any adverse impacts to the heritage item located on Lot 1 given its location and separation. Council's Heritage Adviser upon review of the proposal, found the development to be satisfactory and did not raise objections to the variation to the height.

- The site is restricted by the 6m wide Right of Access located to the north of the site which reduces the buildable area south of the easement.

- The proposed FSR is consistent with the Stage 1 FSR approved for Lot 4 and that the bulk and scale impacts of the FSR was envisaged at the Stage 1 approval.

- The departure to the FSR does not result in adverse traffic and parking impacts and has the support of Council's Traffic Engineer.

- The departure to the height and FSR has the support of Council's Urban Designers, City Architect and DEAP as it is considered to result in a better Urban Design outcome.

- The development contributes to the wider Westmead precinct by providing residential development to support its primary function as a health and educational hub.

- The departures to the standards does not hinder the development from achieving the objectives of the B4 Mixed Use zone as it contributes to providing residential development in the locality.

- The preconditions of Clause 4.6(4)(a), in relation to the adequacy of the applicant's written request and the public interest, are satisfied.

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

3. Parramatta Development Control Plan 2011

Compliance

The DCP is comprised of the following sections:

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

Compliance tables are provided below:

Table 6: DCP 2011 compliance table

Part 2 – Site Planning	Complies
2.4.1	

Views and Vistas	The site is not identified as having views and vistas identified as being significant by Appendix 2 nor is the site located in the Harris Park Conservation Area.	Yes
2.4.2.1 Flooding	The site is not identified by Council as being flood prone.	N/A
2.4.2.2 Protection of Waterway	The site does not adjoin a waterway.	N/A
2.4.2.3 Protection of Groundwater	Four levels of basement parking are proposed which requires extensive excavation below NGL. A Geotechnical report has been submitted confirming that tests conducted on the site may encounter groundwater / water table. As such, the application was deemed to be nominated integrated development in accordance with Section 91 of the Act as the works related to the proposal may require an Aquifers License from the Office of Water. In response, the Water NSW provided their General Terms of Approval to be incorporated into the consent.	Yes
2.4.3.1 Soil Management	An erosion and sedimentation plan has been submitted with the application.	Yes
2.4.3.3 Salinity	Subject to conditions, the works will not impact or be impacted by salinity. The proposed landscaping is assessed as appropriate. Consultation with Council's Landscape and Tree Management Officer has found that the proposed plant species will not require an unreasonable amount of water for their maintenance.	Yes
2.4.4 Land Contamination	Refer to assessment under SEPP 55.	Yes
2.4.5 Air Quality	Standard conditions of consent will be applied.	Yes
2.4.6 Development on sloping land	The development responds to the slope of the site by providing appropriate excavation to ensure an adequate building platform	Yes
2.4.7 Biodiversity	Council’s Landscape Officer has not raised concerns with regards to the Landscape Plan subject to conditions. The landscape plan submitted with the application does not include provision for species nominated in Appendix 3 of the PDCP 2011. The site does not adjoin bushland nor does it adjoin land zoned E2 or W1.	Yes
2.4.8 Public Domain		Yes

	The plans have been amended to provide an appropriate street address with distinguishable entries via a clear pedestrian pathway to ensure clear identification from the public domain. Balconies and windows on the upper units address the street frontage promoting natural surveillance from within the units to the front, public domain and railway corridor. Windows and balconies also face the central communal area to provide surveillance to this area. The Right of Access located to the north of the site has been designed as a shared zone to allow for both pedestrian and vehicle use benefitting Lot 4 and the future commercial development on Lot 3. The design of the Right of Access was reviewed by Council's Urban Designers and found the scheme to be satisfactory. Standard conditions incorporated in the consent requiring the payment of a bond to ensure that the nature strip is maintained and in the event that it is damaged due to the works associated with the proposal that Council be reimbursed for the damages.	
Part 3 – Development Principles		Complies
Height	See LEP assessment under 'height'	**No, but acceptable**
FSR	See LEP assessment under 'FSR'	**No, but acceptable**
Minimum Site Frontage	Required – Min. 18m Provided: South Frontage – 86.68m Eastern Frontage – 57.98m Northern Frontage – 66.63m	Yes
Front Setback	Required – Min. 3m. A lesser setback may be permitted if consistent with the predominant setback. Provided: South Frontage – 2m The development on Lot 5 was approved with a front setback to the its northern boundary of 2m and 8.7m to Oakes Lane. The proposed 2 metre front setbacks for the development on Lot 4 are consistent with the approved setbacks on Lot 5. Further, the encroachment does not increase any adverse impacts to the perception of bulk and scale. There is also ample building separation to Lot 5 located to the south of the site of approximately 28 metres. In this regard, it is unlikely that the encroachment of the development setback to the southern boundary will result in unreasonable overlooking or acoustic impacts. It is noted that the eastern setback is discussed in Part 4 of this assessment.	**No, but acceptable**
Side Setback	Required – As per Special Area Controls for 158 – 164 Hawkesbury Road. See Part 4 of this table.	**No, but acceptable**
Rear Setback	Required – As per Special Area Controls for 158 – 164 Hawkesbury Road. See Part 4 of this table.	

Deep Soil	See ADG assessment for deep soil requirements.	**No, but acceptable**
Landscape Area	Required – Rear setback is to be landscaped area if residential development is proposed on the ground floor.	Yes
	Provided – 36.5% of the site (or 2394m^2) is landscaped area. It is noted that due to the Right of Access located along the northern boundary, landscaping opportunities in this location is limited. Also, the Stage 1 building envelopes approved under DA/571/2014 envisaged that the majority of the landscaping provided for Lot 4 is to be located to the centre of the site which the current proposal reflects. Given this, the location of the landscaped area is considered to be acceptable.	Yes
3.2.1 Building Elements	The bulk of the building is consistent with the desired future character of Westmead. It is considered that the proposed development subject to conditions of consent will not adversely impact on the existing streetscape as plans indicate satisfactory setbacks and articulation, thereby, reducing the bulk and scale of the development and as such, any adverse impacts on the amenity of the potential adjoining properties.	Yes
3.2.2 Building Façade and Articulation	The proposal provides appropriate setbacks and building articulation resulting in a reduced perception of bulk and scale. The development is designed with multiple recesses to create articulation, improve solar access to the adjoining properties and to create some visual interest on the pedestrian level. Accordingly, there will be no unreasonable loss of amenity to adjacent properties. The application proposes balconies to the upper floors which address the street frontage and do not project more than 800mm beyond the building envelope. The proposal does not propose Juliet balconies or bay windows. Multiple stair lift/cores are provided to encourage multiple street entries.	Yes
3.2.3 Roof Design	The development incorporates a flat roof which is not uncommon with the modern design for similar forms of development. It is noted that the approved development on Lot 5 was approved with a flat roof and as such, the roof form on Lot 4 is considered to be consistent with that development.	Yes
3.2.5 Streetscape	The urban context of the wider locality is residential of low to high density. Westmead is also a health and educational precinct. As previously stated in this report, the development is of an appropriate bulk and scale with adequate setbacks and landscaping. As such, the development is considered to be	Yes

	consistent with the B4 Mixed Use zoning of the site and the future streetscape character of the area. Basement carparking is provided to minimise the impact of parking structures on the building façade and the front setback. The site is affected by a Right of Access along the northern boundary. The development has been designed to address the right of access to allow for a shared zone as evidenced by the public domain and landscape plans. The mail boxes are located in each lobby of the development.	
3.2.6 Front Fences	No front fences are proposed.	N/A
3.3.1 Landscaping	The proposed works has the endorsement of Council's Landscape and Tree Management Officer subject to conditions of consent. The basement is located within the building footprint and as such, provides adequate areas for landscaping to the western portion of the site.	Yes
3.3.2 Private and Common Open Space	See ADG assessment for Common Open Space and Private Open Space requirements.	Yes
3.3.3 Visual Privacy	See ADG assessment for Visual Privacy.	Yes
3.3.4 Acoustic Amenity	See ISEPP discussion with regards to acoustic amenity.	Yes
3.3.5 Solar Access & Cross Ventilation	Lots 5, 3 and 2 will receive the minimum 3 hours of solar access during the winter solstice. The heritage item on Lot 1 will not be impacted by the development. The reserve to the south, while receive less sunlight in mid-winter, contains trees that have adapted to increased shading as it currently competes with other trees for solar access. Provided that pruning to these trees are limited, the reduced solar access should not impede on their continued growth. The development provides 2.7m floor to ceiling height on each floor. See ADG assessment for cross ventilation.	Yes
3.3.6 Water Sensitive Urban Design	Council's Development Engineer has advised that the concept OSD plan is satisfactory and appropriate conditions have been imposed to ensure it is designed appropriately at the construction certificate stage to achieve relevant objectives and design principles outlined in the DCP.	Yes
3.3.7 Waste Management	The Waste Management Plan is satisfactory, detailing the types and amounts of waste that will be generated by the development and the methods of removal and disposal.	Yes

	The garbage room is located within the lower ground floor area and on the ground floor. The WMP states that the development will be serviced by private waste contractor on site. Waste storage areas will be maintained by the caretaker.	
3.4.1 Public Art	An Arts Plan has been submitted with the application. The related documentation was reviewed by Council's Public Art Officer whom raised no objections to the proposal subject to conditions of consent.	Yes
3.4.2 Access for People with disabilities	The application was submitted with a BCA Report as well as an Access Report. These reports as well as standard conditions requiring compliance with the relevant BCA and Australian standards will be included in the consent. It is noted that the ground floor is accessible from the street by people with disabilities. Access from the basement to the upper levels is via a lift.	Yes
3.4.4 Safety and Security	The proposal does not contribute to the provision of any increased opportunity for criminal or anti-social behaviour to occur. The entries face towards the street or the central common open space, promoting natural surveillance from within the units to the public domain.	Yes
3.4.5 Housing Diversity and Choice	Provided - 4 x studio units (1%) 177 x 1 bedroom units (51%) 152 x 2 bedroom units (44%) 11 x 3 bedroom units (3%) A Market Housing Demand Report was submitted which explained the housing mix proposed. The housing mix in this case is driven by the demand for 1 and 2 bedroom units in the Westmead area. Given this, the skew to 1 and 2 bedroom apartments in this case is considered acceptable.	Yes
Adaptable dwellings	Required - 34 units Provided – 34 units	Yes
3.5 Heritage and Archaeology	Lot 4 does not contain a heritage item. The site is not within a heritage conservation area. The site however is located within proximity to heritage listed items on Lot 1. Council's Heritage Adviser reviewed the proposal and upon review raised no objections to the proposal as there is considered to be ample building separation between sites. As such, it is deemed that no significant views or heritage values will be impacted by the development.	Yes
3.6 Parking Provisions	See ADG assessment for parking requirements.	Yes

	A Right of Access is located along the northern boundary and is in accordance with the Stage 1 Concept Plan. The site does not result in the isolation of any adjoining properties.	
Part 4 – Special Precinct		Complies
Subdivision	No subdivision is proposed under the current application.	Yes
Height	See LEP table	No
FSR	See LEP table	No
Setbacks	Required – Eastern setback – Nil + Awning Western Setback – 6m landscape setback Provided – Eastern setback – Min. 2m Western setback – 6m landscape setback The western setback complies by providing a 6m landscaped setback. However, the eastern setback, whilst providing in excess of the required Nil setback, only provides awnings to the north-eastern corner of the building as well as over the lobby to the south-eastern corner of the development. Notwithstanding, the awnings provided contribute to the aesthetic presentation of the development as well as some weather protection on the ground level. It is noted that awnings over much of the length of the eastern elevation cannot be provided due to balconies being located to this portion of the elevation. Council's Urban designers, City Architect as well as DEAP found the departure to this controls satisfactory.	**No, but acceptable**
Open Space	Public domain is as per the Stage 1 approved under DA/571/2014 and Figure 4.3.4.1.2 of PDCP 2011.	Yes
Heritage	Lot 4 does not contain a heritage item. Council's Heritage Adviser reviewed the proposal and upon review raised no objections to the proposal as there is considered to be ample building separation between Lot 4 and Lot 1 which contains a heritage item.	Yes
Traffic and Transport	See ADG assessment.	Yes

4. Planning agreements

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

5. Environmental Planning and Assessment Regulation 2000

This application satisfies relevant clauses of the Regulation as follows:

Table 7: Relevant EPA Regulations

Clause 50(1)(a)	The nominated documentation is provided being o A design verification statement; o An explanation of the design in terms of the principles in SEPP 65 o Relevant drawings and montages
Clause 98	All building work will be carried out in accordance with the provisions of the Building Code of Australia.

