



SYDNEY CENTRAL CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	2017SWC048 DA
DA Number	DA/237/2017
LGA	City of Parramatta (formerly Hornsby Shire Council)
Proposed Development	27 storey shop top housing development comprised of ground floor retail unit, first floor commercial office unit and 102 residential units above, including 5 storeys of basement car parking, following demolition of existing buildings. The application is Nominated Integrated development under the Water Management Act 2000.
Street Address	24 - 36 Langston Place, EPPING NSW 2121 (Lot 3 DP9836, Lot 1 DP707822, Lots A & B DP342194)
Applicant	Langston R & J Pty Ltd ABN: 98120139556
Owner	J.R. Hunt Real Estate Pty Ltd, James and Patricia Crether, Langston R & J Pty Ltd
Date of DA lodgement	22 March 2017
Number of Submissions	1 st Advertisement: 12 2 nd Advertisement: 5 (4 resubmissions) Total: 17 (13 unique individuals/organisations)
Recommendation	Deferred Commencement Approval subject to conditions
Regional Development Criteria	The development has a capital investment value of more than \$20 million.
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none">• Environmental Planning and Assessment (EP&A) Act 1979• EP&A Regulation 2000• Water Management Act 2000• SEPP (Building Sustainability Index: BASIX) (BASIX SEPP) 2004• SEPP (Infrastructure) (ISEPP) 2007• SEPP (State and Regional Development) 2011• SEPP (Sydney Harbour Catchment) (SEPP Sydney Harbour) 2005• SEPP No. 55 (Remediation) (SEPP 55)• SEPP No. 65 (Design Quality of Residential Apartment Development) (SEPP 65) & Apartment Design Guide (ADG)• Hornsby Local Environmental Plan (HLEP) 2013• Hornsby Development Control Plan (PDCP) 2013
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none">• Attachment 1 – Architectural Drawings• Attachment 2 – Civil & Stormwater Drawings• Attachment 3 – Landscape Drawings• Attachment 4 – Urban Design Report• Attachment 5 – RailCorp Concurrence Letter• Attachment 6 – Department of Planning cl. 4.6 Circular• Attachment 7 – NSW Water Integrated Response
Report prepared by	Alex McDougall
Report date	21 March 2018

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, 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 (Clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (s7.24)? **No**

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

1. Executive Summary

The proposal provides for demolition of the existing buildings, excavation of a 5 storey basement car park and construction of a 27 storey mixed use building comprising a ground floor retail unit, first floor commercial office unit and 102 residential units above. The application is nominated integrated development under the Water Management Act 2000.

The proposed development generally follows the form for the site envisaged by Hornsby Shire Council Local Environmental Plan (HLEP) 2013, Hornsby Shire Council Development Control Plan (HDCP) 2013, and the Hornsby Shire Council Epping Town Centre Public Domain Guidelines.

The Applicant has submitted a request to exceed the building height standard under Clause 4.6 of HLEP 2013. The request is considered to be well founded for reasons including constrained site area due to inability/impracticality of amalgamating with adjoining sites, providing increased separation to adjoining buildings/sites, exceedance of sustainability standards, provision of commercial floor space and provision of wider footpath.

The development has been subject to review by Council's Design Excellence Advisory Panel (DEAP) and the City Architect and is generally consistent with State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG), providing future occupants with a high standard of amenity and accommodation.

The amenity impacts on adjoining and nearby properties are considered to be reasonable based on the high density character of the area, and the built forms envisaged by the controls. It is considered that the proposed increase in traffic is commensurate with the level anticipated by the planning controls.

The application has been assessed relative to section 4.15 of the *Environmental Planning and Assessment (EP&A) Act 1979*, taking into consideration all relevant State and local planning controls. On balance, the proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework.

A deferred commencement condition has been required by Sydney Trains to enable them to further assess the impact of the proposed development on the adjacent rail infrastructure. A deferred commencement condition is also required to resolve an outstanding tree removal matter on the adjoining site. As such deferred commencement approval is recommended.

2. Key Issues

Hornsby Local Environmental Plan 2013

- **Building Height** – Acceptability of Clause 4.6 Variation request to 72m height standard. Proposed Tower : 87.8m (21.9% breach)

Apartment Design Guide

- **Building Separation / Privacy** – Non-compliant separation between proposed tower and adjoining/nearby existing/approved development:
 - **North (38 Langston Place):** 8.1m to boundary (9m required) [only levels 5-8 non-compliant]
 - **South-east (12-22 Langston Place):** 3m -13m to boundary (12m required) / 19.8m to adjoining approved tower (24m required)
- **Overshadowing** – Overshadowing of approved development to south-east.
- **Deep Soil Zones** – Nil incorporated within site

Hornsby Development Control Plan 2013

- **Housing Choice** – 6% 3-bed units (10% required)
- **Frontage Activation** – 61% retail/office/residential (90% required)

3. Site Description, Location, and Context

3.1 Site and Location

The subject site is located on the eastern side of Langston Place between its intersection with Pembroke Street and Epping Road and is legally described as Lot 3 DP9836, Lot 1 DP707822, and Lots A & B DP342194. The site is 1,460m² in size and of an irregular shape, with a frontage of 37.4m to Langston Place. The site is occupied by 4 x 2 storey commercial buildings.

The site is located east of Epping Railway Station (within 50m walking distance), and south of shopping facilities and services fronting Langston Place and Oxford Street. To the west, beyond Epping Railway Station, are further local facilities and shops, which are accessible via footbridge from the station precinct. To the south and east are existing commercial office buildings. The adjoining site to the south-east is subject to an approved DA for redevelopment as 3 x shop top housing towers (DA/468/2016).

There are no heritage items in the immediate vicinity or visual catchment of the site.



Figure 1. Aerial view of locality (subject site in red).



Figure 2. Front facade of existing buildings on the site.

3.2 Context

The following applications in the vicinity of the site are relevant to the proposal:

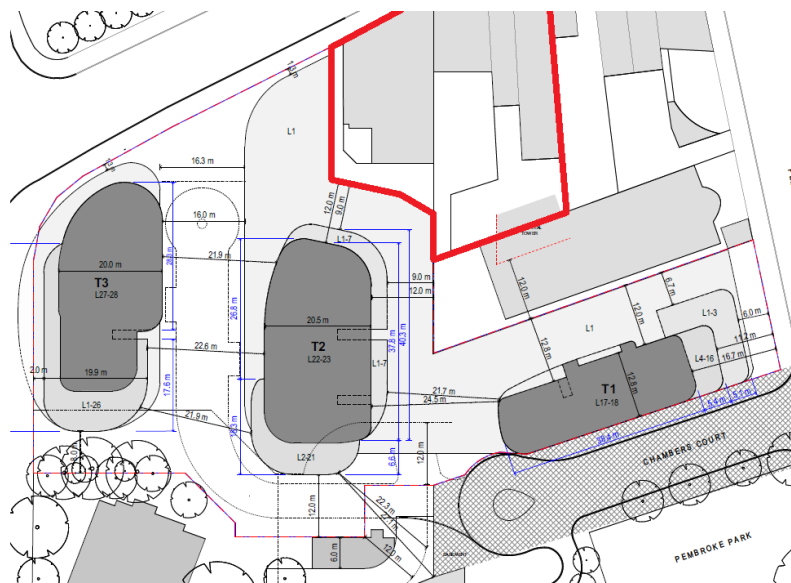
Site	DA	Description/Details
37-41 Oxford Street	DA/314/2017	Approved 07/03/18: 30 Storey Mixed Use Tower Building with 4 Storey Basement (Concept Approval Only). Note. Height Breach (32.9%)
12-22 Langston Place	DA/468/2016	<p>Approved (Deferred Commencement) 02/08/17: Construction of 3 mixed use towers (19, 24 and 29 storeys) comprising 463 residential units, 1681sqm of retail floor space and 4 basement levels containing space for 529 cars, 388 bicycles, 35 motorcycles, storage, refuse and servicing; public domain upgrades including 2-way vehicular lane between towers 2 and 3, pedestrian through-site links, and public open spaces; following demolition of existing building and car park.</p>  <p>Figure 3. Arrangement of tower form (T1 - Tower 1, T2 - Tower 2, T3 - Tower 3) in adjoining approved development (Subject site in red).</p> <p>Note. Tower 3 Height Breach (28.9%)</p>
30-42 Oxford Street	DA/585/2016	Approved 20/07/2016: Demolition of existing structures, retention of a heritage item and construction of a 17 storey mixed use development comprising ground floor retail over basement carpark and shop-top housing comprising 254 units in two (2) residential towers. Note. Height Breach (10%)
35 Oxford Street	DA/365/2016	Approved 14/07/2016: Demolition and construction of a 22 storey shop-top housing development comprising 54 residential units, one (1) retail unit and basement car parking.
20-28 Cambridge Street	DA/681/2015 (Hornsby)	Approved 24/02/2016: Demolition of existing structures and construction of two (2) x 22 storey buildings and one (1) x seven (7) storey building, each comprising ground floor retail/business tenancies totalling 966m ² , and the upper levels containing a total of 501 residential units, with combined basement car parking for 519 cars.

Table 1: Applications relevant to the proposal.

4. The Proposal

4.1 Summary of Proposal

The proposal involves the following:

- Demolition of existing structures and hard stand areas;
- Construction of a 27 storey mixed use tower including a 2 storey podium containing:
 - 102 residential apartments;
 - 250m² of retail space (ground level);
 - 550m² of commercial office space (first floor);
 - 542m² communal open space (first floor).
- Five (5) level basement containing:
 - 120 car parking spaces (14 accessible);
 - 9 motorcycle spaces;
 - 114 bicycle spaces;
 - Refuse storage;
 - Residential storage cages; and
 - Servicing and facilities.
- Public domain improvements including 1.5m of additional publicly accessible footpath, new paving and street trees.
- Note. The application is Nominated Integrated development under the Water Management Act 2000.



Figure 4. Photomontage of proposal as viewed from Langston Place to the north of the site looking south.

The application requires concurrence from Sydney Trains under Clause 86 of ISEPP 2007 due to the proximity of the site to the rail corridor and above ground rail electricity infrastructure.

4.2 Summary of Amendments Since Lodgement

The applicant submitted revised drawings and documentation addressing concerns raised by Council's DEAP, City Architect, Council officers and external referral bodies including, but not limited to, the following changes:

- Additional storeys;
- Reduction in tower footprint;
- Increased tower separation;
- Decrease in car parking spaces;
- Reduction in residential units;
- Revised residential unit mix;
- Increase in proportion of units with compliant solar access and cross ventilation;
- Increased communal open space;
- Increased commercial office space; and
- Revised podium and tower façade design;

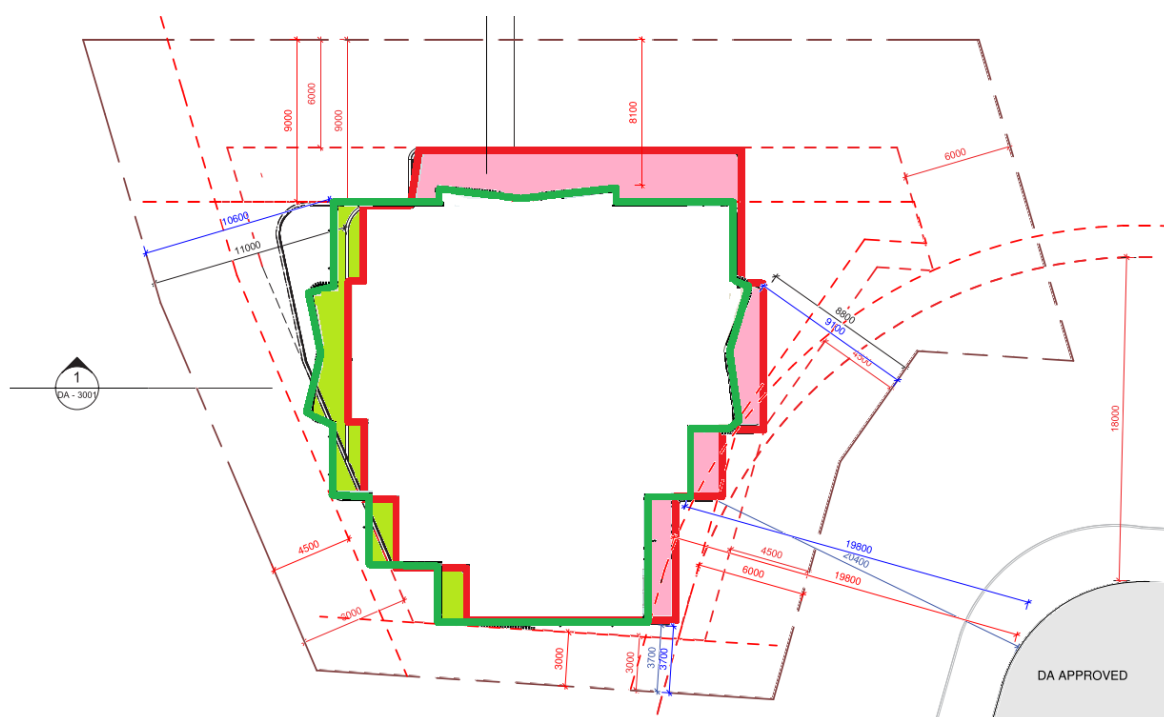


Figure 5. Comparison of original tower footprint (red line) vs revised tower footprint (green line). Light red shaded area indicates increased separation; light green shaded area indicates less setback from street.

5. Referrals

The following referrals were undertaken during the assessment process:

5.1 Sydney West Central Planning Panel Briefing (14/06/2017)

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

Issues Raised	Comment
Building separation not yet resolved – needs further investigation	Subsequent to SWCPP briefing separation distances were increased. While not fully compliant, the revised separation distances are considered to be acceptable for the reasons outlined in Section 7.7 below.

Needs DEAP input	Subsequent to SWCPP briefing the proposal was considered by DEAP. Their comments are outlined in Section 5.2 below.
Communal open space – explore additional area	Subsequent to SWCPP briefing the quality of communal open space was increased as follows: <ul style="list-style-type: none"> • Size increased from approximately 250sqm to 500sqm. • Average dimension increased from approximately 3m to 6m. • Under-croft BBQ and terrace area added. • Residential removed from terrace level reducing potential acoustic conflict.
Office space – needs greater space, perhaps 2 storeys	Subsequent to SWCPP briefing the quantum of office space was increased from 445sqm to 550sqm.
Agree that podium needs to be setback by 1.5m from footpath	Subsequent to SWCPP briefing the podium was setback 1.5m from the boundary as requested.
Street activation poor – needs re-arrangement	Subsequent to SWCPP briefing the amount of active frontage remained unchanged. More discussion on activation is provided under Section 9.1 below.

Table 2: SWCPP briefing notes and response.

5.2 Design Excellence Advisory Panel

Council's DEAP considered the application at a meeting on 29 June 2017. Of note the panel suggested the following,

If the allowable development densities are to be realised, some significant variance to the key controls (DCP and SEPP65/ADG) will be necessary to achieve an acceptable urban outcome. Alternatively, these densities would need to be significantly reduced.

Key areas that could be considered for relatively small, land-locked sites such as the subject proposal are:

- *some relaxation of DCP street setbacks*
- *considered reduction of ADG boundary setbacks and building separation through careful design and on a site-by-site basis*
- *increase in building height beyond current limits*

Further, the Panel considered that the proposed tower separation of approximately 20m from the approved development to the south-east (DA/468/2016) was acceptable.

The panel also raised concern including, but not limited to, the podium design, lack of landscaping, small amount of communal open space and the aesthetic proportions of the tower.

The applicant subsequently submitted revised drawings responding to these concerns. Council's City Architect reviewed the proposal and was satisfied that the applicant had adequately responded to DEAP's concerns and as such that it was not necessary for the panel to reconvene on the matter.