6. Likely impacts

6.1 Context and setting

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

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

Response

This proposal will result in acceptable physical impacts as follows:

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

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

Response

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

- It contributes to the mix of land uses contemplated by the planning controls and the residential needs of the Westmead precinct;
- Site planning locates tower elements in suitable location to avoid negative amenity outcomes of adjacent sites or areas of public open space;

- The scale and form and presentation of the building is generally consistent with planning controls, and the design and site planning is acceptable as independently assessed by Council's Design Excellence Advisory Panel;
- The built form does not result in significant adverse impacts for adjacent sites;
- The public domain treatment is satisfactory;
- The operational characteristics of the site will not result in any adverse impacts for adjacent sites or the wider locality.

6.2 Site works

Excavation

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

Tree removal

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

Utility services

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

6.3 Natural and technological hazards

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

6.4 Site design

Setbacks

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

Height, bulk and scale

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

External materials

The schedule of external materials and finishes is satisfactory.

Wind

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

Table 8: Wind mitigation measures

Location	*Mitigation measures*
Ground Level	• Retention of densely foliating trees along the pedestrian footpath, corners of the building and southern boundary.
Podium Communal Courtyard	• The retention of the proposed densely foliating trees and shrubs/hedge planting as indicated in the landscape plan.
Private balcony areas – Building D1	• South-west private corner balconies on level 4 to 19, the inclusion of full-height louvers or impermeable screens along either of the western or southern perimeter edge.

Suitable conditions are included in the recommendation.

Accessibility

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

Landscaping

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

6.5 Amenity considerations

Internal amenity

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

Common open space

The primary common open space is located on the ground floor. Secondary common open space areas are located on the lower ground floor as well as Level 3 and Level 6 of Building F and D. These areas meet the ADG criteria for size and solar access.

Noise

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

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

6.6 Public domain

Built form relationship to public domain

A positive public domain outcome will result given:

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

Public domain works

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

6.7 Relationship to adjacent sites

Overlooking

The development, ensures adequate separation within the development as well as the development on Lot 5 and future commercial development to the north (Lot 3). No residential development is proposed to the east (Lot 1).

Overshadowing

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

Operational noise

The 4 level of basement parking will require mechanical ventilation.

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

6.8 Access, transport and traffic

Parking supply

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

Parking access and design

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

Construction Traffic

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

6.9 Water management

Stormwater collection and disposal

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

Water quality during construction

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

6.10 Waste management

Construction phase

This matter will be addressed within a Construction Management Plan.

Operation phase

Dedicated space for the storage and collection of waste is provided on the lower ground floor via the Right of Access along the northern boundary. Council's Waste Officer has reviewed the Waste Management Plan which supports the application, and is satisfied with arrangements for the storage and collection of waste from the development.

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

6.11 Construction Management

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

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

6.12 Safety, security and crime prevention

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

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

- Internal and external lighting to Australian Standards;
- Installation of CCTV to the basement entry;
- Design of landscaping and should be maintained to ensure sight lines across the site;
- Engage a security firm to undertake regular inspections of the south and surrounding areas at night
- Way finding measures within the parking level;
- Provision of signage to be prominently displayed

6.13 Social and economic impacts

No adverse impacts have been identified.

7. Site suitability

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

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

8. Public interest

In accordance with the notification procedures that are contained in Appendix 5 of PDCP 2011 owners and occupiers of surrounding properties were given notice of the application for a 30 day period between 19 January 2017 and 21 February 2017. In response, 8 submissions were received.

The issues raised in the submissions are as follows.

Issue	Comment
Insufficient Infrastructure to support the development	The proposal is a form of development envisaged by the controls in response to services, schools and transport available in the area. As such, it is considered that sufficient infrastructure is available to support the development.
Increase in parking and traffic	The increase in traffic movement within the locality as a result of the development was reviewed by Council's Traffic Engineer whom raised no objections subject to conditions of consent. Further, the proposal provides the required parking spaces for the development and is considered to be appropriate given its proximity to public transport.
Development for profit	This is not a matter of consideration under Section 79C of the EP&A Act.
Development results in overcrowding	The increase in the density within this precinct as a result of the development is in line with the desired outcomes for the Westmead Precinct. The development has been designed to manage the impacts associated with the density increase in terms of acoustic and solar amenity, parking, traffic and increased pedestrian movement.
No vehicle access should be allowed via Ashley Lane	The Stage 1 Concept plan approved vehicle access from Hawkesbury Road and Darcy Road. This has been retained under the subject application.
The development is out of character with the developments in Westmead	The development has been designed in accordance with the relevant policies applicable to the Westmead precinct as well as its B4 Mixed Use zoning of the site. It is noted that in September 2017, the SWCPP approved a development for 556 apartments on Lot 5.
Pedestrian Safety	The pedestrian movement within the WSU site was assessed in detail under the Stage 1 approval and therefore did not require to be revisited. However, as this application relates only to Lot 4, only the pedestrian movement within the site was reviewed. It is noted that Lot 4 provides appropriate linkages at ground level with connections to the street frontages. These links were reviewed by Council's Urban Designers and considered to be acceptable.
Darcy Road Pedestrian Overpass and Hawkesbury Road underpass	As above, these issues were reviewed under the Stage 1 approval. It is noted however that the overpass and underpass do not form part of this application.
Development should have consideration to the Westmead Health Precinct Plan if it addresses Darcy Road.	Lot 4 does not have a frontage to Darcy Road.

The development is of a height that will impact on the flight path for Westmead Hospital	The applicant has submitted an aviation report that confirms that the proposed development will not impact on any existing flight paths or on redirected flight paths.
Proposal is to be in accordance with the Westmead Redevelopment	The development has been designed in accordance with the relevant policies applicable to the Westmead precinct as well as its B4 Mixed Use zoning of the site.
Bulk and Scale	This issue is assessed in detail elsewhere in this report. Despite the variations to the height and FSR, it is considered appropriate for its location and is designed as envisaged by Council's controls for the Westmead Precinct.
Over supply of parking spaces	The application provides 414 spaces which is in excess of the maximum rate for the site at 411. The 3 additional parking spaces in this instance is considered to be minor and Council's Traffic Engineer does not object to the variation as it is unlikely to significantly contribute to the local traffic network.

Amended plans were submitted in response to DEAP comments as well as in response to commentary from Council's internal specialists such as Development and Traffic Engineers. These plans were re-advertised between 10 August 2017 and 11 September 2017. In response to the notification period, no submission was received.

ATTACHMENT B - CONDITIONS OF CONSENT

SWCCP reference	2017SWC005
DA No.	1271/2016

GENERAL MATTERS

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

Drawing No.	Prepared By	Dated
Site Plan, Drawing No. DA-100-020. Revision X.	Turner	10 October 2017
Basement 01 Plan, Drawing No. DA-105-B01. Revision No. W.	Turner	31 August 2017
Basement 02 Plan, Drawing No. DA-105-B02. Revision No. V	Turner	14 July 2017
Basement 03 Plan, Drawing No. DA-105-B03. Revision No. V	Turner	14 July 2017
Basement 04 Plan, Drawing No. DA-105-B04. Revision No. V	Turner	14 July 2017
Lower Ground Floor Plan, Drawing No. DA-110-001. Revision No. Y.	Turner	10 October 2017
Ground Floor Plan, Drawing No. DA-110-002. Revision No. Z.	Turner	11 October 2017
Level 1 Plan, Drawing No. DA-110-010. Revision No. U.	Turner	3 July 2017
Level 2 Plan, Drawing No. DA-110-020. Revision No. U.	Turner	3 July 2017
Level 3 Plan, Drawing No. DA-110-030. Revision No. U.	Turner	3 July 2017
Level 4-5 Plan, Drawing No. DA-110-040. Revision No. U.	Turner	3 July 2017
Level 6 Plan, Drawing No. DA-110-060. Revision No. U.	Turner	3 July 2017
Level 7 Plan, Drawing No. DA-110-070. Revision No. U.	Turner	3 July 2017
Level 8 Plan, Drawing No. DA-110-080. Revision No. U.	Turner	3 July 2017
Level 9 Plan, Drawing No. DA-110-090. Revision No. U.	Turner	3 July 2017

Level 10 Plan, Drawing No. DA-110-100. Revision No. U.	Turner	3 July 2017
Level 11 Plan, Drawing No. DA-110-110. Revision No. U.	Turner	3 July 2017
Level 12-16 Plan, Drawing No. DA-110-120. Revision No. U.	Turner	3 July 2017
Level 17-18 Plan, Drawing No. DA-110-170. Revision No. U.	Turner	3 July 2017
Level 19 Plan, Drawing No. DA-110-190. Revision No. U.	Turner	3 July 2017
Level 20 Plan, Drawing No. DA-110-200. Revision No. U.	Turner	3 July 2017
Level 21 Roof Plan, Drawing No. DA-110-210. Revision No. U.	Turner	3 July 2017
Level 22 Overall Roof Plan, Drawing No. DA-110-220. Revision No. U.	Turner	3 July 2017
North Elevation, Drawing No. DA-210-001. Revision No. V.	Turner	31 August 2017
East Elevation, Drawing No. DA-210-002. Revision No. V.	Turner	31 August 2017
South Elevation, Drawing No. DA-210-003. Revision No. U.	Turner	3 July 2017
West Elevation, Drawing No. DA-210-004. Revision No. V.	Turner	31 August 2017
Sections A-A, Drawing No. DA-310-001. Revision No. X.	Turner	10 October 2017
Sections B-B, Drawing No. DA-310-002. Revision No. U.	Turner	3 July 2017
Sections C-C, Drawing No. DA-310-003. Revision No. U.	Turner	3 July 2017
Detailed Section D + E, DA-310-004, Revision V.	Turner	11 October 2017
Detailed Section F + G, DA-310-005, Revision U.	Turner	5 October 2017
Detailed Section H, DA-310-006, Revision V.	Turner	10 October 2017
Materials Board and Finishes D, Drawing No. DA-990-002. Revision No. U.	Turner	3 July 2017
Materials Board and Finishes E, Drawing No. DA-990-003. Revision No. U.	Turner	31 August 2017
Materials Board and Finishes F, Drawing No. DA-990-004. Revision No. U.	Turner	3 July 2017
Landscape Plan General Arrangement Plan, Reference No. 20160070, Drawing No. DA101, Revision C.	Scott Carver	30 August 2017
Ground Floor Detail Plan, Reference No. 20160070, Drawing No. DA102, Revision C.	Scott Carver	30 August 2017

Ground Floor Detail Plan 2, Reference No. 20160070, Drawing No. DA103, Revision A.	Scott Carver	20 December 2016
General Arrangement – Alignment Plan, Reference No. 20160070, Drawing No. DA110, Revision B.	Scott Carver	30 August 2017
Tree Management Plan, Reference No. 20160070, Drawing No. DA100, Revision A.	Scott Carver	20 December 2016
Building D2 – Level 6 Roof Top, Reference No. 20140076, Drawing No. DA104, Revision A.	Scott Carver	20 December 2016
Level 8 Roof Top, Reference No. 20160070, Drawing No. DA105, Revision A.	Scott Carver	20 December 2016
Section AA, Reference No. 20160070 Drawing No. DA200, Revision A.	Scott Carver	20 December 2016
Section BB, Reference No. 20160070 Drawing No. DA201, Revision A.	Scott Carver	20 December 2016
Section CC, Reference No. 20160070 Drawing No. DA202, Revision A.	Scott Carver	20 December 2016
Level 8 – Roof Top Terrace Sections, Reference No. 20160070 Drawing No. DA203, Revision A.	Scott Carver	20 December 2016
Civil Works – Bulk Earthworks Plan, Project No. 0789, Drawing No. C03, Revision A.	Neil Lowry & Associates	20 December 2016
Civil Works – Internal Driveways and Pathway Plan, Project No. 0789, Drawing No. C04, Revision A.	Neil Lowry & Associates	20 December 2016
Stormwater Plans - **(**Drawing ref 0789-SC02.4~SC05.4: Basement Drainage Plans, -SC06.4: Lower Ground Floor Drainage Layout Plan, -SC07.4: Ground Floor Drainage Layout Plan, SC21.4~23.4: Detail Sheets), Revision **"D"** (9 sheets)	Neil Lowry & Associates	8 September 2017

Document(s)	**Prepared By**	**Dated**
Accessibility Report	MGAC	22 December 2016
Acoustic Report	Acoustic Noise and Vibration Solutions P/L	21 December 2016
Arborist Report 1	The Ents Tree Consultancy	19 October 2016
Arborist Report 2	The Ents Tree Consultancy	19 July 2017
Tree Shadowing Report	The Ents Tree Consultancy	30 August 2017

Aviation Report	L&B	12 September 2017
BCA Assessment	Vic Lilli & Partners Consulting	12 December 2016
Market Analysis	Hill PDA	April 2017
Construction Management Plan	Barker Ryan Stewart	December 2016
CEPTD Report	Barker Ryan Stewart	December 2016
Electricity Infrastructure Report	JHA	19 December 2016
Fire Engineer Report	Affinity Fire Engineering	15 December 2016
Geotech Report	EIAustralia	15 December 2016
Heritage Impact Statement	NBRS Architecture	22 December 2016
Public Art Strategy	Turpin + Crawford Studio	December 2016
Site Audit Statement	JBS&G Australia Pty Ltd	6 October 2016
Structural Design Report	BONACCI	12 December 2016
Traffic and Parking Assessment	Barker Ryan Stewart	December 2016
Urban Design Report	Olson and Associates Architect	December 2016
Waste Management Plan	Elephants Foot recycling Solutions	15 December 2016
Wind Report	Windtech	6 December 2016
Basix Certificate No. 778242M_02	BASIX	24 July 2017
Water NSW – General Terms of Approval	Water NSW	20 September 2017

Note: In the event of any inconsistency between the architectural plan(s) and the landscape plan(s) and/or stormwater disposal plan(s) (if applicable), the architectural plan(s) shall prevail to the extent of the inconsistency.
Reason: To ensure the work is carried out in accordance with the approved plans.

2. All building work must be carried out in accordance with the current provisions of the Building Code of Australia (National Construction Code).
   Reason: To comply with the Environmental Planning & Assessment Act 1979, as amended and the Environmental Planning & Assessment Regulation 2000.

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

4. The development must be constructed within the confines of the property boundary. No portion of the proposed structure, including footings/slabs, gates and doors during

opening and closing operations must encroach upon Council's footpath area or the boundaries of the adjacent properties.

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

5. Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of Work Cover NSW and the EPA, and with the provisions of:
   (a) Work Health and Safety Act 2011
   (b) NSW Protection Of the Environment Operations Act 1997 (NSW) and
   (c) NSW Department of Environment and Climate Change Environmental Guidelines; Assessment, Classification and Management of Liquid and Non Liquid Wastes (1999).

   Reason: To ensure that the land is suitable for the proposed development and any contaminating material required to be removed from the property is removed in accordance with the prescribed manner.

6. All fill imported onto the site shall be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported on to the site shall also be compatible with the existing soil characteristic for site drainage purposes.

   Council may require details of appropriate validation of imported fill material to be submitted with any application for future development of the site. Hence all fill imported onto the site should be validated by either one or both of the following methods during remediation works:
   (a) Imported fill should be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
   (b) Sampling and analysis of the fill material shall be conducted in accordance with NSW EPA (1995) Sampling Design Guidelines

   Reason: To ensure imported fill is of an acceptable standard.

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

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

8. Groundwater shall be analysed for pH and any contaminants of concern identified during the preliminary or detailed site investigation, prior to discharge to the stormwater system. The analytical results must comply with relevant NSW EPA water quality standards and Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000.

   Other options for the disposal of groundwater include disposal to sewer with prior approval from Sydney Water or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.

   Reason: To ensure that contaminated groundwater does not impact upon waterways

9. Any contamination material to be removed from the site shall be disposed of to an EPA licensed landfill.

   Reason: To comply with the statutory requirements of the Protection of the Environment Operations Act 1997.

10. The Applicant is to engage an Artist/s to develop the artworks consistent to the proposed themes and treatment areas outlined in the Arts Plan.
Reason: To deliver satisfactory public art.

11. On completion of the artwork design stage, the Applicant is required to submit all additional documentation to Council that details the realisation of the Arts Plan through final design concepts, site plan for artworks, construction documentation and project management prior to its implementation.
Reason: To deliver satisfactory public art.

12. All waste storage rooms/areas are to be fully screened from public view and are to be located clear of all landscaped areas, driveways, turning areas, truck standing areas and car parking spaces. No materials, waste matter or products are to be stored outside the building or any approved waste storage area at any time.
Reason: To maintain the amenity of the area.

13. All requirements as per the General Terms of Approval (GTAs) issued by Water NSW are to be complied with.
Reason: As per requirements of Water NSW.

Prior to the Issue of the Construction Certificate

(**Note:** Some conditions contained in other sections of this consent (including prior to occupation/use commencing) may need to be considered when preparing detailed drawings/specifications for the Construction Certificate.)

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

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

    Reason: To comply with the Home Building Act 1989.

15. The Construction Certificate is not to be issued unless the Certifying Authority is satisfied the required levy payable, under Section 34 of the Building and Construction Industry Long Service Payments Act 1986, has been paid.
Reason: To ensure that the levy is paid.

16. A monetary contribution comprising **$1125512.80** is payable to Parramatta City Council in accordance with Section 94A of the Environmental Planning and Assessment Act

1979 and the Parramatta Section 94A Development Contributions Plan (Amendment No. 2). Payment must be by EFTPOS, bank cheque or credit card only.

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

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

Parramatta Section 94A Development Contributions Plan (Amendment No. 2) can be viewed on Council's website at:
http://www.parracity.nsw.gov.au/build/forms_and_planning_controls/developer_contributions
Reason: To comply with legislative requirements.

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

18. An Infrastructure and Restoration Administration Fee must be paid to Council prior to the issue of a Construction Certificate.
    The fee will be in accordance with Councils adopted 'Fees and Charges' at the time of payment.
    Note: Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524.

19. Service ducts, plumbing installations and plant servicing the development must be concealed within the building to keep external walls free from service installations. Details are to be included within the plans and documentation accompanying the Construction Certificate to the satisfaction of the Certifying Authority.
    Reason: To ensure the quality built form of the development.

20. In accordance with Section 80A(6)(a) of the Environmental Planning and Assessment Act 1979, security bonds payable to Council for the protection of the adjacent road pavement and public assets during construction works. The bond(s) are to be lodged with Council prior to the issue of any application/approval associated with the allotment, (being a Hoarding application, Construction Certificate) and prior to any demolition works being carried out where a Construction Certificate is not required.

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

    Should a bank guarantee be lodged it must:
    (a) Have no expiry date;
    (b) Be forwarded directly from the issuing bank with a cover letter that refers to Development Consent DA 1271/2016;
    (c) Specifically reference the items and amounts being guaranteed. If a single bank guarantee is submitted for multiple items it must be itemised.

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

Bonds shall be provided as follows:

Bond Type	Amount
Nature Strip and Roadway	$40,000

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

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

Reason: To safe guard the public assets of council and to ensure that these assets are repaired/maintained in a timely manner so as not to cause any disruption or possible accidents to the public.

21. Design Verification issued by a registered architect is to be provided with the application for a Construction Certificate detailing the construction drawings and specifications are consistent with the design quality principles in State Environmental Planning Policy No-65. Design Quality of Residential Flat Development.

Note: Qualified designer in this condition is as per the definition in SEPP 65.

Reason: To comply with the requirements of SEPP 65.

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

The Construction Noise Management Plan must include:

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

Reason: To prevent loss of amenity to the area.

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

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

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

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

24. The approved plans must be submitted to a Sydney Water Quick Check agent or Sydney Water Customer Centre to determine whether the development will affect

Sydney Water's sewer and water mains, storm water drains and/or easements, and if further requirements need to be met. This process will result in the plans being appropriately stamped.

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

Notes: For Quick Check agent details please refer to the web site www.sydneywater.com.au – see Building and Developing – then Quick Check or telephone 13 20 92. For Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building and Developing - then Building and Renovating or telephone 13 20 92.

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

25. Prior to any excavation on or near the subject site the person/s having benefit of this consent are required to contact the NSW Dial Before You Dig Service (NDBYD) on 1100 to receive written confirmation from NDBYD that the proposed excavation will not conflict with any underground utility services. The person/s having the benefit of this consent are required to forward the written confirmation from NDBYD to their Principal Certifying Authority (PCA) prior to any excavation occurring.
Reason: To ensure Council's assets are not damaged.

26. A heavy duty vehicular crossing shall be constructed in accordance with Council's Standard Drawing numbers [DS9 & DS10]. Details must accompany an application for a Construction Certificate to the satisfaction of the Certifying Authority.

A Vehicle Crossing application must be submitted to Council together with the appropriate fee as outlined in Council's adopted Fees and Charges prior to any work commencing.
Reason: To ensure appropriate vehicular access is provided.

27. Where a security roller shutter or boom gate prevents access to visitor carparking, an intercom system is required to be installed to enable visitor access to the car parking area. Details of the system and where it is to be located is to accompany an application for a Construction Certificate to the satisfaction of the Certifying Authority.
Reason: To ensure visitor carparking is accessible.

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

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

Backfilling of excavations adjoining Council property or any void remaining at the completion of the construction between the building and Council property must be fully compacted prior to the completion of works.
Reason: To protect Council's infrastructure.

30. The grades of the driveway, including transitions, must comply with Australian Standard 2890.1 (2004) – "Off-street car parking" to prevent the underside of the vehicles scraping. Details are to be provided with the application for a Construction Certificate.
Reason: To provide suitable vehicle access without disruption to pedestrian and vehicular traffic.

31. Column locations are to be installed in accordance with Clause 5 and Figures 5.1 and 5.2 of AS 2890.1-2004.
Reason: To comply with Australian Standards.

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

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

Substations are not permitted within the front setback of the site or within the street elevation of the building; unless such a location has been outlined and approved on the Council stamped Development Application plans. Substations are not permitted within Council's road reserve.
Reason: To ensure adequate electricity supply to the development and to ensure appropriate streetscape amenity.

33. Prior to the issue of a construction certificate a further report including accompanying plans shall be submitted to the satisfaction of the Principal Certifying Authority that provides details of the private contractor that will be engaged to collect domestic waste from the site. If Council is not the principal certifying authority a copy of this report and accompanying plans is required to be provided to Council. This report shall identify the frequency of collection and provide details of how waste products including paper, aluminium cans, bottles etc, will be re-cycled. Waste collection from the site shall occur in accordance with the details contained within this report.
Reason: To provide for the appropriate collection/ recycling of waste from the proposal whilst minimising the impact of the development upon adjoining residents.