The DEAP panel's full comments are included at Appendix 2.

5.3 External

Authority	Comment
Ausgrid	Acceptable subject to conditions.
Roads and Maritime Services	Raise no objection. However, recommended access to the site be restricted to 'left-in/left-out' using a concrete median in the driveway. Council's Traffic officers consider an internal median will be ineffectual and as such have recommended that a condition be included requiring a median be constructed in Langston Place which will have the same effect. A condition is included accordingly.

Sydney Trains	Acceptable subject to deferred commencement and operational conditions requiring additional information and procedures to ensure no unacceptable impact on the adjoining rail line.
Sydney Water	Acceptable subject to standard conditions of consent
Transport for NSW	Recommended conditions to ensure that the construction and operational phase do not unacceptably impact on the temporary bus services that are to replace trains during major conversion works on the Epping to Chatswood rail link.
Water NSW (Integrated)	General Terms of Approval have been provided and are included in the draft consent. See Attachment 7 for full response.
Wind Consultant	Raised concern relating to applicant's modelling and mitigation. The applicant submitted a revised wind report which satisfied the concerns of Council's wind consultant. A condition is included requiring compliance with recommendations in wind report.

Table 3: External referrals

5.4 Internal

Authority	Comment
Environmental Health (Noise, Contamination, Waste)	Acceptable subject to standard conditions of consent.
Environmentally Sustainable Development	Acceptable subject to conditions.
Landscaping & Trees	Acceptable subject to deferred commencement condition requiring approval be granted for removal of trees on adjoining site that would be affected by proposal.
Public Domain	Acceptable subject to conditions of consent including requiring submission of detailed public domain plans prior to construction.
Stormwater Engineer	Satisfies the requirements of the applicable controls subject to conditions of consent.
Social Outcomes	Recommend the number of 3-bed units be increased to meet minimum 10% requirement. Discussed in Section 9.1 below.
Traffic & Transport	Acceptable subject to standard conditions and condition requiring median in Langston Place to restrict vehicular access to 'left-in/left-out'.
Urban Design	Acceptable design response to site constraints.

Table 4: Internal referrals

6. Environmental Planning and Assessment Act 1979

The sections of this Act which require consideration are addressed below:

6.1 Section 1.7: Significant effect on threatened species, populations or ecological communities, or their habitats

The site is in an established urban area with low ecological significance. No threatened species, populations or ecological communities, or their habitats are impacted by the proposal.

6.2 Section 4.15: Evaluation

This section specifies the matters which a consent authority must consider when determining a development application, and these are addressed in the Table below:

Provision	Comment
Section 4.15(1)(a)(i) - Environmental planning instruments	Refer to section 7
Section 4.15(1)(a)(ii) - Draft environmental planning instruments	Refer to section 8
Section 4.15(1)(a)(iii) – Development control plans	Refer to section 9
Other Planning Controls	Refer to section 10
Section 4.15(1)(a)(iiia) - Planning Agreement	Refer to section 11
Section 4.15(1)(a)(iv) - The Regulations	Refer to section 12
Section 4.15(1)(a)(v) - Coastal zone management plan	Not applicable.
Section 4.15(1)(b) - Likely impacts	Refer to section 13
Section 4.15(1)(c) - Site suitability	Refer to section 14
Section 4.15(1)(d) – Submissions	Refer to section 15
Section 4.15(1)(e) - The public interest	Refer to section 16

Table 5: Section 4.15(1)(a) considerations

6.3 Section 4.46: Integrated Development

The application is Nominated Integrated development under the Water Management Act 2000. NSW Water have provided General Terms of Approval which are included in the draft consent. See Attachment 7 for full response.

7. Environmental Planning Instruments

7.1 Overview

The instruments applicable to this application comprise:

- SEPP (Building Sustainability Index: BASIX) (BASIX SEPP) 2004;
- SEPP (Infrastructure) (ISEPP) 2007;
- SEPP (State and Regional Development) (SEPP SRD)2011;
- SREP (Sydney Harbour Catchment) (SREP (Sydney Harbour)) 2005;
- SEPP No. 55 (Remediation) (SEPP 55);
- SEPP No. 65 (Design Quality of Residential Apartment Development) (SEPP 65); and
- Hornsby Local Environmental Plan (HLEP) 2013.

Compliance with these instruments is addressed below.

7.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

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

7.3 State Environmental Planning Policy (Infrastructure) 2007

The proposal is considered to constitute a 'traffic generating development' as it proposes more than 75 dwellings within 90m of connection to a classified road (Epping Road). The DA has been referred to Road and Maritime Services (RMS), who had no objection to the proposal subject to several 'advisory notes', namely that vehicular access to the site be restricted to left-in/left-out, all garbage collection be conducted off-street and the proposal comply with the relevant planning controls. Left-in/left-out will be controlled by a median in Langston Place and garbage collection is to occur on site. The proposal does not comply with all planning controls but is considered to be acceptable for the reasons listed in this report.

The application has been referred to Sydney Trains due to the proximity to the train line. Sydney Trains have requested that a deferred commencement condition be added requiring the applicant to submit various details for approval. The details requested relate to:

- Geotechnical drawings and report
- Survey drawing showing relationship to rail tunnel
- Construction methodology
- Cross section drawings showing relationship to rail corridor
- Finite Element Analysis to assess effects of loading mass on the rail corridor

The purpose of the deferred commencement condition is to enable Sydney Train to ensure the development will have no impact on the adjacent rail infrastructure.

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

The proposed development has a Capital Investment Value (CIV) of more than \$20 million, therefore, Part 4 of this Policy (at the time of lodgement) provides that the Sydney Central City Planning Panel (SCCPP) is the consent authority for this application.

7.5 Sydney Regional Environmental Policy (Sydney Harbour Catchment) 2005 (Deemed SEPP)

This Policy, which applies to the whole of the Parramatta Local Government Area (LGA), 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 planning principles and controls for the catchment as a whole. 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 during construction and operational phases of the development.

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

A preliminary site investigation report was submitted with the application. The report outlined the history of the site, noting it has been used for retail/office/residential use since the early 1900s and that there is nothing to suggest that contaminating activities were undertaken on the site. The report concluded that as the proposal includes a deep basement which will extend to all site boundaries, that any contamination, if currently present, will be removed from the site and thus not impact on the proposed use. Council's Environmental Health team have reviewed the proposal and consider there to be no unacceptable contamination risk subject to conditions. As such the site is considered to be suitable for the proposed use.

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

SEPP 65 applies to the development as the proposal is for a new building, is more than three (3) storeys in height, and will have more than four (4) residential units. SEPP 65 requires that residential apartment development satisfactorily address nine (9) design quality principles, and consider the recommendations in the Apartment Design Guide (ADG).

Design Quality Principles

A design statement addressing the quality principles prescribed by SEPP 65 was prepared by the project architect, and submitted with the application. The proposal is considered to be consistent with the design principles for the reasons outlined below:

Requirement	Council Officer Comments
<i>Principle 1: Context and Neighbourhood Character</i>	The proposed development is considered to make a positive contribution to the locality and improve the existing streetscape. The character of this locality is undergoing transition from low-medium scale commercial uses to high density mixed use developments. This proposal is consistent with that shift.

Requirement	Council Officer Comments
	The site is in close proximity to Epping train station, which is being upgraded to accommodate a frequent metro line, and as such is well connected in terms of public transport.
<i>Principle 2: Built Form and Scale</i>	The proposal includes a height breach which allows for a taller, more slender, tower with greater separation from the approved adjoining towers. The proposed height is in keeping with that of the approved adjoining development at 12-22 Langston Place. The applicant has demonstrated that the form as proposed is appropriate, and would not result in unacceptable amenity impacts on adjoining/nearby properties.
<i>Principle 3: Density</i>	The proposal has a complying floor space ratio (FSR) and as such is considered to provide a density of housing in keeping with the desired future character of the area. Based on the highly accessible location of the site it is considered appropriate to provide the maximum allowable floor space on this site.
<i>Principle 4: Sustainability</i>	<p>A BASIX Certificate and relevant reports have been submitted with the development application outlining Environmentally Sustainable Design (ESD) scores in excess of that required by the controls:</p> <ul style="list-style-type: none"> • Water, required score: 40, proposed: 44 (+10%) • Energy, required score: 20, proposed: 28 (+40%) <p>The development achieves a good level of cross ventilation throughout the development with a majority of the proposed units having dual aspects.</p> <p>The application provides suitable provision of bicycle parking for both visitors (provided in accessible areas) and residents (provided in secure areas).</p>
<i>Principle 5: Landscape</i>	The proposal is consistent with the objectives of HDCP 2013, and provides appropriate planting to communal open space and surrounding streets, creating an appropriate landscape setting.
<i>Principle 6: Amenity</i>	<p>Generally, the proposal as amended is considered to be satisfactory in this regard, optimising internal amenity through appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, outlook, efficient layouts and service areas. The proposal provides 37% more communal open space than required by the ADG.</p> <p>A satisfactory wind assessment report has been provided, which concludes that wind conditions around the site are expected to be suitable for pedestrian walking activities, and pass the safety criterion subject to wind treatment. The wind treatment measures, which include windbreaks, vertical screening and an awning, are required via condition of consent.</p>
<i>Principle 7: Safety</i>	<p>The proposal is considered to provide appropriate safety for occupants and the public for the following reasons:</p> <ul style="list-style-type: none"> • A significant number of units are orientated towards public streets creating passive surveillance. • Entry points into the building are clearly identifiable allowing ease of access for residents and visitors. • Retail components at ground level will activate the precinct to further enforce a sense of passive surveillance.
<i>Principle 8: Housing Diversity and Social Interaction</i>	<p>The proposal achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>The proposal provides a high quality open space which will foster social interaction.</p>
<i>Principle 9: Aesthetics</i>	The composition of building elements, textures, materials and colours reflect the use, internal design, and structure of the resultant building. The proposed tower is considered to aesthetically respond to the environment and context, contributing in an appropriate manner to the desired future character of the area.

Table 6: Assessment of the proposal against the Design Quality Principles

Design Review Panels

The application was referred to the City of Parramatta's Design Excellence Review Panel, in keeping with the requirements of Clause 28 of SEPP 65. See Section 5.2 above.

Apartment Design Guide

The relevant provisions of the ADG are considered within the following assessment table:

Standard	Requirement	Proposal	Compliance
Part 3			
3B-1: Orientation	The proposed tower is considered to adequately respond to the site constraints, presenting a development which addresses Langston Place with a retail unit and residential/commercial lobbies. The applicant has undertaken significant consultation and discussion with Council officers to position the tower so as to maximise setbacks to the street and adjoining properties / future planned buildings while providing solar access to the proposed units and adjoining sites. More discussion is provided below.		
3B-2: Overshadowing	The proposal is considered to have a reasonable overshadowing impact on adjoining/nearby properties. See further discussion at end of table below.		
3C: Public Domain Interface	<p>The public domain interface is considered to positively contribute to the streetscape by providing high quality materials, distinct access to residential use foyers and commercial premises.</p> <p>The proposal provides an additional 1.5m of publicly accessible footpath to the front of site, a new awning which will connect into the existing and proposed awnings adjacent to the site, and street trees which are currently not provided in the street. Further, the public domain materials will be updated in keeping with the requirements of Parramatta's Public Domain Guidelines.</p>		
3D: Communal & Public Open Space	Min. 25% of site area (365m ²)	500m ² (34%) of residential communal open space is provided at podium roof level	Yes
	Min. 50% direct sunlight to main communal open space for minimum two (2) hours 9:00am & 3:00pm, June 21 st (182.5m ²)	The majority of the communal open space will receive sunlight between 10:00 and 15:00 (5 hours).	Yes
	The landscape plan outlines an undercover seating and bbq area, open air seating areas, and a variety of soft and hard landscaping which is considered to provide good amenity for future occupants.		
3E: Deep Soil	Min. 7% with min. dimensions of 3m (102.2m ²)	0m ²	No
	While the proposal provides no deep soil planting this is considered to be acceptable due to a high level of planting (planters, green walls, small trees) on the building, the constraints posed by a small site, and the local centre character of the area. The proposal provides additional planting in the public domain which will result in a net increase to the planting in the area.		
3F: Visual Privacy	To 38 Langston Place boundary (north)		
	Floor 2-3: 3m - 6m	8.1m - 9m	Yes
	Floor 4-7: 4.5m - 9m	8.1m - 9m	No
	Floor 8+: 6m (no habitable rooms)	8.1m - 9m	Yes
	To 12-22 Langston Place boundary (south/east)		
	Floor 2-3: 3m - 6m	3m - 13m	No
	Floor 4-7: 4.5m - 9m	3m - 13m	No
	Floor 8+: 6m - 12m	3m - 13m	No

Standard	Requirement	Proposal	Compliance
	To 2 Pembroke Street boundary (east) Floor 2-3: 3m - 6m Floor 4-7: 4.5m - 9m Floor 8+: 6m - 12m	13.6m 15.8m 15.8m	Yes Yes Yes
	The proposal is considered to provide acceptable separation to adjoining and proposed buildings and not result in an unacceptable privacy impact on those buildings. See further discussion at end of table below.		
3G: Pedestrian Access and Entries	The proposal includes a clearly demarcated, easily identifiable, at-grade pedestrian entrance, well separated from the vehicular access.		
3H: Vehicle Access	Given the lack of secondary road access to the site, vehicular access to Langston Place is considered to be appropriate. The access is slightly offset relative to the street and as such will not appear as a large void in the façade. The loading and garbage areas will not be visible from the street.		
3J: Bicycle and car parking [The site is within 100m of Epping train station. As such, RMS rates apply.]	<u>Car Parking Minimums</u> Residential: <ul style="list-style-type: none">0.6 per 1 bed (25.8)0.9 per 2 bed (47.7)1.4 per 3 bed (8.4) Total: 82 Visitor <ul style="list-style-type: none">1 per 5 units (21) or less if near public transport Total: 103	Residential: 96 Visitor: 11 Total: 107	Yes Yes (near public transport) Yes
	It is considered the proposed parking rates are acceptable, and the lack of residential visitor parking spaces will be mitigated by the proximity to Epping train station and the over provision of residential spaces. Bicycle parking is provided in secure locations in keeping with the requirements of the Hornsby DCP.		
Part 4			
4A: Daylight / Solar Access	Min. 2hr for 70% of apartments living & POS 9am & 3pm mid-winter (72*) Max 15% apartments receiving no direct sunlight 9am & 3pm mid-winter (<16)	72 out of 102 apartments (71%) 11 out of 102 apartments (11%)	Yes Yes
	* The applicant has provided detailed daylight modelling for the proposed tower taking into account a potential future tower to the north and the approved tower to the north east. The proposed development complies with the solar access requirements of the ADG.		
4B: Natural Ventilation	Min. 60% of apartments below 9 storeys naturally ventilated (>21)	21 out of 35 apartments (60%)	Yes
	The proposed development complies with the ADG natural ventilation requirement for the first nine (9) levels.		
4C: Ceiling heights	Min. 2.7m habitable Min 2.4m non-habitable Min 3.3m for mixed use	2.7m 2.4m 3.5m - 5.2m	Yes Yes Yes
4D: Apartment size & layout	1B – Min 50m ² 2B – Min 75m ² (2 baths) 3B – Min 95m ² (2 baths)	1B – min 50m ² – max 59m ² 2B – min 76m ² – max 83m ² 3B – min 98m ² – max 116m ²	Yes* Yes* Yes