34. Separate waste bins are to be provided on site for recyclable waste.
Reason: To provide for the appropriate collection/ recycling of waste from the proposal whilst minimising the impact of the development upon adjoining residents.

35. Construction details showing substrate depth, drainage, waterproofing for podium planting area, plantings over site detention tanks and/or rooftop planter boxes are to be provided with an application for a Construction Certificate. For large shrubs and tree plantings in these areas, the soil volume, soil depth and soil area must, at a minimum, meet the prescribed standards in "Apartment Design Guide – tools for improving the design of residential apartment development" (NSW Department of Planning and Environment, 2015). Tree planting densities shall not exceed the prescribed densities in the above mentioned document for deep soil plantings. In addition, the proposed soil depths and densities are to be certified by the Landscape Architect to meet the requirements of the proposed species to be planted and provided with an application for a Construction Certificate.
Reason: To ensure the creation of functional gardens.

36. The development must incorporate 34 adaptable dwellings. Plans submitted with the construction certificate must illustrate that the required adaptable dwellings have been

designed in accordance with the requirements of AS 4299-1995 for a class C Adaptable House.
Reason: To ensure the required adaptable dwellings are appropriate designed.

37. An acoustic assessment is to be submitted to Council prior to the issue of a Construction Certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".
Reason: As per Sydney Trains requirements.

38. Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.
Reason: As per Sydney Trains requirements.
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Reason: As per Sydney Trains requirements.

42. The Applicant shall provide details of any intended encroachment into RailCorp's easement or Rai/Corp owned lands, for review and approval by Sydney Trains.
Reason: As per Sydney Trains requirements.

43. The developer shall make provision for easy and ongoing access by rail vehicles, plant and equipment to support maintenance and emergency activities.
Reason: As per Sydney Trains requirements.

44. Parking spaces are to be provided in accordance with the approved plans referenced in condition 1 and with AS 2890.1, AS2890.2 and AS 2890.6.
    a. Bollards are to be provided in the shared spaces.

    Details are to be illustrated on plans submitted with the construction certificate.
    Reason: To comply with Council's parking requirements and Australian Standards.

45. The access to the loading dock is to be modified so that the swept paths do not encroach into the landscaped area. Details are to be illustrated on plans submitted with the construction certificate.
Reason: To provide adequate access.

46. The access from the street is to be modified so that service vehicles do not encroach on the adjacent property. Details are to be illustrated on plans submitted with the construction certificate.
Reason: To provide adequate access.

47. The dimensions and layout of the bicycle storage/racks are to comply with AS 2890.3 - 2015. Details are to be illustrated on plans submitted with the construction certificate.
Reason: To comply with Council's parking requirements.

48. The retaining wall(s) to support the cut and/or fill exceeding 600mm such as the retaining wall around the periphery of the basement and at the cut that support earth mass behind it, must be structurally sound and constructed of concrete or brick masonry. The retaining must be appropriately designed by a qualified structural engineer taking into account of the structural loads including dead load and live load from the above and surrounding areas/structures, which exert load on the wall structures and its longevity. The principal certifying authority shall ensure that the

designer has taken account of all loads influencing the tank structures, duly certified and provided the structural design certificate.
Reason: To ensure structurally sound retaining walls.

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

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

    Structural details, certified by a practicing structural engineer, shall accompany the application for a Construction Certificate for assessment and approval by the certifying authority.
    Reason: To minimise impact on adjoining properties.

50. Full engineering construction details of the stormwater system, including OSD structures, pipe networks and calculations as per following points, shall be submitted for the approval of the PCA prior to release of the Construction Certificate for any work on the site.

    (a) The stormwater drainage detail design shall be prepared by a Registered Stormwater Design Engineer and shall be generally in accordance with the following Stormwater Plans approved by this consent and with Council's Stormwater Disposal Policy, Council's Design and Development Guidelines, The Upper Parramatta River Catchment Trust On Site Detention Hand book (Third or Fourth Edition), the relevant Australian Standards and the National Construction Code.

        (i) ***"***The final drainage plans are consistent with the submitted Drainage Plans i.e. ***"Stormwater Plans (***Drawing ref 0789-SC02.4~SC05.4: Basement Drainage Plans, -SC06.4: Lower Ground Floor Drainage Layout Plan, -SC07.4: Ground Floor Drainage Layout Plan, SC21.4~23.4: Detail Sheets), Revision **"D"** dated 08/09/2017 prepared by Neil Lowry & Associates Pty Ltd (9 sheets) together with the notes and rectification as required and address the issues.

        Inconsistencies.
        The amendments made on any other plans need to be incorporated into the stormwater plans to ensure consistency between the plans.

    (b) A Site Storage Requirement of **470m^3/ha** and a Permissible Site Discharge of **80L/s/ha** (when using **3rd edition** of UPRCT's handbook) with the minimum storage capacity of **477.2m^3** as shown by the **OSD design Calculation summary sheet**.

    (c) Certificate from registered structural engineer certifying the structural design adequacy of the OSD tank structure against the loads/forces including buoyancy forces.

    (d) Any changes, other than that are of minor nature (such as minor relocation of pits and pipes), or the changes that affect the approved landscaping require prior approval from the council.

(e) The OSD Detailed Design Submission (Form B9) and OSD Detailed Calculation Summary Sheets (from B1) are to be submitted with the documentation accompanying he construction certificate application.

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

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

51. As a part accomplishment of Water Sensitive Urban Design principles under section 3.3.6.1 of Parramatta City Council Development Control Plan 2011, the following pollution reduction and stormwater quality improvement measures shall be implemented in accordance with the stormwater plan. Special consideration shall be given to the consistency in the Hydraulic Grade line (HGL) at various critical points of each component.

    (a) All the surface pits at the basement car park shall be fitted with the filtration/screening basket fitted with the oil & grease-trapping pad of Enviropod make or equivalent that are capable or capturing sediments and spilled hydrocarbon.
    (b) Filtration system consisting of **at least eighteen (18)** of **690mm** dia StormFilter cartridges (**Stormwater360** make or equivalent with demonstrated performance) that provide water quality flow (Filtration) rate of **17.1 l/s** in normal condition,
    (c) The filter media shall be "**Phosphosorb**", or similar perlite based media that has demonstrated performance characteristics equivalent or better.
    (d) Filtration chamber of at least **22.6m^2** area (**5.64mx4m=22.6m^2** area) with sufficient holding capacity (11x.0.930=10.3m^3),
    (e) The hydraulic head drop (head difference between the inlet invert level and the outlet tail water level) of at least **930mm** shall be maintained at any time/ event. The water quality flow (filtration) rate of the filtration system shall be no less than **17.1 l/s**. If the head drop or water quality flow (filtration) rate cannot be maintained additional cartridges shall be provided proportionately to maintain the designated flow rate.
    (f) The construction and installation of the filtration system shall be in accordance with the manufacturer's specification and instruction.

    Reason: To ensure that the water quality management measures are implemented.

52. The underground OSD storage tank structures shall be constructed as designed and certified by a Qualified Structural Engineer, taking into account of the structural loads including dead load and live load from the above and surrounding areas/structures including the buoyancy forces, which exert load on the tank structures. The principal certifying authority shall ensure that the designer has taken account of all loads influencing the tank structures, duly certified and provided the structural design certificate and comply with Australian Standard: AS3600-2009-concrete structures and AS3700-2001-Masonry structures.

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

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

53. The basement stormwater pump-out system, must be designed and constructed to include the following:

(a) A holding tank capable of storing the run-off from a 100 year ARI (average reoccurrence interval) - 2 hour duration storm event, allowing for pump failure.
(b) A two pump system (on an alternate basis) capable of emptying the holding tank at a rate equal to the lower of:
    (i) The permissible site discharge (PSD) rate; or
    (ii) The rate of inflow for the one hour, 5 year ARI storm event.
(c) An alarm system comprising of basement pump-out failure warning sign together with a flashing strobe light and siren installed at a clearly visible location at the entrance to the basement in case of pump failure.
(d) A 100 mm freeboard to all parking spaces.
(e) Submission of full hydraulic details and pump manufacturers specifications.
(f) Pump out system to be connected to a stilling pit and gravity line before discharge to the street gutter.

Plans and design calculations along with certification from the designer indicating that the design complies with the above requirements are to be submitted to the satisfaction of the Principal Certifying Authority prior to issue of the Construction Certificate.

Reason: To ensure satisfactory storm water disposal.

54. All washing of motor vehicles must be carried out in a designated area and must be drained to a sump and cleansed via a coalescing plate separator prior to discharge into the sewer. Documentary evidence is required from the Trade Waste Section of the Sydney Water Corporation Ltd confirming satisfactory arrangements have been made with the Corporation with respect to the disposal of dirty water into the sewerage system, prior to the issue of the Construction Certificate.
Reason: To ensure satisfactory storm water disposal.

55. Electricity provision within the site is to be designed so that in the future the electrical connection from this site can be made to an underground connection within the street. Certification from an energy provider addressing their requirements for this provision is to be forwarded to the Certifying Authority with the application for a Construction Certificate.
Reason: To enable future upgrading of electricity services.

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

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

58. Prior to the issue of the Construction Certificate for any construction work relating to the ground floor, including slab pour, public domain works or any other above ground structure, a set of detailed **Public Domain Alignment Drawings** must be submitted

and approved by Council's Urban Designer/s. The drawings shall address the following areas:

- all the frontages of the development site between the gutter and building line, including footpath, verge, drainage, forecourt and entry pavements and front setback;
- dedicated land for public use as per VPA *(if applicable);* and
- works in new carriageway/laneway

The Public Domain Alignment Drawings shall be prepared in accordance with:

- the latest Parramatta City Council Public Domain Guidelines;
- the approved Public Domain Concept Drawings,
- any requirements addressed in a **VPA** *(if applicable),* and

On approval of the **Public Domain Alignment Drawings** for any construction work relating to the ground floor, including slab pour, public domain works or any other above ground structure, a set of detailed **Public Domain Construction Drawings** must be submitted and approved by Council's Urban Designer/s. The drawings shall address the following areas:

- all the frontages of the development site between the gutter and building line, including footpath, verge, drainage, forecourt and entry pavements and front setback;
- dedicated land for public use as per VPA *(if applicable);* and
- all the DA Conditions listed in this consent.

The Public Domain Construction Drawings and specifications shall be prepared in accordance with:

- the latest Parramatta City Council Public Domain Guidelines;
- the approved **Public Domain Alignment Drawings**
- any requirements addressed in a **VPA** *(if applicable),* and
- works in new carriageway/laneway
- all the DA Conditions listed in this consent.

Reason: In accordance with the Public Domain Guidelines.

Prior to the Work Commencing

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

    The Principal Certifying Authority must determine and advise the person having the benefit of the Construction Certificate when inspections, certification and compliance certificates are required.
    Reason: To comply with legislative requirements.

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

61. A sign must be erected in a prominent position on any site involving excavation, erection or demolition of a building in accordance with Clause 98 A (2) of the Environmental Planning and Assessment Regulations 2000 detailing:

(a) Unauthorised entry of the work site is prohibited;
(b) The name of the principal contractor (or person in charge of the work site), their telephone number enabling 24hour contact; and
(c) The name, address and telephone number of the Principal Certifying Authority;
(d) The development consent approved construction hours;

The sign must be maintained during excavation, demolition and building work, and removed when the work has been completed.

This condition does not apply where works are being carried.
Reason: Statutory requirement.

62. Prior to work commencing, adequate toilet facilities are to be provided on the work site.
Reason: To ensure adequate toilet facilities are provided.

63. Public risk insurance in the amount of not less than $20 million or such other amount as Council may require by notice) must be obtained and furnished to Council before any works authorised by this consent are conducted:
(a) Above;
(b) Below; or
(c) On

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

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

A copy of the insurance policy obtained must be forwarded to Council before any of the works commence.
Note: Applications for hoarding permits, vehicular crossing etc. will require evidence of insurance upon lodgement of the application.
Reason: To ensure the community is protected from the cost of any claim for damages arising from works authorised by this consent conducted above, below or on any public land owned or controlled by Council.