Standard	Requirement	Proposal	Compliance
	<p>* Several of the units include large study rooms which could easily be retrofitted for use as bedrooms, therefore resulting in cramped units and avoiding appropriate infrastructure contributions. As such a condition is included requiring that the study rooms be reduced in size to a maximum of 2m x 2m and fitted with desk joinery.</p> <p>All rooms to have a window in an external wall with a total minimum glass area not less than 10% of the floor area of the room.</p> <p>Habitable room depths max. 2.5 x ceiling height (6.75m)</p> <p>Max. habitable room depth from window for open plan layouts: 8m.</p> <p>Min. internal areas:</p> <p>Master Bed - 10m²</p> <p>Other Bed - 9m²</p> <p>Min. 3m dimension for bedrooms (excl. wardrobe space).</p> <p>Min. width living/dining:</p>	<p>Complies</p> <p><6.75m</p> <p><8m</p> <p>>10m²</p> <p>>9m²</p> <p>>3m</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
	<ul style="list-style-type: none"> • 1B – 3.6m • 2B – 4m • 3B – 4m 	<p>>4m</p> <p>>4m</p> <p>>4m</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
4E: Private open space & balconies	<p>Min. area/depth:</p> <p>1B - 8m²/2m</p> <p>2B - 10m²/2m</p> <p>3B - 12m²/2.4m</p>	<p>>9m²/2m</p> <p>>10m²/2m</p> <p>>12m²/2.4m</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
	<p>Principle private open spaces are provided primarily from bedrooms with secondary direct access from living rooms. While this is not ideal it is considered to be acceptable given the significant site constraints and the overprovision of communal open space.</p>		
4F: Common circulation & spaces	<p>Max. apartments –off circulation core on single level: 8-12</p> <p>10 storeys or over, max. apartments sharing single lift: 40</p> <p>Corridors >12m length from lift core to be articulated.</p>	<p>5</p> <p>51/lift</p> <p>16m (not articulated)</p>	<p>Yes</p> <p>No</p> <p>No</p>
	<p>Whilst the lift to unit ratio is slightly oversubscribed, the applicant has submitted a lift report outlining that the proposed lifts would provide a good level of service to future occupants.</p> <p>While corridors are not articulated they are provided with extra width and natural light and ventilation. Combined with the limited number of units off each corridor this is considered to be acceptable.</p>		
4G: Storage	<p>1B – Min 6m³ (x43 = 258)</p> <p>2B – Min 8m³ (x53 = 424)</p> <p>3B – Min 10m³ (x6 = 60)</p> <p>Total – 742m³</p> <p>Min. 50% required in units (371m³)</p>	<p>~1,500sqm</p>	<p>Yes</p>

Standard	Requirement	Proposal	Compliance
	A detailed breakdown of the allocation of storage is not provided. The applicant does, however, indicate that the required storage is provided. As such, a condition is included requiring that this be detailed prior to CC.		
4H: Acoustic Privacy	The proposal has been designed so that like-use areas of the apartments are grouped to avoid acoustic disturbance where possible. Noisier areas such as kitchens and laundries are designed to be located away from bedrooms where possible.		
4J: Noise and pollution	The application includes an acoustic report which recommends construction methods/materials/treatments to be used to meet the criteria for the site, given both internal and external noise sources, and the proximity to Epping Railway Station, Epping Road, and Langston Place. A condition is included requiring the implementation of the report's recommendations.		
4K: Apartment Mix	<p>The development has the following bedroom mix:</p> <ul style="list-style-type: none"> • 43 x 1 bedroom apartments (42%) • 53 x 2 bedroom apartments (52%) • 6 x 3 bedroom apartments (6%) <p>These units vary in size, amenity, orientation. and outlook to provide a mix for future residents. A variety of apartments are provided across all levels of the apartment building.</p>		
4M: Facades	The façade including horizontal banding, ornamental vertical timber slats and painted render of various colours to add visual interest. Depth is achieved with varying setbacks and balconies. The proposal has a distinctive base (podium), middle (tower) and top (setback penthouse level ringed with ornamental balustrading and landscaping).		
4N: Roof design	The proposed building has a flat roof which is considered to be appropriate given the proposed tower design. Rooftop plant and lift overrun are suitably concealed ensuring they are not visible from the street.		
4O: Landscape Design	The application includes a landscape plan, which demonstrates that the proposed development will be adequately landscaped. The proposal includes green roofs, green wall elements, and extensive podium landscaping providing high quality communal open spaces for future residents.		
4P: Planting on structures	The landscape drawings outline that planting on structures would have adequate soil depth to accommodate good quality planting.		
4Q: Universal Design	20% Liveable Housing Guidelines Silver Level design features (>20)	22	Yes
	<p>The site is considered to be appropriately barrier free and wheelchair accessible. An Access Report has been included as part of the application confirming that the proposed development is capable of meeting the requirement of SEPP 65, and Part 4Q of the ADG.</p> <p>Further design detail of specific elements will be required as the development progresses through to the construction phase to ensure compliance. A condition has been included requiring confirmation prior to CC being issued.</p>		
4S: Mixed Use	The proposal is considered to provide an appropriate mix of uses given the character of the area. The commercial lobby is separated from the residential lobby.		
4T: Awnings and Signage	<p>Sun and rain protection is provided by a continuous awning throughout the public domain which will connect to the adjoining awnings. Regardless, a condition is included to this effect.</p> <p>No details of signage are provided. A condition is included requiring separate approval for any signage.</p>		
4U: Energy Efficiency	The BASIX Certificate demonstrates the development exceeds the pass mark for energy efficiency (Score: 28, Target: 20).		
4V: Water management	The BASIX Certificate demonstrates that the development exceeds the pass mark for water conservation (Score: 44, Target: 40).		

Standard	Requirement	Proposal	Compliance
4W: Waste management	The building includes a dual waste/recycling chute system. Waste storage rooms have been located in convenient locations in the ground floor loading area. Waste collection will occur within the ground floor loading dock. A waste management plan has been prepared by a qualified consultant, demonstrating compliance with council's waste controls. All residential and commercial units are to be provided with sufficient areas to store waste/recyclables.		
4X: Building maintenance	The proposed materials are considered to be sufficiently robust, minimising the use of render and other easily stained materials.		

Table 7: Assessment of the proposal against the ADG

As detailed in the above table, the proposed development does not comply with a number of requirements within the Apartment Design Guide. Specific responses to the non-compliances are provided below:

Separation / Privacy



Figure 6. Site plan showing location of building and separation from adjoining approved and potential development (as originally proposed left, as revised right).

A table outlining the ADG recommended, originally proposed and currently proposed separation is provided below:

Upper Level Tower separation to:	ADG	Original DA	Revised DA
North (boundary)	12m	6m (50%)	9m (75%)
Approved Tower 2 @ 12-22 Langston Place	24m	18m (75%)	19.8m (83%)
South (boundary)	12m	3m (25%)	3m (25%)

While the proposal includes some non-compliances with the building separation requirements outlined in the ADG the proposal is considered to be acceptable for the following reasons:

- The non-compliance with the approved tower to the south-east (Tower 2, 12-22 Langston Place) is a 'corner-to-corner' separation. In other words, there will not be two parallel walls close together. The majority of the two buildings are separated as required.
- Blank walls and obscure glazing are provided to ensure there are no close and direct views between living areas and communal/private open space on adjoining properties. The east facing units proposed primarily have an outlook between Towers 1 and 2 on the adjoining site. The north facing glazing off living rooms above level 8 is obscure glazed (these living rooms have primary outlooks to the east and west). A condition is included to enforce this requirement.
- Council's Urban Design team, City Architect and DEAP panel undertook a review of the site constraints and came to the view that the separation provided to existing, approved and future development has been optimised in the specific context of the site.
- The applicant demonstrated, in an Urban Design report, that the adjoining sites to the north could be developed with a tower that would result in an acceptable built form.
- DA/365/2016 at No. 35 Oxford Street, a similar site in that it was narrow and shallow, approved a tower with a boundary setback of 6m.
- The Department of Planning, in circular PS 17-001 (29 June 2017), stated that, "*the ADG is not intended to be and should not be applied as a set of strict development standards*".

Overshadowing

Objective 3B-2 of the Apartment Design Guide recommends that ‘overshadowing of neighbouring properties is minimised during mid-winter’. Further, the associated design guidance states, “living areas, private open space and communal open space [of adjoining properties] should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access”.

Living Rooms and Private Open Space

The relevant design criteria in Section 4A states that, “living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area...” and “Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%”.

The applicant for the approved development at the adjoining site, No. 12-22 Langston Place, provided modelling of the current solar access versus a) the impact of a complying envelope scheme and b) versus the proposed scheme with non-complying height/setbacks. The figures below show the existing condition versus the current proposal.

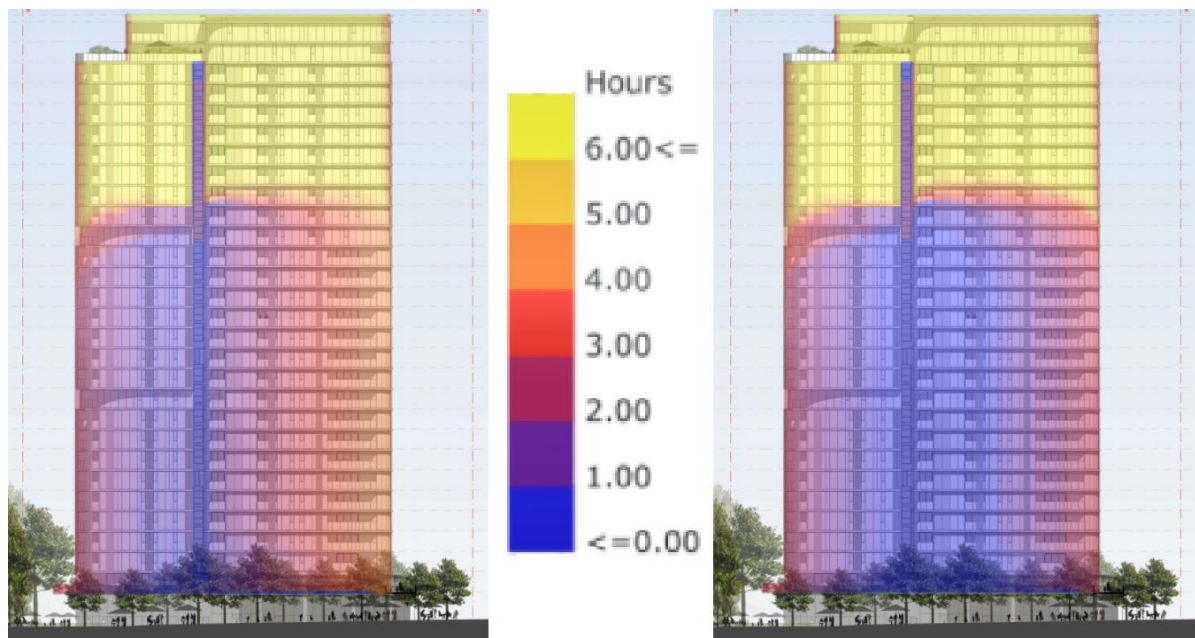


Figure 7. Solar Access 'Heat' Map outlining the number of hours of solar access received by the northern elevation of Tower 3 in the approved development to the south at No. 12-22 Langston Place (left: existing, right: with proposed tower).

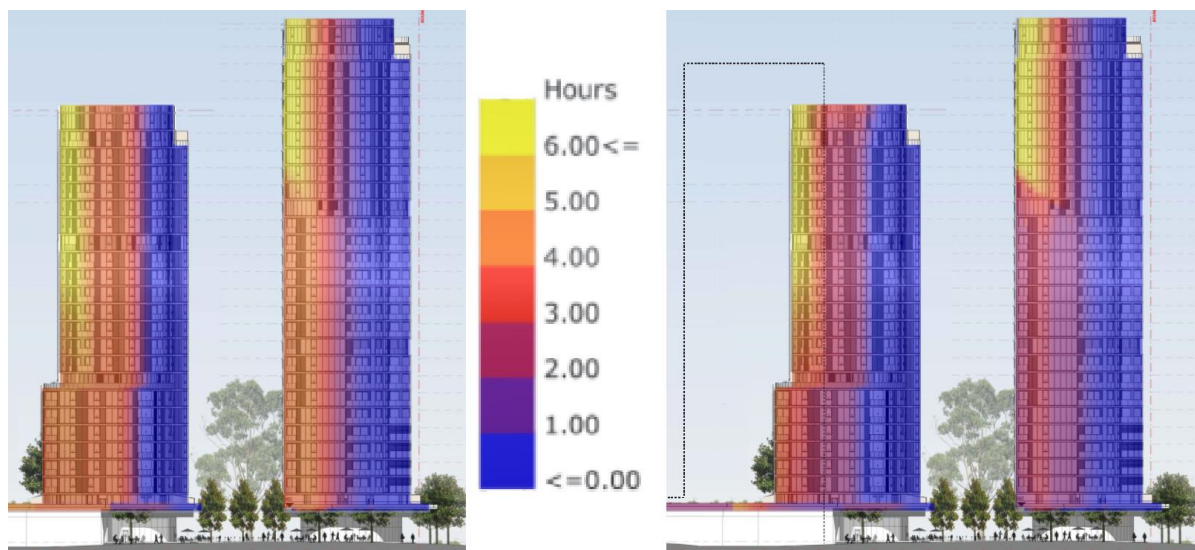


Figure 8. Solar Access 'Heat' Map outlining the number of hours of solar access received by the wester elevation of Towers 2 (left) & 3 (right) in the approved development to the south at No. 12-22 Langston Place (left: existing, right: with proposed tower).

A summary of that modelling is provided in the table below:

Based on following development at 24-36 Langston Place	Approved development DA/468/2016 @ 12-22 Langston Place			
	Units with <2 hours solar access	Units with >2 hours solar access	% development	% reduction
Without any development	133	330	71.3	N/A
With complying development	190 (+57)	273 (-57)	59.0	17.3%
With proposal	205 (+72)	258 (-72)	55.7	21.8%

Figure 9. Impact of solar access on adjoining approved development as undertaken by adjoining applicant.

Based on the *adjoining applicant's* analysis, the proposal results in a reduction of solar compliant units by approximately 21.8%, slightly in excess of the maximum reduction recommended in the ADG.

The NSW Land & Environment Court established a solar access 'planning principle' in the case of *The Benevolent Society v Waverley Council [2010] NSWLEC 1082*. The planning principle set out a series of tests to determine whether proposed overshadowing was acceptable. An assessment of the proposal against the planning principle is provided below:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

The site and immediately adjoining buildings are located in an area designated for high density development. As such sunlight access is harder to protect.

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

The table above outlines that the non-compliances with height and separation result in 15 additional units, out of the approved 463 units (3%), not receiving the required solar access. It is not considered possible for the applicant to reduce the impact on the adjoining property without severely compromising the development potential of the site. As outlined above, and as discussed in the site amalgamation part of Section 9.1 below, Council's Urban Design team and City Architect undertook a review of the site constraints and came to the view that the separation provided to existing, approved and future development has been optimised in the specific context of the site.

- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*

The adjoining towers approved at 12-22 Langston Place will have large, floor to ceiling, curtain wall glazing systems. The living room windows of the affected units on Tower 2 (Levels 2-7) and Tower 3 (Levels 2-17) would still retain solar access to enough of these large living room windows to retain 2 hours of solar access (see figures below). As such these 24 units are not considered to be unacceptably impacted by the proposal (the open space of these units already did not achieve the required solar access).



Figure 10. Tower 2 typical floor plan (levels 2 - 7). Overlay in green showing where more than 2 hours of solar access will be provided to the affected unit, red shows section no longer receiving 2 hours.

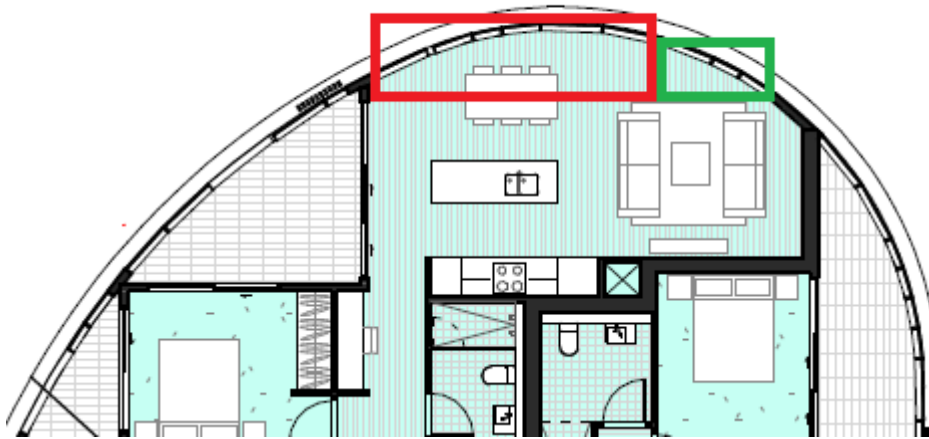


Figure 11. Western End of Tower 3 typical floor plan (levels 2 – 17). Overlay in green showing where more than 2 hours of solar access will be provided to the affected unit, red shows section no longer receiving 2 hours. Levels 18 and 19 have a slightly different layout but would still have sections receiving more than 2 hours.

- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*

Based on the assessment above, the total number of units on the adjoining property considered to lose the required 2 full hours of solar access as a result of the proposal is considered to be closer to 48 (14.5% less than as approved). As such 282 units out of 463 units approved on the adjoining site (61%) would retain the required solar access.

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.*

The applicant has considered what is likely to be built on adjoining sites. See Urban Design study attached at Appendix 4.

Given the high density character of the area, the amount of solar access retained (61% of units) and the relatively low percentage of units affected by height and setback non-compliances (3%), the overshadowing impact on adjoining units is considered to be acceptable in this instance.

Communal Open Space

The relevant design criteria in Section 3D states that, “developments achieve a minimum of 50% direct sunlight to the **principal usable part of the communal open space** for a minimum of 2 hours between 9am and 3pm on 21 June (mid winter)” (emphasis added).

The communal open space of the approved development at 12-22 Langston Place will be located at first floor podium level (see diagram below). The principal usable part of the communal open space areas for each tower are generally immediately to the west of the associated tower.

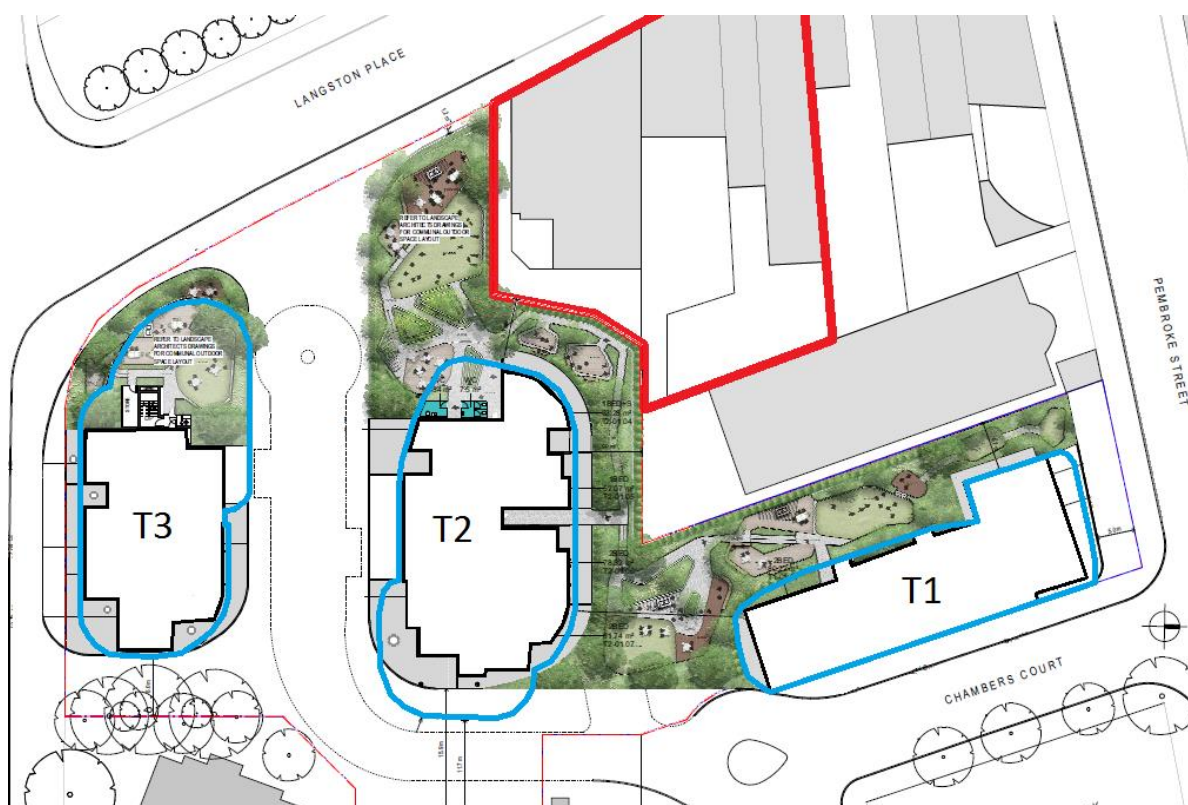


Figure 12. First floor communal open space areas (green) on approved development at 12-22 Langston Place (subject site in red, tower footprints above open space in blue).

The proposal would result in additional overshadowing of the communal open space of the adjoining site. The open space of Tower 3 is already substantially overshadowed by the tower immediately above it. The most affected area would be the principle usable part of the communal open space of Tower 2.

The shadow diagrams submitted with the application demonstrate that the space would receive approximately:

- With no development on subject site: 10:30am – 3:00pm [4.5 hours] (~100% of area)
- With proposed tower: 10:30am - 11:45pm [1.25 hours] (~50% of area) & 2:15pm – 3:00pm [0.75 hours] (~50%) Total: 2 hours (~50%)

As such the proposal is considered to satisfy the numerical requirement. Further, the primary communal open space areas for Towers 1 & Towers 2 are connected and as such a resident from one can move to the other if solar access is desired. As the adjoining open space is not yet built it would also be possible for the adjoining owner to slightly revise the location of the principle usable open space eastwards to maximise solar access should they so desire.

7.8 Hornsby Local Environmental Plan 2013

The relevant objectives and requirements of HLEP 2013 have been considered in the assessment of the development application, and are contained within the following table.

Development standard	Proposal	Compliance
2.3 Zoning		
B2 – Local Centre	The proposal is a mixed use development comprising shop top housing and commercial premises (retail unit and office unit) which are permissible with development consent in the zone.	Yes

Zone Objectives		
	<p>The proposal is considered to be in keeping with the objectives of the B2 Local Centre zone for the following reasons:</p> <ul style="list-style-type: none"> • The proposed development provides an appropriate mix of opportunities for a range of commercial tenancies and residential accommodation. • In the short term jobs will be created through the construction of the development and in the longer term suitably located retail and office tenancies. • The addition of residential apartments close to Epping Railway Station, with links to major employment centres, will encourage the use of public transport. 	Yes
4.3 Height of Buildings		
Control: 72m	Max Height 87.8m	No (15.8m, 21.9% breach)
4.4 Floor Space Ratio		
Control: 6:1 (8,760m ²).	Residential GFA: 7,960m ² (91%) Retail GFA: 250m ² (3%) Office GFA: 550m ² (6%) Total GFA: 8,760m ²	Yes
4.6 Exceptions to Development Standards		
	Variation to Building Height Standard.	Yes (see below)
5.10 Heritage conservation		
	The separation between the site and the nearest heritage items is approximately 60m. Given the separation between the site and the heritage item, it is considered that the impact on significant views, and on the significance of the item in general, would be acceptable.	Yes
6.2 Earthworks		
	The application includes a geotechnical report which outlines measures to reduce the impacts of earthworks. Council's engineers have recommended a condition requiring a more detailed geotechnical report, including additional boreholes, after demolition of the existing building, which has been included.	Yes
6.8 Design Excellence		
	Council's Urban Design team and City Architect have reviewed the proposal and consider that it achieves the design excellence criteria outlined by the clause.	Yes

Table 8: Assessment of the proposal against HLEP 2013

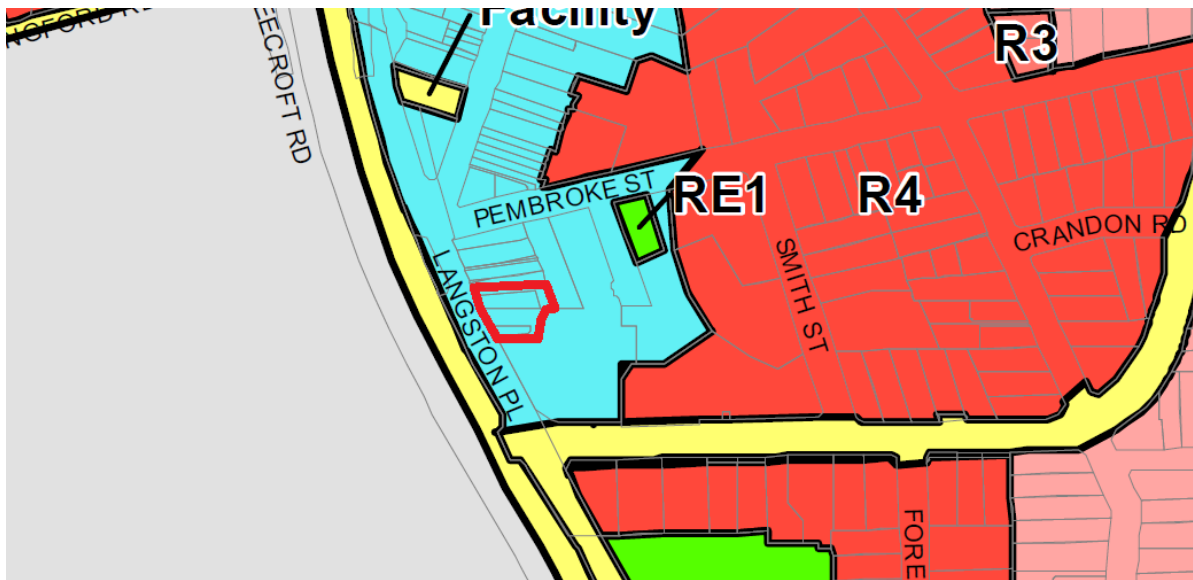


Figure 13. HLEP 2013 Zoning map (subject site outlined in red). The site is zoned B2 – Local Centre.

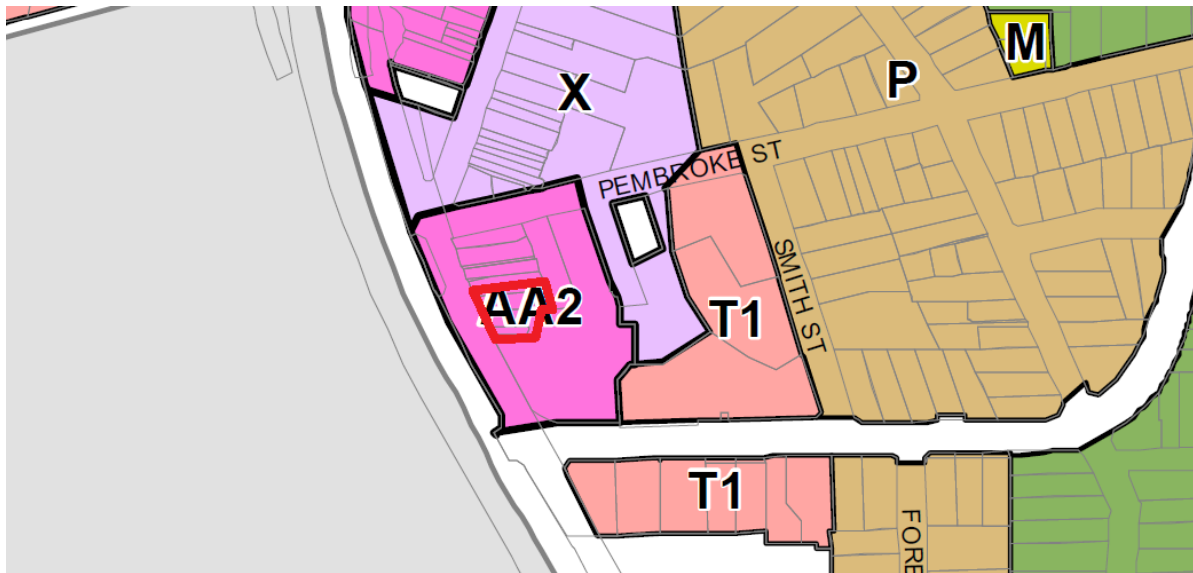


Figure 14. HLEP 2013 map (subject site outlined in red). The site is classified AA2 – 72m height limit.

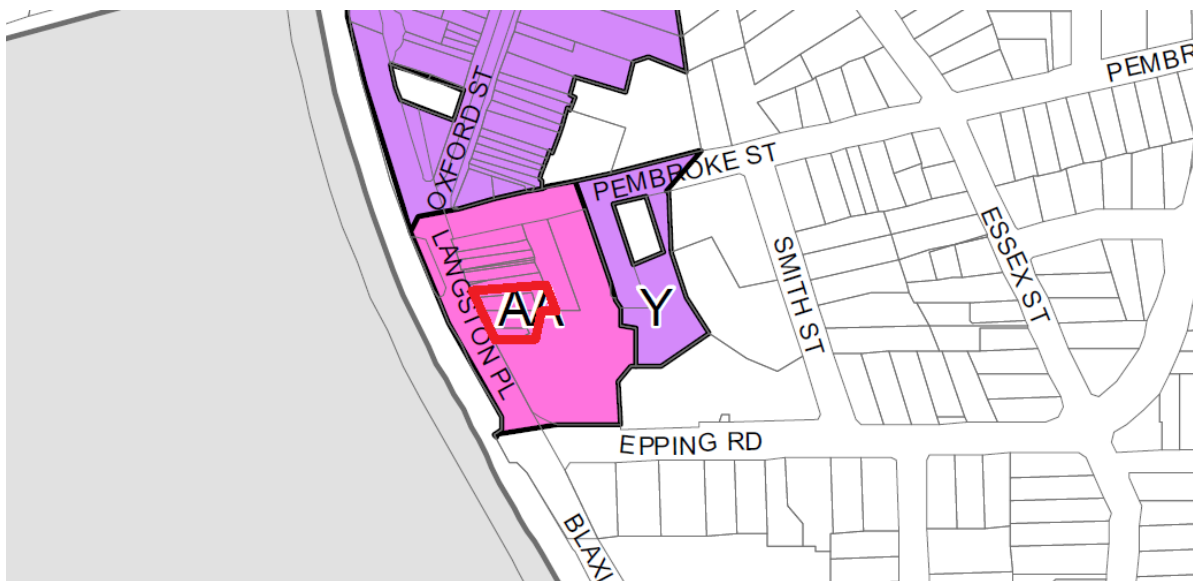


Figure 15. HLEP 2013 Floor Space Ratio map (subject site outlined in red). The site is classified AA – 6:1 FSR.

Clause 4.6 Variation Assessment

Clause 4.6 of HLEP 2013 allows the consent authority to provide an appropriate degree of flexibility in applying certain development standards, where flexibility would achieve better outcomes.

Clause 4.6(1) – 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) – 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.