64. Prior to the commencement of work, the a registered surveyor is to undertake a set out survey to identify the location of all footings, slabs, posts and walls adjacent to a boundary This is to ensure the development when complete, will be constructed wholly within the confines of the subject allotment. This set out survey showing the location of the development relative to the boundaries of the site, is to be forwarded to the Principal Certifying Authority prior to pouring of any footings or slabs and/or the construction of any walls/posts.
Reason: To ensure that the building is erected in accordance with the approval granted and within the boundaries of the site.

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

No drainage work can be carried out within the Council owned land without this permit being issued. A copy is required to be kept on site.
Reason: To protect Council's assets throughout the development process.

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

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

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

Note: This documentation is for record keeping purposes only, and can be made available to an applicant or affected property owner should it be requested to resolve any dispute over damage to adjoining properties arising from works. It is in the applicant's and adjoining owner's interest for it to be as detailed as possible.

Reason: Management of records.

67. Prior to the commencement of any excavation works on site the applicant must submit, for approval by the Principal Certifying Authority (PCA), a geotechnical/civil engineering report which addresses (but is not limited to) the following:

(a) The type and extent of substrata formations. A minimum of 4 representative bore hole logs which are to provide a full description of all material from the ground surface to a minimum of 1.0m below the finished basement floor level. The report is to include the location and description of any anomalies encountered in the profile, and the surface and depth of the bore hole logs shall be to Australian Height Datum.

(b) Having regard to the findings of the bore hole testing, details of the appropriate method of excavation/shoring together with the proximity to adjacent property and structures can be ascertained. As a result potential vibration caused by the method of excavation and how it will impact on nearby footings/foundations must be established together with methods to ameliorate any impact.

(c) The proposed methods for temporary and permanent support required by the extent of excavation can be established.

(d) The impact on groundwater levels in relation to the basement structure.

(e) The drawdown effects if any on adjacent properties (including the road reserve), resulting from the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater.

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

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

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

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

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

(i) No ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure.
(ii) No changes to the ground water level are to occur as a result of the development that is sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
(iii) No changes to the ground water level are to occur during the construction of the development that is sufficient enough to cause an adverse impact to the surrounding property and infrastructure.
(iv) Vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development.
(v) Appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these design principles.
(vi) An adverse impact can be assumed to be crack damage which would be classified as Category 2 or greater damage according to the classification given in Table Cl of AS 2870 - 1996.

Reason: To ensure the ongoing safety and protection of property.

68. Erosion and sediment control measures are to be installed in accordance with the publication 'Urban Stormwater: Soils and Construction "The Blue Book" 2004 (4th edition) prior to the commencement of any demolition, excavation or construction works upon the site. These measures are to be maintained throughout the entire works.
Reason: To ensure soil and water management controls are in place before site works commence.

69. Prior to commencement of works and during construction works, the development site and any road verge immediately in front of the site must be maintained in a safe and tidy manner. In this regard the following must be undertaken:
(a) all existing buildings are to be secured and maintained to prevent unauthorised access and vandalism
(b) all site boundaries are to be secured and maintained to prevent unauthorised access to the site;
(c) all general refuge and/or litter (inclusive of any uncollected mail/advertising material) is to be removed from the site on a fortnightly basis;
(d) the site is to be maintained clear of weeds; and
(e) all grassed areas are to be mowed on a monthly basis.
Reason: To ensure public safety and maintenance of the amenity of the surrounding environment.

70. If development involves excavation that extends below the level of the base, of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the persons own expense:
    (a) Protect and support the adjoining premises from possible damage from the excavation
    (b) Where necessary, underpin the adjoining premises to prevent any such damage.

    Note: If the person with the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to the condition not applying, this condition does not apply.

    Reason: As prescribed under the Environmental Planning and Assessment Regulation 2000.

71. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development are to occur entirely within the property boundaries. The applicant, owner or builder must apply for specific permits if the following activities are required seeking approval pursuant to Section 138 of the Roads Act 1993:
    (a) On-street mobile plant:
    E.g. Cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation and the area where the operation will occur, etc. Separate permits are required for each occasion and each piece of equipment. It is the applicant's, owner's and builder's responsibilities to take whatever steps are necessary to ensure the use of any equipment does not violate adjoining property owner's rights.
    (b) Storage of building materials and building waste containers (skips) on Council's property.
    (c) Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location they are to be stored. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded. Storage of building materials and waste containers within Council's open space areas, reserves and parks is prohibited.
    (d) Kerbside restrictions - construction zones:
    The applicant's attention is drawn to the possible existing kerbside restrictions adjacent to the development. Should the applicant require alteration of existing kerbside restrictions, or the provision of a work zones, the appropriate application must be made to Council and the fee paid. Applicants should note that the alternatives of such restrictions may require referral to Council's Traffic Committee. An earlier application is suggested to avoid delays in construction programs..

    The application is to be lodged with Council's Customer Service Centre.

    Reason: Proper management of public land.

72. An updated Waste Management Plan is to be submitted immediately after the letting of all contracts detailing the:
    (a) expected volumes and types of waste to be generated during the demolition and construction stages of the development;
    (b) destination of each type of waste, including the name, address and contact number for each receiving facility.

    The Waste Management Plan is to be submitted to the satisfaction of the Principal Certifying Authority prior to commencement of any works on site.

    Reason: To ensure waste is managed and disposed of properly.

73. Retained trees or treed areas must be fenced with a 1.8 metre high chainwire link or welded mesh fence. The fence is to be fully supported at grade, to minimise the

disturbance of existing ground conditions within the canopy drip line or the setback nominated on the approved landscaping plan. The fencing is to be in place for the duration of the construction works. “Tree Protection Zone” signage must be attached to the protective fencing.
Reason: To protect the environmental amenity of the area.

74. You must have your building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works may affect Sydney Water's assets (e.g. Water, sewer and stormwater mains).

    For further assistance please telephone 13 20 92 or refer to the Building over or next to assets page on the Sydney Water website (see Plumbing, building and developing then Building over or next to assets).
    Reason: As per Sydney Water requirements.

75. Details of the proposed **375mm** dia pipe works on the Northern side boundary within the within the “Right of Access shall be submitted to council’s Civil Infrastructure Unit for approval. The detail shall include the following requirements:

    a. **New KIP in front of the subject property**.
    A new kerb inlet pit (KIP) shall be constructed in front of the subject site opposite to the underground OSD tank, to connect the site Stormwater pipe into this pit. The details drawings of the new kerb inlet pit shall be in accordance with **Council Standard Plan** *(Please contact the council’s civil Infrastructure Unit for requirement details on kerb inlet pit type, connections requirements and the relevant standard plan number/drawing*).

    Additional new KIP in front of the driveway ramp at the change of pipe direction
    Additional new kerb inlet pit (KIP) shall be constructed further downstream at the change of direction of the pipeline that exceeds the allowable deviation in direction. The pit shall be constructed in accordance with **Council Standard Plan.** *(Please contact the council’s civil Infrastructure Unit for requirement details on kerb inlet pit type, connections requirements and the relevant standard plan number/drawing*)

    b. **The details of connection in to the existing downstream kerb inlet pit**
    The connection to the existing downstream kerb inlet pit shall be made in accordance with Council **Standard Plan** *(Please contact the council’s civil Infrastructure Unit for requirement details on kerb inlet pit type, connections requirements and the relevant standard plan number/drawing*).

    c. **375 mm dia RCC Pipeline:**
    The conveyance of site stormwater through the proposed new kerb Inlet pit to existing downstream pit shall be via **375mm** diameter Class 4, Reinforced Cement Concrete (**RCC**) pipe. The details of the pipeline shall be in accordance with Council **Standard Plan No. DS37**.

    d. **The Longitudinal section profile.**
    The longitudinal profile of the drainage pipeline should include ground/surface levels, invert levels, pipe material and type/class, size, gradient for each segments, the locations of any services with their details such as invert level, obvert level, size etc.

The drawings including the construction details shall be submitted to the satisfaction of council's **Civil Infrastructure Unit** for approval. No pipe works shall commence until the approval is obtained.

Upon completion of the work separate Work-As-Executed plan shall be prepared on the approved stormwater plan and submitted to council for record and sign off.
Reason: To ensure adequate stormwater infrastructure is provided.

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

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

78. Confirmation of ground floor slab levels, including finishes, finish flush as per the approved Public Domain Alignment Drawings and Public Domain Construction Drawings with existing public domain.
Reason: In accordance with the Public Domain Guidelines.

During Construction

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

80. Dust control measures shall be implemented during all periods of earth works, demolition, excavation and construction to minimise the dust nuisance on surrounding properties. In this regard, dust minimisation practices must be carried out in accordance with Council's Guidelines for Controlling Dust from Construction Sites and Section 126 of the Protection of the Environment Operations Act 1997.
Reason: To protect the amenity of the area.

81. No building materials skip bins, concrete pumps, cranes, machinery, temporary traffic control, signs or vehicles associated with the construction, excavation or demolition shall be stored or placed on/in Council's footpath, nature strip, roadway, park or reserve without the prior approval being issued by Council under section 138 of the Roads Act 1993.
Reason: To ensure pedestrian access.

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

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

83. The applicant must record details of all complaints received during the construction period in an up to date complaints register. The register must record, but not necessarily be limited to:
    (a) The date and time of the complaint;
    (b) The means by which the complaint was made;
    (c) Any personal details of the complainants that were provided, or if no details were provided, a note to that affect;
    (d) Nature of the complaints;
    (e) Any action(s) taken by the applicant in relation to the compliant, including any follow up contact with the complainant; and
    (f) If no action was taken by the applicant in relation to the complaint, the reason(s) why no action was taken.

    The complaints register must be made available to Council and/or the principal certifying authority upon request.
    Reason: To allow the Principal Certifying Authority/Council to respond to concerns raised by the public.

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

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

85. A survey certificate is to be submitted to the Principal certifying Authority at footing and/or formwork stage. The certificate must indicate the location of the building in relation to all boundaries, and must confirm the floor level is consistent with that approved under this consent prior to any further work proceeding on the building.
    Reason: To ensure the development is being built as per the approved plans.

86. Works are not to result in sedimentation and or run-off from the approved works onto the adjoining properties and or public lands. The person having the benefit of this consent must ensure sediment is not tracked out from the development site.
    Reason: To ensure no adverse impacts on neighbouring properties.

87. Any damage to Council assets that impacts on public safety during construction is to be rectified immediately to the satisfaction of Council with all costs to be borne by the person having the benefit of the Development Consent.
    Reason: To protect public safety.

88. A footpath is to be constructed in accordance with Council Standard Drawing DS3 in front of the site within the road reserve. Details of the proposed footpath works shall be submitted to and approved by Council's Civil Asset Team prior to commencement of footpath works. All costs are to be borne by the applicant.
Reason: To provide pedestrian passage.

89. Car parking area and internal accessways must be constructed, marked and signposted in accordance with AS2890.1 –2004 'Off Street Car Parking Facilities' prior to an Occupation Certificate being issued.
Reason: To ensure appropriate car parking.

90. During construction of all public area civil and drainage works a qualified civil engineer must supervise the work to ensure it is completed in accordance with Council's "Guidelines for Public Domain Works". Certification is required to be provided with the Occupation Certificate.
Reason: To ensure Council's assets are appropriately constructed.

91. No materials (including waste and soil), equipment, structures or goods of any type are to be stored, kept or placed within 5m of the trunk of a tree or within the drip line of any tree.
Reason: To ensure the protection of the tree(s) to be retained on the site.

92. No service, structure, conduit or the like is permitted to be fixed or attached to any tree.
Reason: To ensure the protection of the tree(s).