The proposal does not comply with the Clause 4.3 ‘Height of Buildings’ development standard, as outlined in the table above and figure below, and as such the applicant has submitted a request to vary the height standard under Clause 4.6 of the HLEP 2013.



Figure 16. Proposed breach of height limit in context of approved development at 12 – 22 Langston Place (red line represents 72m height standard, approved buildings shown in grey).

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

Clause 4.6(3) requires that the applicant provide a written request seeking to justify contravention of the development standard. The request must demonstrate that:

- “(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) there are sufficient environmental planning grounds to justify contravening the development standard.”*

The applicant has provided the following environmental planning grounds to justify the non-compliance with the development standard (relevant extracts provided). The full request is included at Appendix 1.

This Clause 4.6 variation request demonstrates that, notwithstanding the non-compliance with the Height of Buildings development standard, the proposed development:

- continues to satisfy the objectives of the development standard, as well as those of the B2 Local Centre zone;
- achieves a bulk and scale suitable for the site given its constraints, development potential, and the infrastructure capacity of the locality;
- will not prevent existing and future adjoining developments from achieving a high standard of amenity;
- continues to provide a high quality architectural design with a high standard of residential amenity and functional commercial floorplates; and
- will not result in unacceptable environmental impacts.

The variation from the height control is also largely the result of the need to respond to site-specific constraints. Specifically, the design has responded to the following:

- a limited site area of 1,460m², which restricts the amount of developable area; the inability to amalgamate with the site to the north notwithstanding genuine efforts and reasonable offers to acquire the site from the owners of the property;
- the site's locational context and the need to provide appropriate building separation to adjoining properties to ensure existing and future developments can achieve a satisfactory standard of amenity;
- the need to provide an appropriate street setback to Langston Place large enough to accommodate a 1.5m footpath upgrade and tree planting buffer; and
- a crossfall from north to south of about 2.5m over 49m; and
- a crossfall from west to east of 3m over 50m.

Despite the numerical non-compliance with the height limit, the proposal is considered to satisfy the objectives of the development standard, as well as those of the B2 Local Centre zone, the Hornsby DCP and EPDG Guidelines. The proposal will provide environmental benefits particular to the site including:

- a mixed use residential development that exceeds the BASIX energy targets;
- a high standard of residential amenity for future occupants;
- a widened footpath with landscape embellishments that will contribute to the upgrade of Langston Place and provide an improved standard of amenity for pedestrians; and
- a two storey commercial podium with adequately sized floorplates that will encourage street activation and support the economic viability of the Epping Town Centre.

An assessment to determine whether compliance with the standard is 'unreasonable and unnecessary' has been undertaken. It is considered that there are 'sufficient planning grounds' to support the variation and recommend the variation be approved for the following reasons:

Unreasonable and Unnecessary

An assessment against the relevant case law established in the NSW Land and Environment Court has been undertaken below. These cases establish tests that determine whether a variation under Clause 4.6 of an LEP is acceptable and whether compliance with the standard is unreasonable or unnecessary.

Wehbe v Pittwater Council

Case law in the NSW Land & Environment Court has considered circumstances in which an exception to a development standard may be well founded. In the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827 the presiding Chief Judge outlined the following five (5) circumstances:

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

Height of Buildings

"(a) To permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality."

The key constraints of the site are the proximity of adjoining approved/potential towers, the lack of ability and appropriateness to consolidate with adjoining sites and Council's

desire to widen the footway to the front of the site. The increase in height sought is to make up for the reduced footprint provided to maximising separation from these adjoining land holdings.

The proposed development is consistent with the FSR density standard ensuring no additional density is developed on the site as a result of the height variation.

2. *The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*

The underlying objective is relevant, however in this case reducing the tower floorplate to provide additional setback to adjoining sites / approved buildings allows for significant public benefits and amenity improvements to the adjacent properties and public open space, which on merit outweigh strict compliance with the height of building development standard.

3. *The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable*

The applicant does not suggest that the objectives would be thwarted if compliance was required; rather that the objectives are achieved despite the breach of the height of buildings development standard.

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*

While it is noted that several height standard variations have been allowed in the locality recently, they have all been based on site-specific constraints. Other development in the area have been consistent with the height standard (see Section 3.2 above). As such, it is considered that the standard has not been abandoned.

5. *The zoning of particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant does not challenge that the zoning is inappropriate or that the standard is unreasonable or unnecessary.

Four2Five Pty Ltd v Ashfield Council

The decision in the Land & Environment Court case of *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, suggests that 'sufficient environmental planning grounds' for a Clause 4.6 variation is more onerous than compliance with zone and standard objectives. The Commissioner in the case also established that the additional grounds had to be particular to the circumstances of the proposed development, and not merely grounds that would apply to any similar development.

In this case, the following site specific planning grounds are considered to be sufficient to justify contravening the standards:

- The proposal will respond to the site constraints, namely lack of separation from proposed/future towers by providing a taller, more slender tower. The additional separation ensures the proposal does not compromise the development potential of adjoining sites while reducing impacts on the outlook and privacy of approved adjoining units. While the number of units on adjoining properties which will be overshadowed will increase, this will be offset by less overshadowing and increased separation for some units.
- It is considered that compliance with the standard in this case is unreasonable and unnecessary as the proposed development:
 - i. Is consistent with the objectives of the development standard, Clause 4.3 of HLEP 2013;

- ii. The proposed variation does not result in unreasonable amenity impacts on the adjoining and nearby properties.
 - iii. Allows sufficient building setbacks to future/approved adjoining sites.
 - iv. The proposal exceeds the minimum sustainability requirements.
 - v. The proposal provides a proportion of commercial space in excess of that provided by other recent developments in the town centre.
 - vi. The proposal provides an additional 1.5m of public footway to the front of the site.
- The proposed development will result in a density that is compliant with the FSR standard for the site, and as such the variation will not place additional pressure on the infrastructure capacity of the locality; and
 - The proposed development is consistent with the strategic significance of development envisaged for the site under the Epping Activation Precinct and subsequent HLEP 2013 and HDCP 2013 updates relating to the site.

Clause 4.6(4) - Consent Authority Assessment of Proposed Variation

Clause 4.6(4) outlines that development consent must not be granted for development that contravenes a development standard unless:

- “a) the consent authority is satisfied that:*
- i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- b) the concurrence of the Secretary has been obtained.”*

The matters of clause 4.6(4)a)i) have been dealt with in the preceding section. Clause 4.6(4)a)ii) and Clause 4.6(4)b) have been assessed as follows:

Public Interest

“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”.

The proposal is consistent with the objectives of the zone and height standard as set out in the tables below:

B2 Zone Objective	Proposal
<i>To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.</i>	The proposal provides a retail premises and an office premises which will serve both the existing local community and the future residents proposed as part of the development.
<i>To encourage employment opportunities in accessible locations.</i>	The proposed development is easily accessible by public transport making the proposed retail and commercial units highly accessible to future employees.
<i>To maximise public transport patronage and encourage walking and cycling.</i>	The location of residential apartments close to public transport links which give direct access to Sydney CBD, Macquarie Park and other key employment areas will encourage public transport patronage. The location of a range of retail facilities close to existing and future high density residential areas and public transport hubs will encourage the use of walking and cycling to these facilities.

Table 9: Assessment of the proposal against the B2 – Local Centre zone objectives

Clause 4.3 Objective	Proposal
<i>To permit a height of building that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.</i>	The height of the building is considered appropriate for the site constraints and infrastructure capacity and will not give rise to any adverse impacts on the surrounding existing/proposed residential dwellings and public places.

Table 10: Assessment of the proposal against the Clause 4.3 – Height of Buildings objectives

Concurrence

'The concurrence of the Secretary has been obtained'

Assumed concurrence is provided to regional planning panels (such as the SCCPP) as per NSW Department of Planning Circular '*Variations to development standards*' Ref: PS 18-003 dated 21/02/2018 (See Attachment 6). There is no limit to the level of non-compliance for which concurrence can be assumed.

Conclusion

In summary, it is considered that breaching the building height standard would result in a more appropriate impact on approved and future development in the vicinity of the site and the character of the area. The applicant has provided an adequate written request demonstrating site-specific reasons that the proposal would be a better environmental outcome than a complying scheme. As such, the request to vary the height standard is supported.

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

8. Draft Environmental Planning Instruments

There are no draft environmental planning instruments relevant to the subject application.

9. Development Control Plan

9.1 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within HDCP 2013. Where there is conflict between HDCP 2013 and the SEPPs listed above the SEPP controls prevail to the extent of the inconsistency and as such are not included below. The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

Control	Requirement	Proposal	Compliance
<i>1C – General Controls</i>			
<i>Biodiversity</i>	Avoid impacts on biodiversity and environmental features	The site is devoid of flora or natural features. The landscape plan includes 3 street trees and 6 on-structure trees as well as other shrubs and plants. Conditions are included to ensure sufficient soil depth for trees. The proposal would result in a significant increase in planting on the site.	Yes, subject to deferred commencement condition

		However, the proposal does necessitate the removal of 2 trees from the adjoining site, No. 12-22 Langston Place. While these trees have deferred commencement consent approved for removal as part of DA/468/2016, this consent is not yet operational. No separate tree application has been received for their removal. As such a deferred commencement consent condition is included requiring approval for removal of these trees prior to operational consent.	
<i>Stormwater Management</i>	Erosion and Sediment Control, OSD, WSUD (Rainwater Tanks)	Erosion and Sediment Control Plan, OSD, and Rainwater Tanks are provided.	Yes
<i>Earthworks and Slope</i>	Protect the stability of land.	The applicant has submitted a geotechnical report which identifies a number of potential vibration and ground movement impacts. However, the report outlines ways to minimise such impacts. A condition is included requiring a more detailed geotechnical report and that all recommendations in the report be implemented.	Yes
<i>Transport and Parking</i>			
<i>Car Share</i>	1 space (as over 50 units)	The applicant has not addressed car share.	1 car share space required by condition.
<i>Bicycle Parking</i>	1/dwelling (102) 1/10 dwelling visitors (10) 1/600sqm commercial (1) [Total 113]	114	Yes
<i>Loading</i>	Room for delivery cars/motorcycles, removalists	The loading dock provides a large area for parking of such vehicles	Yes
<i>Motorcycles</i>	4	9	Yes
<i>Retail Parking</i>	1 per 30 - 60m2 (5-8)	5	Yes
<i>Office Parking</i>	1 per 50 - 70m2 (8-11)	8	Yes
<i>Accessible Res</i>	11	12	Yes
<i>Accessible Comm</i>	1	2	Yes
<i>Travel Plan</i>	To promote sustainable travel.	Not provided.	To be conditioned.
<i>Accessible Design</i>	Unobstructed step-free access	All entrances step-free	Yes

<i>Waste Management</i>	Waste Management Plan On-Site Collection Garbage Chute System	Provided, reviewed by Council waste officer On-site collection provided Garbage chute provided	Yes
<i>Air Quality</i>	Air Quality Report	Air Quality Report provided including recommendations on minimising air quality impacts.	Yes
<i>Crime Prevention</i>	Crime Prevention Through Environmental Design (CPTED) Report	CPTED Report not provided. However, the proposal is considered to adequately provide sightlines, casual surveillance, and secure access	Yes
<i>Avoiding Isolated Site</i>	Demonstrate adjoining sites can be developed.	See discussion below.	Yes
4.6 – Epping Town Centre			
<i>Desired Future Character</i>	In keeping with East Precinct	See discussion below.	Yes
<i>Site Width</i>	>30m	34.6m to Langston Place	Yes
<i>Floor Space Ratio</i>	6:1	6:1	Yes
<i>Floorplates</i>	<700m ² GFA	~329m ² GFA (47% of max)	Yes
Height	22 storeys	27 storeys	No discussion (See below)
<i>Podium Height</i>	2-3 storeys	2 storeys	Yes
<i>Podium Use</i>	Commercial	Commercial	Yes
<i>Front Setbacks Podium</i> Tower	0m 6m (Langston Place)	1.5m (as recommended by Council, matches adjoining) 4.5m – 10.6m	Yes Part discussion (See below)
<i>Side Setbacks (Podium)</i>	0m	0m	Yes
<i>Tower Form</i>	Distinctive base, middle and top (delineated top / taper to sky) Slim and slender proportions	The proposal has a distinctive base (podium), middle (tower) and top (setback penthouse level ringed with ornamental balustrading and landscaping) The floorplate, at less than half the maximum (see above) is considered to be slender and slim.	Yes Yes

Frontage Activation	Active Frontage (90% shop and office windows and building entrances)	23m/37.4m (61%)	No (See discussion below)
<i>Wind Effects</i>	Wind Effects Report (inc. wind tunnel testing)	Wind Effects Report with wind tunnel testing.	Yes
<i>Solar Reflectivity and Glare</i>	<20% reflection	<20% reflection	Yes
Housing Choice	1br – >10% 2br – >10% 3br – >10%	1 bed – 43 (42%) 2 bed – 53 (52%) 3 bed – 6 (6%)	Yes Yes No (See discussion below)
<i>Adaptable Units</i>	10% (>11)	11% (11)	Yes
<i>Public Art</i>	Buildings should include ... public art to enhance the public domain.	The applicant has not addressed public art.	A condition is included requiring a Public Art Plan.

Table 11: Assessment of the proposal against HDCP 2013.

Desired Future Character

The proposal is considered to be in keeping with the desired future character of the Epping Town Centre – East Precinct for the following reasons:

- The proposal provides residential units in close proximity to Epping station.
- The proposal provides a variety of retail and commercial activities on the lower levels to serve the needs of the local population.
- The proposal adequately activates the ground plane with a retail use.
- The front setback will be publicly accessible, adding to the public domain.

Height

The number of storeys non-compliance relates directly to the height of the building. Discussion on the height non-compliance is provided in Section 7.8 above.

Tower Setback

The non-compliant tower setback to Langston Place is considered to be acceptable for the following reasons:

- Allows for greater separation with adjoining approved and potential future towers as required by the ADG.
- There will be a large gap between the proposal and the approved tower on the corner of Langston Place and Epping Road to the south of the site and as such the proposal will not result in an imposing street wall of towers along Langston Place.

Frontage Activation

The non-compliant street activation is considered to be acceptable in this instance for the following reasons:

- There is no alternative access for the car park. A two-way vehicle access is required based on the scale of development.
- The provision of substations, fire boosters and fire stairs at the street frontage are required by the utility company and for BCA compliance respectively.

- The non-active areas will be finished with timber slates, brick and vertical planting to add visual interest (see figure below).



Figure 17. Street level facade detail.

Housing Choice

While the proposal is slightly deficient in 3-bed units, given the proximity to the train station and the lack of open space in the area, the site is considered to be slightly less attractive to families and thus the proposed mix is acceptable.

Therefore, despite the non-compliances, it is considered that the proposed development is consistent with the objectives of the DCP and delivers a high quality urban environment which is consistent with the desired future character of the area.

While there are no non-compliances with the following controls, objection has been raised on these grounds and as such further discussion is provided below:

Commercial Floor Space

The proposal provides a 2 storey podium of commercial uses as required by the DCP. Other developments recently approved within the Epping Town Centre have provided only a single storey of retail uses, at ground floor, and as such the provision of office floor space at first floor is considered to be commendable. The proposal provides a higher proportion of floor space as commercial than most recently approved applications in the area (see figure below).