93. Occupation of any part of the footpath or road at or above (carrying out work, storage of building materials and the like) during construction of the development shall require a Road Occupancy Permit from Council. The applicant is to be required to submit an application for a Road Occupancy Permit through Council's Traffic and Transport Services, prior to carrying out the construction/restoration works.
Reason: To ensure proper management of Council assets.

94. Oversize vehicles using local roads require Council's approval. The applicant is to be required to submit an application for an Oversize Vehicle Access Permit through Council's Traffic and Transport Services, prior to driving through local roads within Parramatta LGA.
Reason: To ensure maintenance of Council's assets.

95. Any fill material imported to the site is to be virgin excavated natural material (VENM) and is to be certified as such by a suitably qualified industry professional. Records of each individual certification are to be kept on site and produced for inspection when requested.
Reason: To ensure the site does not become contaminated and appropriate compaction levels can be achieved.

96. No materials, vehicles, refuse skips and the like are to be placed or stored in the adjacent public reserves during works.
Reason: To ensure protection of trees and the amenity of public land.

97. A Waste Data file is to be maintained, recording building/demolition contractors details and waste disposal receipts/dockets for any demolition or construction wastes from the site. These records must be retained and made available to Council on request.
Reason: To confirm waste minimisation objectives under Parramatta Development Control Plan 2011 are met.

98. Liquid and solid wastes generated on site shall be collected, transported and disposed of in accordance with the Protection of the Environment Operations (Waste) Regulation 2005 and in accordance with the Environment Protection Authority's Waste Tracking Guidelines as described in the Environmental Guidelines Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).
Reason: To prevent pollution of the environment.

99. No trees on public property (footpaths, roads, reserves, etc.) are permitted to be removed, pruned or damaged during construction including the installation of fences, hoardings or other temporary works, unless approved in this consent.
Reason: Protection of existing environmental infrastructure and community assets.

100. No materials (including waste and soil), equipment, structures or goods of any type are to be stored, kept or placed within 5m of the trunk of a tree or within the drip line of any tree.
Reason: To ensure the protection of the tree(s) to be retained on the site.

101. Trees to be removed are:

Tree No.	Species	Common Name	Location
65 to 72	*Eucalyptus microcorys*	Tallowwood	Within the proposed development footprint. Refer to Arborist report, dated 19 October 2016

Reason: To facilitate development.

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

103. The planting of large trees in the vicinity of electricity infrastructure is not supported by Endeavour Energy. Suitable planting needs to be undertaken in proximity of electricity infrastructure. Accordingly only low growing shrubs not exceeding 3.0 metres in height, ground covers and smaller shrubs, with non-invasive root systems are the best plants to use. Landscaping that interferes with electricity infrastructure may become subject to Endeavour Energy's Vegetation Management program and/or the provisions of the *Electricity Supply Act 1995* (NSW) Section 48 'Interference with electricity works by trees' by which under certain circumstances the cost of carrying out such work may be recovered.
Reason: As per Endeavour Energy requirements

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

When undertaking works on or in the vicinity of Endeavour Energy's electricity network, asbestos or ACM must be identified by a competent person employed by or contracted

to the applicant and an asbestos management plan, including its proper disposal, is required whenever construction works has the potential to impact asbestos or ACM.

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

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

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

105. Before commencing any underground activity the applicant is required to obtain advice from the ***Dial before You Dig*** **1100** service in accordance with the requirements of the *Electricity Supply Act 1995* (NSW) and associated Regulations. This should be obtained by the applicant not only to identify the location of any underground electrical infrastructure across the site, but also other underground utility services, and to identify them as a hazard and to properly assess the risk.
Reason: As per Endeavour Energy requirements

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

http://www.endeavourenergy.com.au/wps/wcm/connect/ee/nsw/nsw+homepage/communitynav/safety/safety+brochures
Reason : As per Endeavour Energy requirements

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

108. A **250mm** wide grated channel/trench drain with a heavy-duty removable galvanised steel grate shall be provided to the full width at the end of the basement access ramp to collect driveway runoff. The grated/channel drain shall be connected to the basement pump-out tank and shall have an outlet of minimum diameter **150mm** to prevent blockage by silt and debris.
Reason: Stormwater control & runoff management

109. The proposed outlet pipe connection from the subject site into the existing Stormwater pipe system (**existing downstream Pit**) shall comply with the following requirements:

    a) new kerb inlet pits and connection.
    Two (2) new kerb Inlet pits (one in front of the underground OSD tank and another in front of the basement driveway ramp) shall be constructed and the connection into the existing pit shall be carried out in accordance with Council Standard Plan. *(Please contact the council's civil Infrastructure Unit*

for requirement details on kerb inlet pit type, connections requirements and the relevant standard plan number/drawing).

b) Construction of **375mm dia RCC pipeline** from new Kerb Inlet Pit up to the existing downstream kerb inlet pit.
c) Connection into the existing downstream Kerb inlet pit in accordance with council's **Standard Plan.** *(Please contact the council's civil Infrastructure Unit for requirement details on kerb inlet pit type, connections requirements and the relevant standard plan number/drawing.*
d) Request for inspection by council's Civil Infrastructure Unit, of works during progression as required by Council's Civil Infrastructure Unit.
e) Upon completion of works, the following documents shall be submitted to council.
    i. Work-As-Executed Stormwater plan (layout and long section profile) prepared on the copies if the approved plan with the variations marked in RED ink and duly certified by a registered surveyor.
    ii. A certificate of compliance a qualified drainage/hydraulic engineer. The person issuing the compliance certificate shall ensure that all the works have been completed and comply with the approved plans and the council's requirements.

Reason: To ensure that the stormwater work comply with requirements of relevant authority.

110. All the public domain works shall be constructed by licensed contractors. All the soft landscape works shall be carried out by licensed landscape contractors.

A range of inspections will be carried out by Council staff during the construction phase. The applicant must contact **Council** for each inspection listed below. At least **48 hour** notice must be given for all inspections.

The required inspections include the followings:

- Commencement of public domain works including tree protection measures installed and set out of tree pits;
- Subgrade inspection following excavation for footings, kerb and gutter, pram ramps (if required), drainage and pavements, tree pits showing root barriers, structural soil cell, sub-surface drainage and irrigation system as required;
- Installation of required underground conduits;
- Blinding layer/concrete slab based completion and initial (indicative) set out of pavers street fixtures and fittings as applicable to ensure compliance with the requirements in the Public Domain Guidelines;
- Delivery of street trees to site. Trees shall be installed within 24hrs of delivery; The contractor shall provide Council Officer the NATSPEC document to prove the quality of the tree stock.
- Final defects inspection after all work has been completed to view paving sealant, tactile surface indicators, service lids, nature strip/vegetation and location of fixtures and fittings.

Note: Additional daily inspections by Council may occur to view progressive paving set out and construction depending on the project size and type.

Reason: To ensure the quality of public domain works complying with Council standards and requirements.

Prior to the issue of the Occupation Certificate

111. Occupation or use of the building or part is not permitted until an Occupation Certificate has been issued in accordance with Section 109H of the Environmental Planning and Assessment Act 1979.
Reason: To complying with legislative requirements of the Environmental Planning and Assessment Act 1979.

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

113. A street number is to be placed on the site in a readily visible location from a public place prior to the issue of an Occupation Certificate. The numbers are to have a minimum height of 75mm.
Reason: To ensure a visible house number is provided.

114. Under Clause 97A of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all design measures identified in the BASIX Certificate No. 778242M_02, will be complied with prior to occupation
Reason: To comply with legislative requirements of Clause 97A of the Environmental Planning & Assessment Regulation 2000.

115. Submission of documentation confirming satisfactory arrangements have been made for the provision of electricity services from an approved electrical energy provider prior to the issue of an Occupation Certificate.
Reason: To ensure appropriate electricity services are provided.

116. A written application to Council's Civil Assets Team for the release of a bond must quote the following:
(a) Council's Development Application number; and
(b) Site address.
The bond is refundable only where Council is satisfied the public way has been adequately reinstated, and any necessary remediation/rectification works have been completed.

An Occupation Certificate is not to be issued until correspondence has been issued by Council detailing the bond has been released.
Note: Council's Civil Assets Team will take up to 21 days from receipt of the request to provide the written advice.
Reason: To safe guard the public assets of council and to ensure that these assets are repaired/maintained in a timely manner.

117. Design Verification issued by a registered architect is to be provided with the application for a Occupation Certificate verifying that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality

principles set out in Part 2 of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development.
Note: Qualified designer in this condition is as per the definition in SEPP 65.
Reason: To comply with the requirements of SEPP 65.

118. Certification must be provided prior to the issue of an occupation certificate that the required adaptable dwelling(s) have achieved a class C design in accordance with the requirements of AS 4299 -1995.
Reason: To ensure the requirements of DCP 2011 have been met.

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

The report is to be submitted to the PCA prior to the issue of the occupation certificate. In ascertaining whether adverse structural damage has occurred to adjoining buildings/ infrastructure, the PCA must compare the post-construction dilapidation report with the pre-construction dilapidation report, and
A copy of this report is to be forwarded to Council.
Reason: To establish any damage caused as a result of the building works.

120. All redundant lay-backs and vehicular crossings must be reinstated to conventional kerb and gutter, foot-paving or grassed verge in accordance with Council's Standard Plan No. SD004. The reinstatement must be completed prior to the issue of an Occupation Certificate. All costs must be borne by the applicant.
Reason: To provide satisfactory drainage.

121. Works-As-Executed stormwater plans are to address the following:
(a) The Work-As-Executed plans are prepared on the copies of the approved drainage plans issued with the Construction Certificate with the variations marked in red ink.
(b) The Work-As-Executed plans have been prepared by a registered surveyor certifying the accuracy of dimensions, levels, storage volumes, etc.
(c) The as built On-Site Detention (OSD) storage volumes are to be presented in a tabular form (depth verses volume table
(d) OSD Works-As-Executed dimensions form (refer to UPRCT Handbook).
(e) Certificate of Hydraulic Compliance from a qualified drainage / hydraulic engineer (refer to UPRCT Handbook).
(f) Approved verses installed Drainage Design (OSD) Calculation Sheet.
The above is to be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate and a copy is to accompany the Occupation Certificate when lodged with Council.
Reason: To ensure works comply with approved plans and adequate information is available for Council to update the Upper Parramatta River Catchment Trust.

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

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

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

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

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

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

All footpath crossings, laybacks and driveways are to be constructed according to Council's Specification for Construction or Reconstruction of Standard Footpath Crossings and in compliance with Standard Drawings DS1 (Kerbs & Laybacks); DS7 (Standard Passenger Car Clearance Profile); DS8 (Standard Vehicular Crossing); DS9 (Heavy Duty Vehicular Crossing) and DS10 (Vehicular Crossing Profiles).

The application for a driveway crossing requires the completion of the relevant application form and be accompanied by detailed plans showing, grades/levels and specifications that demonstrate compliance with Council's standards, without conflict with all internal finished surface levels. The detailed plan must be submitted to Council's Civil Assets Team for approval prior to commencement of the driveway crossing works. A fee in accordance with Councils adopted 'Fees and Charges' will need to be paid at the time of lodgement.
Note 1: This development consent is for works wholly within the property. Development consent does not imply approval of the footpath or driveway levels, materials or location within the road reserve, regardless of whether the information is shown on the development application plans.
Note 2: Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524.
Reason: Pedestrian and Vehicle safety.

125. An application for street numbering must be lodged with Council for approval, prior to the issue of an Occupation Certificate or Subdivision Certificate whichever occurs first.
Note: Notification of all relevant authorities of the approved street numbers must be carried out by Council.
Reason: To ensure all properties have clearly identified street numbering, particularly for safety and emergency situations.

126. A qualified Landscape Architect/Designer must certify that the completed works are in accordance with the approved landscape plan. All landscape works must be completed prior to the issue of an Occupation Certificate.
Reason: To ensure restoration of environmental amenity.

127. Traffic facilities to be installed, such as; wheel stops, bollards, kerbs, signposting, pavement markings, lighting and speed humps, shall comply with AS 2890.1-2004.

Reason: To comply with Australian Standards.

128. The minimum available headroom clearance to be signposted at all entrances is to be 2.2m (for cars and light vans including all travel paths to and from parking spaces) and 2.5m (for parking spaces for people with disabilities) measured to the lowest projection of the roof (fire sprinkler, lighting, sign, and ventilation), according to AS 2890.1-2004 and 2890.6-2009.
Reason: To comply with Australian Standards.

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

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

130. Prior to the issue of an occupational certificate (Interim or Final) written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and Parramatta City Council, stating that all works/methods/procedures/control measures approved by Council in the following report has been completed:
(a) Acoustic Report No. (Acoustic Report – Lot 4, No. 158-164 Hawkesbury Rd & 2A Darcy Rd Westmead – Ref No. 2016-706), dated (21 December 2016), prepared by (Acoustic Noise & Vibration Solutions Pty Ltd)
Reason: To demonstrate compliance with submitted reports.

131. The artworks are to be completed in full in line with the documentation submitted and the artworks are installed to the satisfaction of Council prior to the issue of the Occupation Certificate.
Reason: To ensure delivery of public art.

132. Prior to issue of the Occupation Certificate the applicant must create a Positive Covenant and Restriction on the use of land under Section 88E of the Conveyancing Act 1919, burdening the owner with the requirement to maintain the Water Quality improvement of and facilities installed on the lot. The positive covenant and Restriction on the use of land shall be created only upon completion of the system and certification by a qualified practicing engineer to the satisfaction of the Principal Certifying Authority.

Note: *The covenant is to be submitted to Council for approval prior to lodgement with the Land and Property Information Service of NSW. Documents relating proof of completion of the stormwater system according to the approved stormwater plan and certification of the compliance shall be submitted to the council together with the positive covenant and restriction.*
Reason: To ensure maintenance of on-site detention facilities

133. The applicant shall engage a suitably qualified person to prepare a post construction **dilapidation** report at the completion of the construction works. This report is to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads. The report is to be submitted to the PCA. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the PCA must:
(a) compare the post-construction **dilapidation** report with the pre-construction **dilapidation** report, and

(b) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.
(c) carry out site inspection to verify the report and ensure that any damage to the public infrastructure as a result of the construction work have been rectified immediately by the developer at his/her cost.
(d) Forward a copy of the dilapidation report with the PCA's comparison and assessment review report to Council.

Reason: To establish the condition of adjoining properties prior building work and ensure any damage as a result of the construction works have been rectified.

134. Prior to **any issue** of the Occupation Certificate (including a Preliminary OC), the public domain construction works must be completed to Council's satisfaction and a **final approval** shall be obtained from Council's Assets & Environment Manager.

Council will issue the **final approval** for the finished public domain works that complied with the approved public domain documentations and Council's satisfaction. A **final inspection** will be conducted by Council staff after all the works are completed and the defects identified during inspections are rectified. The Certificate of Completion shall not be issued until Council's final approval is obtained.

The **Work-as-Executed Plans** shall be prepared and submitted to Council showing the final-approved public domain works after the final approval, and prior to any issue of the OC.

A one year (52 week**)** maintenance period is required to be carried out by the applicant for all the works constructed in the public domain. A Landscape maintenance schedule prepared by a qualified Landscape Architect shall be submitted to Council that specifies at 26 (or 52) weeks after Council's final approval how and who's to maintain the public domain works.

Reason: To ensure the quality of public domain works is completed to Council's satisfaction

135. The standard 'Westmead' PDG paving or to match existing shall be applied to the entire public domain areas and to the full length of the development site. This includes the public footways, any setback between the building line and property boundary, and the dedicated pedestrian shared zone and lane. The footway paving set out and details should comply with Council's design standard (DS45, sheet 1-7).
Reason: To comply with the Public Domain Guidelines

136. The kerb and gutter of the lane shall be reconstructed in accordance with Council's design standard to the full length of the lane.
Reason: To improve the public domain work quality

137. A conduit for Council's multi-media facilities is required to be installed to the full length of the street frontages. The conduit must be positioned and installed in accordance with Council's standards drawing and specifications.
Reason: To facilitate Council's CCTV network

138. Kerb ramps must be designed and located in accordance with Council's design standards.
Reason: To improve accessibility in public domain and comply with AS 1428.1

139. Street furniture selection and detail shall be to Council's requirements. Street furniture in public domain must comply with Council's Public Domain Guidelines. Should street

furniture be required it shall be adequately detailed in the public domain construction documentation.
Reason: To improve public domain amenity

140. Pedestrian and street lighting shall be to Council's requirements and Australian Standards. All the lighting features in the public domain shall be detailed in the Public Domain Construction Documentation. All new LED luminaires shall include 7pin NEMA socket.
Reason: To improve safety and public domain amenity

141. Consistent tree pit size of **1.8X1.2m** should be used throughout the public domain areas around the site for the street tree planting. The street tree must be planted in accordance with Council's design standards with adequate clearances to other street elements in accordance with the Public Domain Guidelines.
Reason: To ensure street trees being planted in appropriate locations

142. The required street tree species, quantities and supply stocks are as per the PDG including:

Street Name	Botanical Name	Common name	Pot Size	Qty	Ave Spacing
Langston Pl	*Waterhousia floribunda 'Green Ave'*	Weeping Lilly Pilly	400L	TBC	

(Average spacing can be included subject to site condition)

The tree supply stock shall comply with the guidance given in publication *Specifying Trees: a guide to assessment of tree quality* by Ross Clark (NATSPEC, 2003). The requirements for height, calliper and branch clearance for street trees are as below table:

Container Size	Height (above container)	Calliper (at 300mm)	Clear Trunk Height
45 litre	1.9 – 2.3 metres	30 – 35mm	1.2 metres
75 litre	2.2 – 2.4 metres	40 – 45mm	1.4 metres
100 litre	2.4 metres	50mm	1.4 metres
200 litre	2.8 metres	60mm	1.5 metres
400 litre	3.5 metres	80mm	1.7 metres

Reason: To ensure high quality of trees stocks

143. Base of all tree pits shall incorporate a stormwater pipe that connects to nearest stormwater pit.
Reason: To ensure appropriate drainage for tree stock.

144. Level landing areas shall be provided at the top and base of the steps; while handrails are to be installed on each side. The landing area shall be designed to sufficiently accommodate the required TGSI and handrail projection, which must not project into pedestrian path of travel and circulation spaces. The design of handrail shall comply with AS1428.1:2009.
Reason: To provide appropriate access.

145. **Handrail** design shall comply with AS1428.1:2009, in terms of the height, length, turn-back and size. The detail design of the handrail must not project into pedestrian path of travel.
Reason: To provide appropriate access.

146. **TGSI** shall be placed in accordance with AS1428.4.1:2009 with minimum 30% luminance contrast with the pavement.

Reason: To provide appropriate access.

147. The preferred maximum gradients of a **ramp** shall be 1:20 to mitigate need for hand rails. Maximum ramp grade is 1;14. According to AS 1428.1:2009, ramps with gradients between 1:20 and 1:14 are to have compliant handrails on each side. The landings at the top and base of a ramp are to be at least 1200mm long and level. The minimum clearance between handrails shall be 1m.
Reason: To provide appropriate access.

148. All the **common areas** proposed within the site, including rooftop terraces, shall be fully accessible.
Reason: To provide appropriate access.

Use of the Site

149. The owner/manager of the site/business is responsible for the removal of all graffiti from the building/structures/signage and/or fencing within 48 hours of its application.
Reason: To ensure the removal of graffiti.

150. Any external plant/air-conditioning system must not exceed a noise level of 5dBA above the background noise level when measured at the boundaries of the property.
Reason: To minimise noise impact of mechanical equipment.

151. The use of the premises not giving rise to:
    (a) transmission of unacceptable vibration to any place of different occupancy,
    (b) a sound pressure level measured at any point on the boundary of any affected residential premises that exceeds the background noise level by more than 5 dB(A). The source noise level shall be assessed as an LAeq,15 min and adjusted in accordance with Environment Protection Authority (EPA) guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations, and temporal content as described in the NSW Environmental Planning & Assessment Act 1979: Environmental Noise Control Manual, Industrial Noise Policy 2000 and the Protection of the Environment Operations Act 1997.

    Reason: To prevent loss of amenity to the area.

152. All landscape works shall be maintained for a minimum period of two (2) years following the issue of a Final Occupation Certificate, in accordance with the approved landscape plan and conditions
Reason: To ensure restoration of environmental amenity.

ATTACHMENT C – Clause 4.6 Statements for FSR and height

REQUEST FOR AN EXCEPTION TO THE HEIGHT OF BUILDINGS DEVELOPMENT STANDARD

Introduction

This request for an exception to a development standard is submitted in respect of the development standard contained within Clause 4.3 of the Parramatta Local Environmental Plan 2011. The request relates to an application for the erection of a residential development at Lot 4, 158-164 Hawkesbury Road and 2A Darcy Road, Westmead.

Clause 4.6 Exceptions to development standards

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

However, clause 4.6(3) states that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

> (a) that compliance with the development standard is unreasonable or unnecessary in the circumstance of the case, and
>
> (b) there are sufficient environmental planning grounds to justify contravening the development standard.

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

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

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

Development Standard to be varied

Clause 4.3 states:

> (1) The objectives of this clause are as follows:
>
> (a) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,

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

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

(d) to ensure the preservation of historic views,

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

(f) to maintain satisfactory sky exposure and daylight to existing buildings within commercial centres, to the sides and rear of tower forms and to key areas of the public domain, including parks, streets and lanes.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

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

There are two height controls on the subject site being 31 metres (Zone U1) in the northern portion of the site and 40 metres (Zone W) for the southern portion of the site.

Extent of Variation to the Development Standard

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

Element	Proposed Height	Variation to 31m control	Variation to 40m control
Building D1	70.1m	N/A	+30.1m (75.25% over)
Building D2	24.5m	N/A	-15.5m (38.75% under)
Building E1	36.0m	N/A	-4.0m (10% under)
Building E2	36.0m	+5.0m (16.1% over)	-4.0m (10% under)
Building F	35.5m	+4.5m (14.5% over)	-4.5m (11.25% under)

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

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

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

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

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

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

The proposed distribution of height across the site is to provide sufficient capacity to accommodate the floor space within a slimmer built form with much greater separation as well as providing an appropriate curtilage to the heritage buildings located to the south east of Lot 4. The highest component of the proposed development (the 21 storey tower) is located on the south western portion of the site and is consistent with the intent of the LEP in terms of the distribution of height across the overall site. The proposal incorporates lower building heights on the northern and eastern portions of the site, and accordingly provides an appropriate transition in built form and land use intensity within the area.

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

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

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

The proposed distribution of built form and massing of the building across the site is the result of a considered analysis of the context of the site and the desire to deliver a positive urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located to the south east. The height of the building increases away from the heritage significant buildings. The proposed materials and finishes have been chosen to compliment the heritage significant buildings. The proposed development will have an acceptable impact on views to and from heritage items. Overall the proposal will have an acceptable impact on the heritage significance of nearby heritage items and their settings.

(d) to ensure the preservation of historic views,

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

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

Low density residential development is located to the south of the site on the opposite side of the railway corridor and with frontage to Alexandra Avenue. Lot 4 is visually isolated from the low density residential development with frontage to Alexandra Avenue given the width of the railway corridor, the dense landscaping that surrounds the railway corridor, and the location of Lot 5 between the site and the railway corridor. The level of separation between the subject site and nearby low density residential development will ensure that the character of these areas are respected and not unreasonably compromised by the proposed development.