Recent Development Applications in Area			Floorspace (GFA)			
Reference	Address	Approval Date	Commercial	Residential	Total	% Comm
DA/237/2017 (subject DA)	24-36 Langston Place	N/A	800	8,760	9,560	8.37%
DA/314/2017	37-41 Oxford Street	7/03/2018	1,283	21,078	22,361	5.74%
DA/1063/2016	2-4 Cambridge Street	6/12/2017	1,400	6,632	8,032	17.43%
DA/468/2016	12-22 Langston Place	2/08/2017	1,681	41,394	43,075	3.90%
DA/585/2016	30-42 Oxford Street	20/07/2016	750	22,515	23,265	3.22%
DA/365/2016	35 Oxford Street	14/07/2016	58	4,316	4,374	1.33%
DA/681/2015 (Hornsby Ref)	20-28 Cambridge Street	24/02/2016	966	36,364	37,330	2.59%

Figure 18. Comparison of Commercial Floor Space provided in recently approved development in the East Epping precinct (Red Highlighting: DAs originally submitted to former Hornsby Council prior to Council mergers, Green Highlighting: DAs originally submitted to City of Parramatta).

Site Width / Site Isolation

The proposal is not considered to result in site isolation for the following reasons:

- There are no minimum site area controls.
- The proposal complies with the 30m site frontage requirement. The remaining sites in the block, once amalgamated, would also have 30m frontages to both Langston Place and Pembroke Street.
- Were the proposal to amalgamate with only one or two of the adjoining properties to the north it would result in a cramped 'L-shaped' potential future development site which would then struggle to provide a tower with compliant separation. The applicant provided evidence that

they attempted to purchase the adjoining sites to the north (Nos. 38-40 Langston Place & No. 2 Pembroke Street) to no avail. The subdivision pattern proposed is considered to provide the most orderly development of the remainder of the block subsequent to the 3 towers approved at 12-22 Langston Place.

- The applicant has provided an urban design study (see Attachment 4) demonstrating that a compliant tower form can be accommodated on the adjoining sites to the north (see figure below).

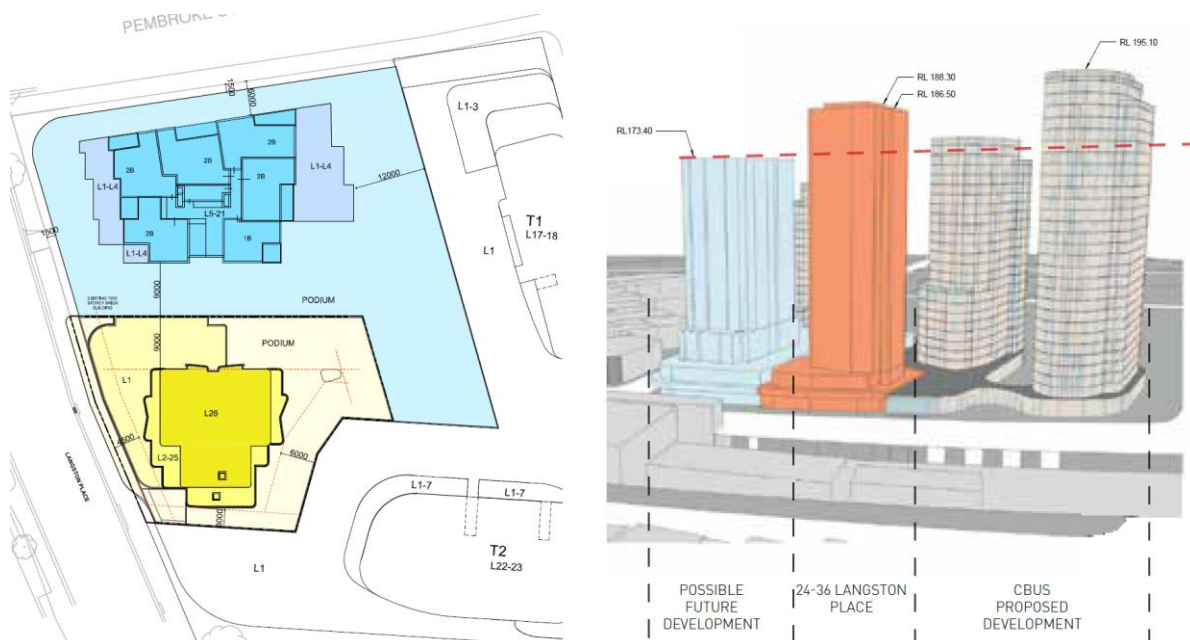


Figure 19. Figures demonstrating potential redevelopment of remaining B2 zoned lots within the block.

10. Other Planning Controls

10.1 Epping Town Centre Public Domain Guidelines

Hornsby Shire Council adopted public domain guidelines for Epping Town Centre on the 9th December 2015 following the amendment of HLEP 2013 by the NSW State Government in 2014 to facilitate the Epping Urban Activation Precinct.

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the Epping Town Centre Public Domain Guidelines. The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

Control	Requirement	Proposal	Compliance
Frontage	2-3 storey frontage	2 storey	Yes
Village Street	Ground Floor Retail Awning	Ground Floor Retail Awning	Yes Yes
Widened Footpath	6m (5m kerb to podium recommended by Council's Urban Design team, can be extended in future by moving kerb out)	5m kerb to podium (inc. additional 1.5m on site)	Yes
Pedestrian Links/Laneways	As shown in figure below.	This connection is to be provided on the adjoining site at No. 12-22 Langston Place (DA/468/2016)	N/A

Table 12: Assessment of the proposal against Epping Town Centre Public Domain Guidelines.

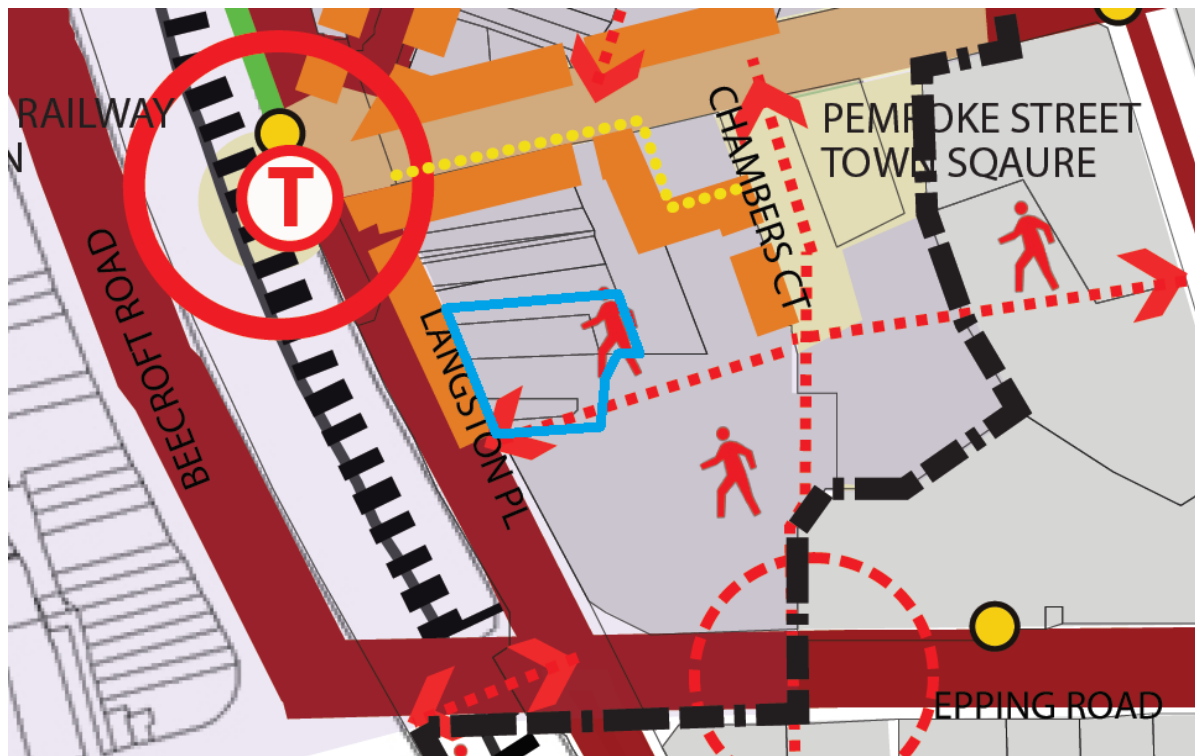


Figure 20. Extract from Epping Town Centre Guidelines (subject site in blue, dashed red lines indicate desired pedestrian links/laneways).

10.2 Parramatta Public Domain Guidelines

The latest Parramatta Public Domain Guidelines (PDG), released July 2017, include updated public domain requirements for the East Epping precinct, specifying paving materials, tree planting and the like. The landscape plan submitted with the application is generally in keeping with the requirements of the PDG. Conditions are included requiring detailed public domain plans be prepared prior to construction, and signed off by Council's public domain team, with Council inspections undertaken throughout construction.

11. Planning Agreements

No planning agreements relate to the site.

12. The Regulations

The recommendation of this report includes conditions to ensure the following provisions of the Regulation will be satisfied:

- Clause 92 - Demolition works are to satisfy AS 2601 - 1991; and
- Clause 98 - Building works are to satisfy the Building Code of Australia.

13. The Likely Impacts of the Development

The likely impacts of the development have been considered in this report and it is considered that the impacts are consistent with those that are to be expected given the applicable planning framework. The impacts that arise are acceptable.

14. Site Suitability

The site is ideally located within the Epping Town Centre urban activation precinct, close to public transport links, services and facilities.

Suitable investigations and documentation has been provided to demonstrate that the site is suitable for the proposed development and the development is consistent with the spatial planning undertaken for the locality.

No natural hazards or site constraints exist that are likely to have a significant adverse impact on the proposed development. Accordingly, the site is considered to be suitable for the proposed development. The proposed development has been assessed in regard to its environmental consequences and having regard to this assessment, it is considered that the development is suitable in the context of the site and surrounding locality.

Subject to the conditions provided within the recommendation to this report, the site is suitable for this development.

15. Submissions

The application was notified and advertised in accordance with Part 1B of Hornsby DCP 2013.

The initial advertisement ran for a 30-day period between 6 April and 8 May 2017. Twelve (12) submissions were received during this notification.

Subsequent to receipt of revised drawings the application was re-advertised for a 30-day period between 12 October and 11 November 2017. Five (5) submissions were received during this notification from one (1) additional unique property.

A total of 17 submissions have been received from a total of 13 unique individuals/organisations.

As per Council resolution, as there are more than 7 objections a recommendation was made to the applicant to partake in a Council facilitated conciliation with the objectors. The applicant declined this non-statutory process citing the implementation of this policy late in the assessment of the application.

The public submission issues are summarised and commented on as follows:

Issues Raised	Comment
<i>Height breach unacceptable, clause 4.6 variation not well founded, height out of keeping with character of area.</i>	For the reasons listed in Section 7.8 above the proposed height variation request is considered to be well founded.
<i>Not in keeping with desired future character of area, piecemeal development / no integration with adjoining, should not be determined until Parramatta's Planning Review of Epping is completed</i>	<p>The zoning and planning controls identify the site as appropriate for high density mixed use development.</p> <p>Parramatta's Planning Review of Epping, while currently on-going, has not yet progressed to any draft planning instruments and as such is not imminent and certain and cannot be used as a consideration in assessment of the report.</p> <p>Council cannot reasonable refuse to determine a DA until such time as strategic planning work is undertaken.</p>
<i>Overdevelopment / Density Too High</i>	The proposal complies with the site's Floor Space Ratio standard.
<i>Lack of amenity for future occupants by way of undersized apartments, poor mix of sizes and unit types, lack of lifts, poor access to sunlight, poor cross ventilation, minimal communal open space, minimal adaptable units, long corridors</i>	For the reasons outlined in Section 7.7 above the proposal is considered to provide a good standard of accommodation for future occupants.

<i>Acoustic Report requires windows to be closed to achieve acoustic amenity which detracts from cross ventilation</i>	The report does not require windows be fixed shut. The ADG does not require windows to be open at all times to achieve cross ventilation. Cross ventilation is required most during the day when acoustic amenity is less critical. As such this is not considered to be reason to refuse the application.
<i>Unacceptable traffic impact, residents won't use public transport, including on emergency vehicles, should wait until study, does not consider metro</i>	<p>Council's Traffic & Transport team have reviewed the application, including the Traffic Report, and do not consider the proposal will have an unacceptable impact on traffic in the vicinity of the site.</p> <p>The density and level of parking proposed complies with the relevant controls and as such any traffic impact resulting from those figures were already considered at the time of rezoning.</p> <p>The application was referred to Transport for NSW who had no objection to the proposal's impact on the temporary metro measures subject to conditions of consent which are included.</p> <p>A traffic study of Epping is currently ongoing. However, as outlined above for the more general Epping planning review, it is not considered appropriate to withhold determination of an application until such time as a study is complete.</p>
<i>Too many cars provided</i>	The proposal provides the minimum amount of commercial car parking required by the controls and approximately the minimum residential parking required by the controls.
<i>Impact on on-street parking</i>	Sufficient parking is provided for residents and visitors. The on-street parking in the vicinity of the site is time-limited. As such the proposal is not considered likely to have an unacceptable impact on on-street parking.
<i>Vehicle crossing and substations hazard to pedestrians, vehicle crossing should be moved to north and shared with adjoining future development.</i>	A condition is included requiring sightline splays to the driveway. The substation will be wholly contained within the site and locked and as such will not pose undue risk to pedestrians. The proposal makes use of an existing vehicle crossing. Combining with the site to the north is not considered to be practically achievable as the adjoining site is not being redeveloped at this time.
<i>Unacceptable impact on public domain and train station including overshadowing, lack of awning, air quality, wind impact.</i>	<p>The proposal is considered to have an acceptable impact on the public domain for the following reasons:</p> <ul style="list-style-type: none"> • The tall slender form of the tower will result in a fast moving shadow that does not leave any one part of the public domain in shadow for a significant period; • The podium and awning will adequately protect pedestrians from wind impacts; • The proposal includes an air quality report which outlines ways to minimise dust during construction. The operation of the building is considered to have a negligible impact on air quality.

<i>Setbacks/separation non-complying, rely on adjoining sites for separation, causes privacy and overshadowing impacts</i>	For the reasons outlined in Section 7.7 above, the proposal is considered to adequately respond to the ADG guidelines.
<i>DCP non-compliances, including no taper in tower, non-active shopfront</i>	For the reasons outlined in Section 9.1 above, the proposal is considered to adequately respond to the DCP guidelines.
<i>Not in keeping with draft Central City District Plan</i>	The primary function of the District Plans is to inform the drafting of local strategic, policies and plans. Notwithstanding, the proposal is not considered to be inconsistent with the objectives of the draft plan.
<i>BCA fire breaches</i>	The draft consent includes a condition requiring compliance with the BCA.
<i>Site completely private</i>	The applicant has provided a 1.5m front setback which will serve to extend the public domain, increasing space for pedestrians.
<i>Unacceptable commercial space</i>	As outlined in Section 9.1 above, the proposal is considered to provide an appropriate quantum of commercial floor space in keeping with the requirements of the control.
<i>No community facilities provided, pressure on existing facilities</i>	The applicant will be required to provide developer contributions as outlined in Section 18 below. These contributions will be spent on the provision of community facilities. Public services such as schools, hospitals and the like are the responsibility of the state government.
<i>Langston Place should be redesigned to prioritise pedestrians</i>	This is a consideration for the City of Parramatta, not for the applicant.
<i>No pre-consultation or public meeting</i>	This is not a statutory requirement.
<i>Collection of waste from Langston Place not acceptable</i>	There is no other frontage from which to collect waste.
<i>Unacceptable geotechnical impact during construction</i>	As outlined in Section 9.1 above the applicant has provided a geotechnical report which outlines measures to minimise excavation impacts on adjoining/nearby properties. Notwithstanding, a more detailed geotechnical assessment is required after demolition of existing buildings.
<i>Submitted reports (wind, solar, air quality) raise concerns</i>	A condition is included requiring the recommendations made in these reports be implemented to overcome the concerns raised.
<i>Not in public interest</i>	For the reasons listed in Section 16 below the proposal is considered to be in the public interest.
<i>The proposal results in site isolation of the remaining sites along the corner of Langston Place and Pembroke Street. The proposal should amalgamate with adjoining lot(s) to the north.</i>	As outlined in Section 9.1 above the proposal is not considered to result in site isolation and allows for the reasonable redevelopment of the adjoining lots.

<i>Unacceptable impact on views from adjoining/nearby existing/proposed residential units</i>	<p>As per the NSW Land and Environment Court Planning Principle established in <i>Tenacity Consulting v Waringah [2004] NSWLEC 140</i>, the proposal is considered to acceptably share views for the following reasons:</p> <ul style="list-style-type: none"> • The views to be lost are not water views, are not iconic view, but rather are general district views. Regardless, adjoining/units will still maintain general district views either side of the proposal. As such the view loss is considered to be negligible. • The views are across the side boundaries of the adjoining sites. • While the proposal includes non-compliances the impact on views is negligible and as such is not considered to be reason to refuse the application.
<i>The proposal is not in keeping with the Greater Sydney Commission's draft Central City District Plan in that it does not contribute to liveability or sustainability.</i>	<p>The proposal achieves BASIX scores in excess of the minimum requirements:</p> <ul style="list-style-type: none"> • Water, required 40, proposed 44 (+10%) • Energy, required 20, proposed 28 (+40%) <p>For the reasons outlined in this report the proposal is considered to provide an appropriate level of liveability for future residents, adjoining/nearby properties, and those in the public domain.</p>
<i>Impact on function of Langston Place, restrict right turns onto Beecroft Road.</i>	The proposal would not restrict right turns onto Beecroft Road.
<i>The driveway should be directed to Pembroke Street.</i>	Regardless of the ownership issues associated with such a requirement, there is no evidence to suggest that this would have less impact on pedestrians and/or traffic operation.
<i>No affordable housing.</i>	There is no legislative requirement for the applicant to provide affordable housing.
<i>Proposal does not allow remaining block to be redeveloped as focal point, will be too crowded, imbalanced skyline, undesirable precedent</i>	The applicant has demonstrated that the remaining block can be developed with a building of complying setbacks. The architectural expression of the adjoining building to achieve a 'focal point' and design excellence will be assessed as part of any future application for that site. Council's City Architect, DEAP and Urban Design Manager are satisfied that the remainder of the block can be developed appropriately.
<i>Site not of sufficient size to be developed to maximum density.</i>	The proposal is considered to adequately respond to the site constraints and have an acceptable impact on adjoining properties while also achieving the level of density considered appropriate for the site in the context of its high public transport accessibility.

Table 13: Summary of public submissions to the proposal.

16. Public Interest

Subject to implementation of conditions of consent outlined in the recommendation below, no circumstances have been identified to indicate this proposal would be contrary to the public interest.

17. Disclosure of Political Donations and Gifts

No disclosures of any political donations or gifts have been declared by the applicant or any organisation/persons that have made submissions in respect to the proposed development.

18. Development Contributions

Developer contributions are required as per the *City of Parramatta Council Section 94 Development Contributions Plan (Former Hornsby LGA Land and Epping Town Centre)*. The contribution has been calculated in accordance with the plan and are summarised as follows:

Contribution Type	Amount
Plan Administration	\$ 2,460.20
Community Facilities	\$ 100,738.40
Drainage & Water Quality	\$ 22,271.20
Open Space & Recreation	\$ 880,748.80
Public Domain	\$ 187,622.05
Roads & Shared Paths	\$ 100,997.35
Total	\$ 1,294,838.00

Table 14: EPAA 1979 Section 7.11 Calculation

19. Summary and Conclusion

The application has been assessed relative to section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls. On balance, the proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework. Accordingly, approval of the development application is recommended.

The proposed development is appropriately located within a locality earmarked for high-rise mixed use redevelopment, however some variations (as detailed above) in relation to SEPP 65 and Hornsby LEP 2013 are sought.

The request to vary the height standard is supported as the site is constrained due to the inability/impracticality of amalgamating with adjoining sites, the variation allows for a smaller floorplate resulting in increased separation to adjoining buildings/sites, the proposal exceeds sustainability requirements, the proposal includes a proportion of commercial floor space beyond that which has been achieved on other recent developments in the area and the proposal provides for a wider public footpath.

Having regard to the assessment of the proposal from a merit perspective, Council officers are satisfied that the development has been appropriately designed and will provide acceptable levels of amenity for future residents and commercial occupants. It is considered that the proposal successfully minimises adverse impacts on the amenity of neighbouring properties. Hence the development, irrespective of the departures noted above, is consistent with the intentions of the relevant planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land.

Deferred commencement conditions are included requiring additional safeguards for the adjoining train line and requiring permission to remove trees on adjoining sites.

For these reasons, it is considered that the proposal is satisfactory having regard to the matters of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979 and is recommended for approval subject to deferred commencement conditions.

20. Recommendation

- A. **That** the Sydney Central City Planning Panel approve the variation to the building height standard in Clause 4.3 of HLEP 2013, being satisfied that the applicant's 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 as it is consistent with the objectives of the particular standards and the objectives for development within the zone and the site specific reasons discussed; and
- B. **That** the Sydney Central City Planning Panel, as the consent authority, grant **Deferred Commencement Consent** to Development Application No. DA/237/2017 for construction of a 27 storey shop top housing development comprised of ground floor retail unit, first floor commercial office unit and 102 residential units above, including 5 storeys of basement car parking, following demolition of existing buildings at 24 - 36 Langston Place, EPPING NSW 2121 (Lot 3 DP9836, Lot 1 DP707822, Lots A & B DP342194) for a period of five (5) years from the date on the Notice of Determination, subject to the conditions under Schedule 1 of Appendix 2.

ETHOS URBAN

Revised Clause 4.6 Variation Request

24 – 36 Langston Place, Epping
Mixed Use Development

Submitted to Parramatta City Council
On behalf of Langston R & J P/L

15 December 2017 | 16669



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VERSION NO.2

DATE OF ISSUE: 12/12/2017

REVISION BY: AD

APPROVED BY: AH

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1.0 Executive Summary

This variation under Clause 4.6 of the Hornsby Local Environmental Plan 2013 (LEP 2013) has been prepared by Ethos Urban on behalf of Langston R & J Pty Ltd.

It is submitted to Parramatta City Council (the Council) in support of an Amended Development Application (DA) for a Residential Mixed Use Development at 24 – 36 Langston Place, Epping.

A Development Application (DA) for the subject site was submitted to Parramatta City Council on the 22 April 2017. The DA sought consent for a 22 storey shop top housing development consisting of a five (5) storey basement, ground floor retail uses, first floor commercial uses and 104 residential units.

Since the lodgement of the DA, the proposal has been the subject of extensive review and discussion between Council and their Design Excellence Advisory Panel. The Proponent has engaged in ongoing consultation with Council to achieve a scheme that improves compliance with the applicable guidelines and standards, and better responds to the existing and future development.

This Clause 4.6 is in support of a revised scheme that principally provides amendments related to the siting of the tower and the height. The amendments to the height of the proposal have been made in response to correspondence from Council received on the 12 July 2017 and the 21 July 2017, and a post lodgement meeting between the project team and Council on the 20 July 2017.

The amendments have also been made in response to the recently approved development at 12 – 22 Langston Place located to the south and south east of the site (DA/234/2016). The approval of this development relates to the construction of 3 mixed use towers ranging in height from 19 to 29 storeys. The subject development will be viewed in the context of these towers that establish unprecedented heights for the Epping Town Centre. Accordingly, the revised scheme and amended height have sought to respond to the future surrounding development that will significantly transform the character of the Langston Place streetscape.

The on-going discussions with Council have cumulated in a design outcome that envisages the proposal as providing increased building separation to the future development at 12 – 22 Langston Place and a slenderer architectural response that achieves a more appropriate transition in height to the future towers. The provision of increased building separation necessitates a reduction to the extent of the building's footprint and a consequential loss of floorspace. The amended height allows for the realisation of the site's development potential whilst limiting amenity impacts to the adjoining future developments.

Council's ongoing advice and feedback has indicated support for the proposed variation. Specifically, Council in their correspondence issued on the 12 July 2017 provided the following comments.

Additional height may be supported, to accommodate some of the floor space from the removal of the northern section of the tower, subject to review of the extent of environmental impacts.

It is considered that the height of the building has been amended in accordance with Council's vision for the site and provides for minimal environmental impacts as well as an improved outcome relative to a scheme that complied with the height limit.

2.0 Introduction

Following the merger of Parramatta City Council and Hornsby Shire Council on the 12 May 2016 the site, once identified as part of the Hornsby Shire Council Local Government Area (LGA), is now located within the boundary of the Parramatta City Council LGA. The proposed development is therefore to be assessed by Parramatta City Council in accordance with the relevant Hornsby LEP 2013.

Clause 4.6 of the LEP 2013 enables Parramatta City Council to grant consent for development even though the development contravenes a development standard imposed by the LEP 2013. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

Clause 4.6 requires that a consent authority be satisfied of three matters before granting consent to a development that contravenes a development standard:

- that the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
- that the applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard; and
- 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.

The consent authority's satisfaction as to those matters must be informed by the objective of providing flexibility in the application of the relevant control.

The Land and Environment Court has established questions to be addressed in variations to development standards lodged under *State Environmental Planning Policy 1 – Development Standards* (SEPP 1) through the judgment of Justice Lloyd, in *Winten Property Group Ltd v North Sydney Council* [2001] 130 LGERA 79 at 89. The test was later rephrased by Chief Justice Preston, in the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827 (Webbe). An additional principle was established in the recent decision by Commissioner Pearson in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (Four2Five) which was upheld by Pain J on appeal.

These tests and considerations can also be applied to the assessment of variations under Clause 4.6 of the LEP 2013 and other standard LEP instruments.

Accordingly, this Clause 4.6 variation request is set out using the relevant principles established by the Court.

This Clause 4.6 variation request:

- relates to the development standard for the maximum Height of Buildings under Clause 4.3 of the Hornsby LEP 2013; and
- should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by Ethos Urban dated September 2017 in relation to a proposed Residential Mixed Use Development at 24 – 36 Langston Place, Epping.

This Clause 4.6 variation request demonstrates that compliance with the maximum Height of Buildings development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify the proposed contravention of the standard.

This Clause 4.6 variation request demonstrates that, notwithstanding the non-compliance with the Height of Buildings development standard, the proposed development:

- continues to satisfy the objectives of the development standard, as well as those of the B2 Local Centre zone;
- achieves a bulk and scale suitable for the site given its constraints, development potential, and the infrastructure capacity of the locality;

- will not prevent existing and future adjoining developments from achieving a high standard of amenity;
- continues to provide a high quality architectural design with a high standard of residential amenity and functional commercial floorplates; and
- will not result in unacceptable environmental impacts.

3.0 Development Standard to be Varied

This Clause 4.6 variation request seeks to justify the contravention of the development standard set out in clause 4.3(2) of the LEP 2013. Clause 4.3(2) provides that:

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 (sheet 11).

'Development Standards' are defined under Section 4(1) of the EP&A Act as follows:

development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of: ...

(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,...

The maximum building height control under Clause 4.3 of the LEP 2013 is clearly and unambiguously a development standard.

An extract from the relevant Height of Buildings Map is provided at **Figure 1** below and applies a maximum height control of 72 metres to the site.

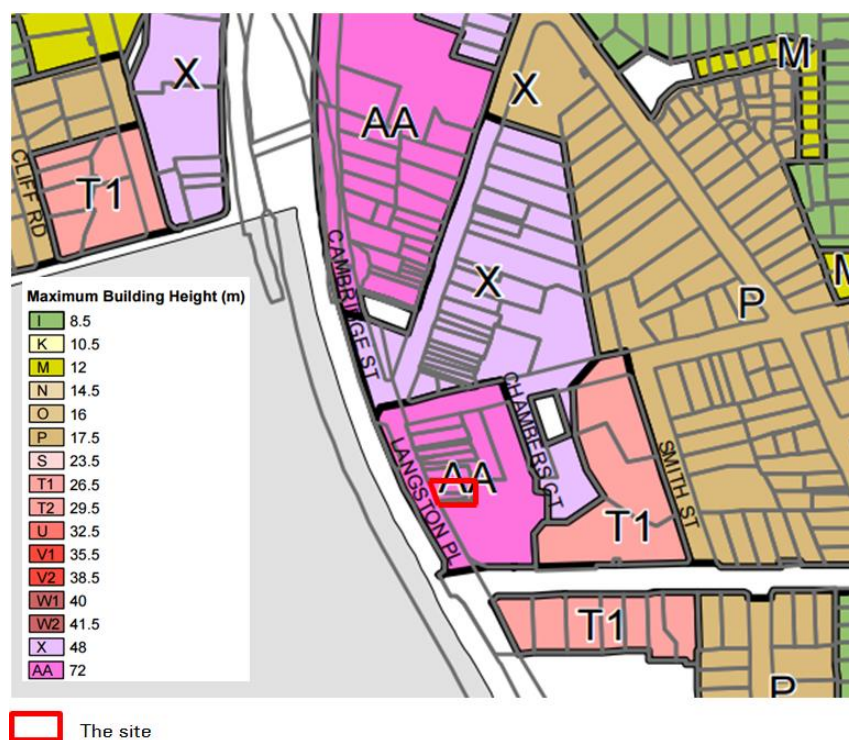


Figure 1 – Maximum Building Height Map Extract
Source: Hornsby LEP 2013

The proposed building reaches a maximum height of 87.8m (189.80 RL) when measured from existing ground level to the northern façade element. Accordingly, the proposal exceeds the maximum Height of Buildings development standard by 15.8m and results in a 21.9% variation to the height limit. The façade element relates only to the northern elevation and slightly protrudes above the building's parapet (refer to **Figure 2**). It is noted that the façade element consists of aluminium vertical slots and is therefore not of solid form. The bulk of the building when measured from existing ground level to the building's roof line reaches a height of 87.0 metres (189.0 RL), amounting to a 20.8% variation to the height limit (refer to **Figure 2**).

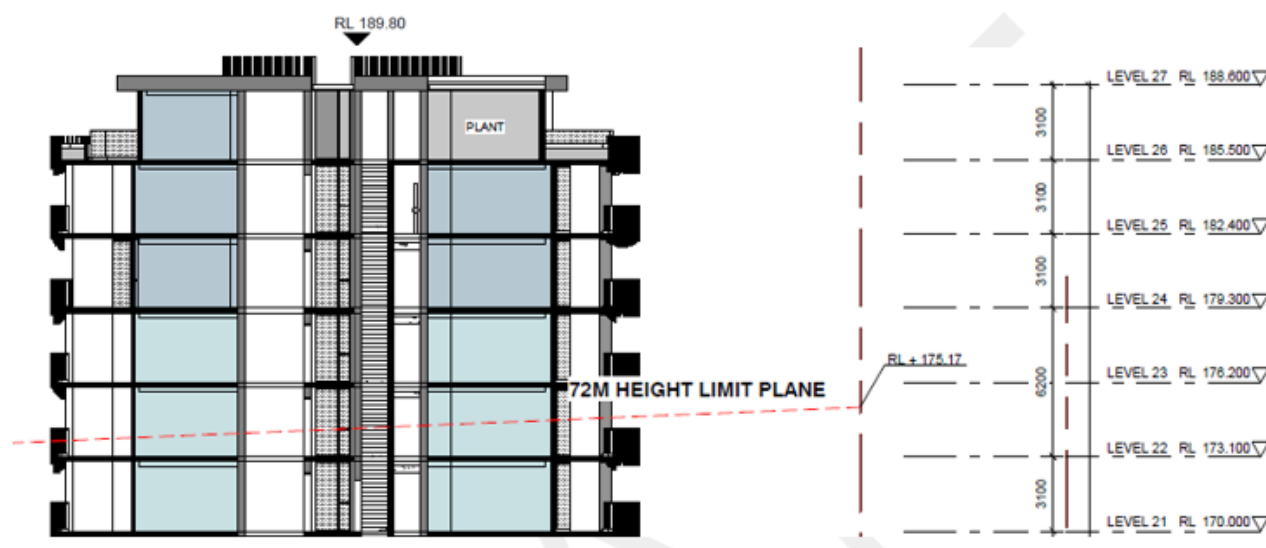


Figure 2 – Proposed height measured from the building's parapet and façade element

The DA as previously submitted to Council reached a height of 74.2m and accordingly sought approval for a 2.2m (3%) variation to the height control.