(f) to maintain satisfactory sky exposure and daylight to existing buildings within commercial centres, to the sides and rear of tower forms and to key areas of the public domain, including parks, streets and lanes.

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

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

The underlying objectives and purpose of the height control is relevant to the proposed development. However, the proposed development is consistent with those objectives on the basis that the proposed height will facilitate an appropriate scale of development having regard to the location of Lot 4 within the overall site the subject of the Stage 1 Concept Plan as well as the Westmead precinct generally. The development will sit comfortably with the context of the site with no significant adverse impacts to surrounding properties.

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

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

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

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

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

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

Figure 1:

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

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

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

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

- The height controls for the site were derived from the ARUP masterplan which informed the Planning Proposal for the site. However, this masterplan has more recently been considered by Council to be "suboptimal" and Council has approved a substantially different site layout and suggested arrangement of buildings under Stage 1 Concept Plan (DA/571/2014) which relied upon a Clause 4.6 request in relation to height. As a result, the height controls and boundaries no longer correspond with the approved site arrangement and configuration such that Council has effectively abandoned the height controls for the site. Notwithstanding this, the broad principles reflected by the height controls, with increasing height to the west and the south, are considered to remain relevant and the proposed development adheres to these principles with the tallest component of the building located in the south western corner of the site.
- The proposal provides a high quality architectural solution that is responsive to the location of the site toward the southern edge of the Westmead precinct and will provide a clearly defined entry into Westmead from the south.
- The proposed massing of the development results in a high level of modulation with the building height decreasing toward the north and east to provide a transition in scale to the future anticipated buildings surrounding the site as well as the heritage significant buildings to the south east such that the proposed arrangement of heights is appropriate for the site and its context.
- The proposed variation to the height controls allows the floor area of the development to be accommodated within a slimmer built form with much greater separation as well as providing an appropriate curtilage to the heritage buildings located to the south east of Lot 4. The proposed variation also facilitates a greater level of modulation in scale between the various built form elements of the building as well as improved environmental performance within the development, reduced impacts on surrounding properties, and a much higher level of visual permeability throughout the site.
- The desired future character outlined for the overall site within section 4.3.4.1 of the PDCP indicates that the future built form on the site shall include taller, slender "statement" buildings located along the railway line to enable a strong visual relationship between the precinct and the CBD. Whilst Lot 4 is not directly adjacent to the railway line, the proposal appropriately responds to the desired future character, providing a 21 storey tower in the south western corner of the site. The proposed tower will complement the two towers proposed on Lot 5 (DA/968/2016) adjacent to the railway corridor which are 15 and 24 storeys in height, satisfying the requirement that tall slender statement buildings be provided to enable a visual connection between the Westmead precinct and the Parramatta CBD located to the east.
- The design of the proposal involves a dynamic architectural language and a façade treatment with a high level of materiality that will compliment and improve the character of the area.
- A solar analysis prepared by Turner Architects accompanies the subject application and demonstrates that the proposal does not result in a significant adverse or non-complying impact to the surrounding properties.
- There are no adverse impacts in terms of overshadowing, views, visual and acoustic privacy impacts to adjacent sites resulting from the proposed variation to the height development standard which would warrant strict compliance.
- Apartments within the development are provided with a high level of amenity. The proposal provides for open space and deep soil in accordance with the relevant ADG requirements and the increased height provides for a slimmer built form and increased open space for the site.

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

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

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

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

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

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

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

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

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

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

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

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

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

Objective of the Development Standard

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

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

Objective of the Zone

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

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

The vision for the overall site as outlined in the documentation that accompanied the Stage 1 development application has been for a transit-oriented development that intensifies and diversifies activity around public transport infrastructure allowing for multiple activities and services, local employment and diverse housing options. The site is extremely well located in terms of access to public transport infrastructure with the T-Way and Westmead railway station located in close proximity. The

proposed residential development on Lot 4 will deliver additional housing choice within a regionally significant health and education hub that is in close proximity to a range of recreational opportunities and services and facilities and will maximise public transport patronage, cycling and walking.

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

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

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

Objectives of Clause 4.6

The specific objectives of Clause 4.6 are:

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

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

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

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

Conclusion

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

REQUEST FOR AN EXCEPTION TO THE FLOOR SPACE RATIO DEVELOPMENT STANDARD

Introduction

This request for an exception to a development standard is submitted in respect of the floor space ratio development standard contained within Clause 4.4(2) of the Parramatta Local Environmental Plan 2011 (PLEP 2011). The request relates to an application for the erection of a residential development at Lot 4, 158-164 Hawkesbury Road and 2A Darcy Road, Westmead.

Clause 4.6 Exceptions to development standards

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

However, clause 4.6(3) states that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

> (a) that compliance with the development standard is unreasonable or unnecessary in the circumstance of the case, and
>
> (b) there are sufficient environmental planning grounds to justify contravening the development standard.

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

Development Standard to be varied

Clause 4.4 states:

> (1) The objectives of this clause are as follows:
>
> (a) to regulate density of development and generation of vehicular and pedestrian traffic,
>
> (b) to provide a transition in built form and land use intensity within the area covered by this Plan,
>
> (c) to require the bulk and scale of future buildings to have regard to heritage sites and their settings,
>
> (d) to reinforce and respect the existing character and scale of low density residential areas.
>
> (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

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

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

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

Extent of Variation to the Development Standard

The allowable gross floor area under the approved Stage 1 Concept Plan was 28,825 square metres for Lot 4, and 122,995 square metres for the overall site. The proposal provides a gross floor area of 28,825 square metres and a floor space ratio of 4.38:1 which exceeds the floor space ratio development standards of 3.5:1 and 4:1 which apply to the site.

However, the Stage 1 development consent identified that the entire site benefitted from a total gross floor area of 122,995 square metres and sought to redistribute this gross floor area to individual sites in a manner which when combined did not exceed this total quantum despite the fact that the FSR control would be exceeded on some individual Lots. The Stage 1 development consent allocated 28,825 square metres of gross floor area to the subject site and the proposed gross floor area matches this figure.

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

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

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

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

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

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

   The approval of the Stage 1 Concept Plan recognised that the density proposed across the overall site was consistent with the density permitted pursuant to PLEP despite the individual allotments exceeding the permissible FSR. The density proposed on Lot 4 is consistent with the density approved under the Stage 1 Concept Plan. The application is accompanied by a Traffic and Parking Assessment which finds that the proposed development has good access to public transport and the traffic generated from the redevelopment of the site will not exceed the projected impacts of the residential component as outlined in the UWS Transport Assessment and therefore would not require any further remedial works to the accesses or surrounding road network. Further, the redevelopment of the overall site provides for a high level of pedestrian permeability and creates new linkages between the railway station and nearby schools and hospitals and a high level of connectivity with the existing urban fabric.

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

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

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

The proposed distribution of built form and massing of the building across the site is the result of a considered analysis of the context of the site and the desire to deliver a positive urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located to the south east. The height of the building increases away from the heritage significant buildings. The proposed materials and finishes have been chosen to compliment the heritage significant buildings. The proposed development will have an acceptable impact on views to and from heritage items. Overall the proposal will have an acceptable impact on the heritage significance of nearby heritage items and their settings.

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

Low density residential development is located to the south of the site on the opposite side of the railway corridor and with frontage to Alexandra Avenue. Lot 4 is visually isolated from the low density residential development with frontage to Alexandra Avenue given the width of the railway corridor, the dense landscaping that surrounds the railway corridor, and the location of Lot 5 between the site and the railway corridor. The level of separation between the subject site and nearby low density residential development will ensure that the character of these areas are respected and not unreasonably compromised by the proposed development.

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

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

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

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

inferior built form that would be contextually inappropriate. Accordingly, it is considered that strict compliance would likely defeat the underlying objective or purpose of the floor space ratio control because it would encourage a less desirable outcome for the site.

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

   Council has historically adopted a relatively flexible approach to the implementation of the floor space ratio development standard in circumstances where the objectives of the control are achieved. The approval of the Stage 1 Concept Plan (DA/571/2014) for the overall site relied on variation to the floor space ratio standard to allow for 28,825 square metres for the site and Council have effectively abandoned the control as it relates to individual allotments within the broader site.

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

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

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

- The floor space ratio controls applicable to the overall site fail to provide for the provision of roadways and open space which are critical to the successful functionality of the overall site. The approval of the Stage 1 Concept Plan recognised that the density proposed across the overall site was consistent with the density permitted pursuant to PLEP despite the individual allotments exceeding the permissible floor space ratio. In this regard, Council have effectively abandoned the FSR provisions in the LEP as they relate to the individual allotments approved under the Stage 1 development consent in preference for the allocation of a quantum of gross floor area to each allotment. The density proposed on Lot 4 is consistent with the density approved under the Stage 1 Concept Plan.
- The proposed distribution of built form and massing of the building across the site is the result of a considered analysis of the context of the site and the desire to deliver a positive urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located on the site.
- The proposal will deliver a high quality transit orientated development that will increase the vibrancy of the precinct.
- The proposal is consistent with the desired future character outlined within PDCP 2011 for the subject site and the Westmead precinct generally.
- The density proposed does not prevent achievement of the 9 principles of SEPP 65.
- There are no unacceptable adverse impacts in terms of shadow, view, visual and acoustic privacy impacts resulting from the proposed variation to the floor space ratio development standard which would warrant strict compliance.
- The proposed density will not result in an acceptable impact on local traffic conditions.
- The proposed variation allows for the most efficient and economic use of the land.
- Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public.

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

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

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

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

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

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

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

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

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

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

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

Objective of the Development Standard

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

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

The approval of the Stage 1 Concept Plan recognised that the density proposed across the overall site was consistent with the density permitted pursuant to PLEP despite the individual allotments exceeding the permissible FSR. The density proposed on Lot 4 is consistent with the density approved under the Stage 1 Concept Plan. The application is accompanied by a Traffic and Parking Assessment which finds that the proposed development has good access to public transport and the traffic generated from the redevelopment of the site will not exceed the projected impacts of the residential component as outlined in the UWS Transport Assessment and therefore would not require any further remedial works to the accesses or surrounding road network. Further, the redevelopment of the overall site provides for a high level of pedestrian permeability and creates new linkages between the railway station and nearby schools and hospitals and a high level of connectivity with the existing urban fabric.

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

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

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

The proposed distribution of built form and massing of the building across the site is the result of a considered analysis of the context of the site and the desire to deliver a positive urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located to the south east. The height of the building increases away from the heritage significant buildings. The proposed materials and finishes have been chosen to compliment the heritage significant buildings. The proposed development will have an acceptable impact on views to and from heritage items. Overall the proposal will have an acceptable impact on the heritage significance of nearby heritage items and their settings.

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

Low density residential development is located to the south of the site on the opposite side of the railway corridor and with frontage to Alexandra Avenue. Lot 4 is visually isolated from the low density residential development with frontage to Alexandra Avenue given the width of the railway corridor, the dense landscaping that surrounds the railway corridor, and the location of Lot 5 between the site and the railway corridor. The level of separation between the subject site and nearby low density residential development will ensure that the character of these areas are respected and not unreasonably compromised by the proposed development.

Objectives of the Zone

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

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

The vision for the overall site as outlined in the documentation that accompanied the Stage 1 development application has been for a transit-oriented development that intensifies and diversifies activity around public transport infrastructure allowing for multiple activities and services, local employment and diverse housing options. The site is extremely well located in terms of access to public transport infrastructure with the T-Way and Westmead railway station located in close proximity. The proposed residential development on Lot 4 will deliver additional housing choice within a regionally significant health and education hub that is in close proximity to a range of recreational opportunities and services and facilities and will maximise public transport patronage, cycling and walking.

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

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

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

Objectives of Clause 4.6

The specific objectives of Clause 4.6 are:

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

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

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

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

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

Conclusion

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