Following consultation with Council and the recent approval of 12 – 22 Langston Place (DA/234/2016), the project team was advised to investigate the possibility of delivering a slenderer tower form that provided for increased building separation, a reduced floorplate and the relocation of lost floorspace to the upper portion of the building. In light of this, the principle reason for the contravention of the maximum height standard is the need to deliver a building that achieves increased setbacks to the north and east to ensure that future adjoining developments are capable of achieving a sufficient standard of amenity. The variation to the maximum height development standard also emanates from the need to respond to site-specific constraints, including the site's small area and uneven topography.

As shown in **Figure 3**, the increased height will provide for a tower of commensurate scale to the future surrounding built form and will ensure an appropriate transition in height. **Figure 4** illustrates the extent of the variation relative to the surrounding future built form.

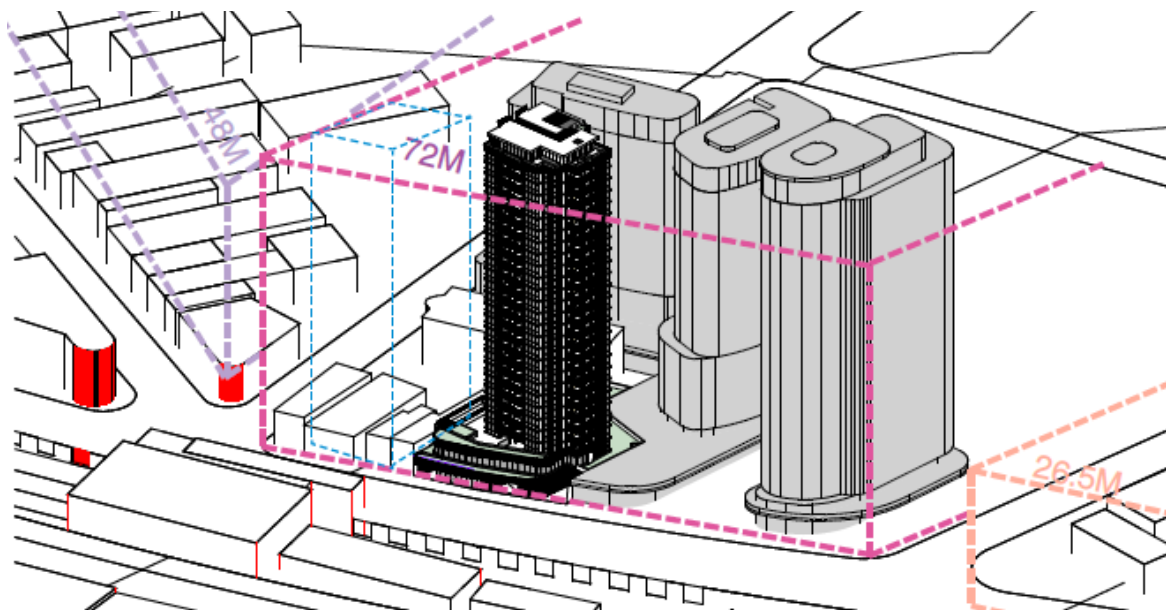


Figure 3 - Height exceedance viewed from Langston place in the context of the existing and future developments

Source: PTW Architects

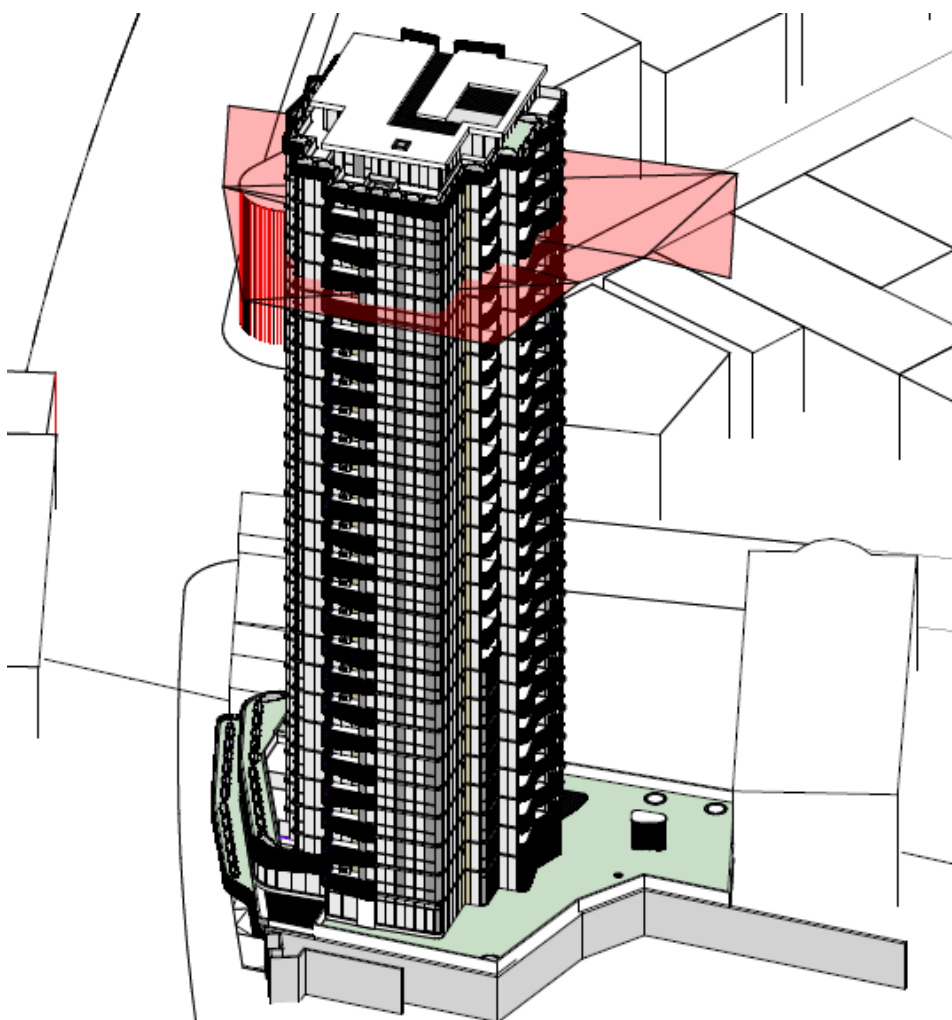


Figure 4 – Proposed height exceedance above the 72m height plane

Source: PTW Architects

4.0 Justification for Contravention of the Development Standard

Clause 4.6(3) of the HLEP provides that:

4.6 Exceptions to development standards

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

Further, clause 4.6(4)(a) of the Hornsby LEP 2013 provides that:

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

Assistance on the approach to justifying a contravention to a development standard is also to be taken from the applicable decisions of the NSW Land and Environment Court and the NSW Court of Appeal in:

1. *Wehbe v Pittwater Council* [2007] NSW LEC 827; and
2. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009.

The relevant matters contained in clause 4.6 of the HLEP, with respect to the Clause 4.3 development standard, are each addressed below, including with regard to these decisions.

4.1 Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

In *Wehbe*, Preston CJ of the Land and Environment Court provided relevant assistance by identifying five traditional ways in which a variation to a development standard had been shown as unreasonable or unnecessary. However, it was not suggested that the types of ways were a closed class.

While *Wehbe* related to objections made pursuant to *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1), the analysis can be of assistance to variations made under clause 4.6 where subclause 4.6(3)(a) uses the same language as clause 6 of SEPP 1 (see *Four2Five* at [61] and [62]).

As the language used in subclause 4.6(3)(a) of the Hornsby LEP 2013 is the same as the language used in clause 6 of SEPP 1, the principles contained in *Wehbe* are of assistance to this clause 4.6 variation request. The five methods outlined in *Wehbe* include:

The objectives of the standard are achieved notwithstanding non-compliance with the standard (**First Method**).

The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (**Second Method**).

The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (**Third Method**).

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 (**Fourth Method**).

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 (**Fifth Method**).

Of particular assistance in this matter, in establishing that compliance with a development standard is unreasonable or unnecessary are the First, Third and Fourth Methods.

4.1.1 The underlying objectives or purposes of the development standard

The objectives of the development standard contained in Clause 4.3(1) of the Hornsby LEP 2013 are:

- (a) *To permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.*

4.1.2 The objectives of the standard are achieved notwithstanding non-compliance with the standard

Objective (a): To permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.

Site constraints and development potential

The underlying purpose of the development standard is to control the height of buildings to ensure compatibility with the existing and desired future character of the area, and to permit a bulk and scale of development appropriate for the constraints that impact the site.

The proposed development is considered suitable for the site given the desired future character envisaged for the area. The proposal is situated in a B2 Local Centre zone which is subject to a height limit of 72 metres and a maximum FSR of 6:1. As such the locality is earmarked for higher density development. The relevant strategic planning framework also nominates the site as suitable for denser development. Specifically, the *Epping Town Centre Public Domain Guidelines* (EPDG) state:

The Epping Town Centre will feature the highest density development and the tallest buildings in the precinct all clustered around the train station. The residential buildings will be located in built form up to a total height of 22 storeys.

Whilst the proposal reaches 27 storeys, it is considered appropriate for the site in that it is uniquely located amongst other recently approved multistorey developments that provide a strong precedent that lend support for the proposed height and density, as shown in **Figure 5**.

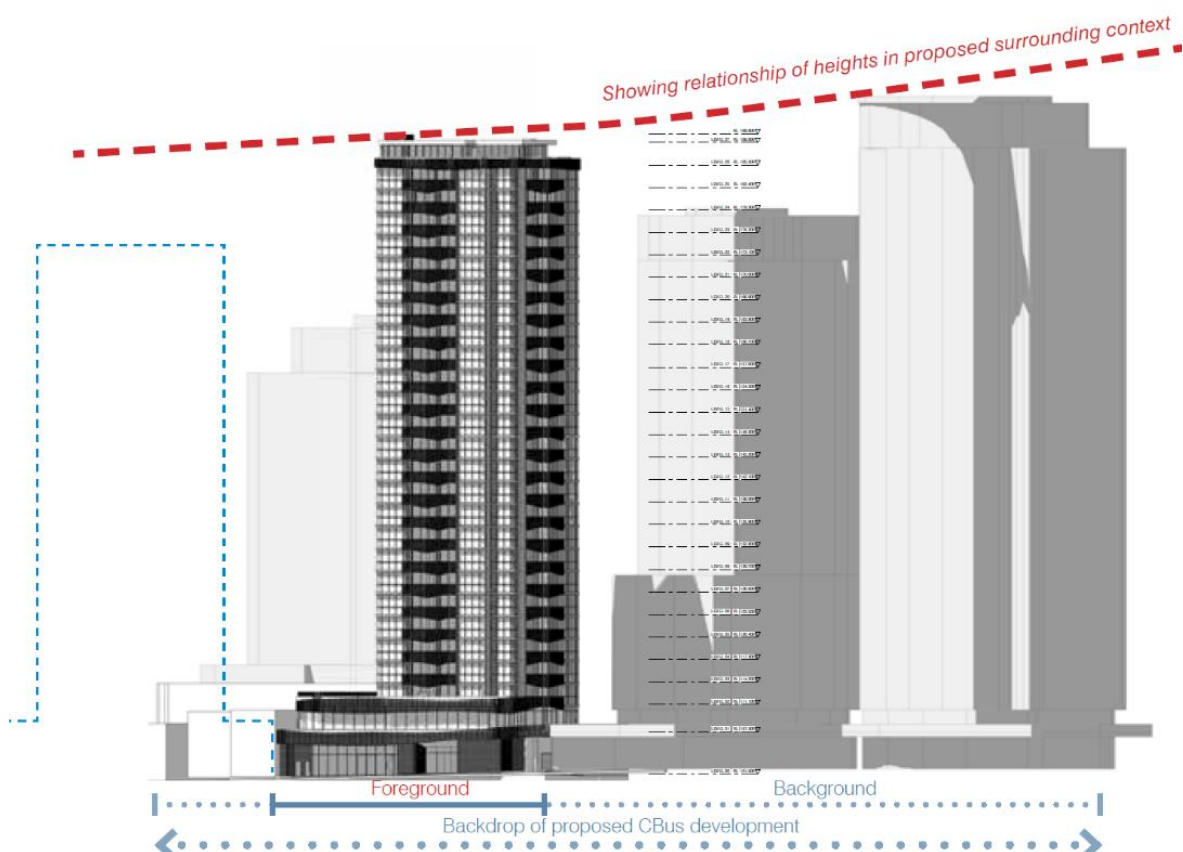


Figure 5 – Langston Place Elevation Diagram

Source: PTW

The approved development to the south and south east at 12 – 22 Langston Place is to contain three mixed use residential towers with storey heights ranging from 19 to 29. In light of this, the proposed storey height will ensure that the proposal is in keeping with the future streetscape, stepping the built form away from the larger developments to the south and providing an appropriate transition to the small scale developments to the north (refer to **Figure 5**).

Two of the three towers approved for 12 – 22 Langston Place vary the height limit, reaching maximum heights of 76.1m and 91.4m and provide variations to the height limit of 5.76% and 26.94%, respectively. Given the scale of these developments, the proposed height variation will not appear out of character with the surrounding built form nor will the additional height be perceptible when viewed from the surrounding public domain. Accordingly, the variation will not compromise the building's integration with the surrounding built form context, as shown in **Figure 5**.

The variation from the height control is also largely the result of the need to respond to site-specific constraints. Specifically, the design has responded to the following:

- a limited site area of 1,460m², which restricts the amount of developable area;
- the inability to amalgamate with the site to the north notwithstanding genuine efforts and reasonable offers to acquire the site from the owners of the property;
- the site's locational context and the need to provide appropriate building separation to adjoining properties to ensure existing and future developments can achieve a satisfactory standard of amenity;
- the need to provide an appropriate street setback to Langston Place large enough to accommodate a 1.5m footpath upgrade and tree planting buffer; and
- a crossfall from north to south of about 2.5m over 49m; and
- a crossfall from west to east of 3m over 50m.

The achievement of the permissible FSR within the limits of the restricted site area requires a variation to the height standard. It is noted that genuine attempts have been made to increase the site area by amalgamating with the northern allotments at 2 Pembroke Street and 38 – 40 Langston Place. These attempts are well documented in the correspondence contained within the documents submitted under Separate Cover with the original SEE. The difficulty in purchasing the sites to the north consequently restricts the area of the residential floorplate to no more than 330m². Notwithstanding, the various subconsultant reports appended to the SEE demonstrate that the proposal can achieve compliance with key statutory provisions and is capable of delivering a high standard of residential amenity.

The site is subject to a maximum FSR of 6:1. The FSR control is specific to the site and adjacent sites located along Langston Place, and reflective of the desire to provide high density development in proximity to Epping Railway Station. Due to the site's small area and the need to provide adequate setbacks to adjoining properties, the floorplate proposed is limited to 330m² and is therefore significantly below the 700m² residential floorplate provision nominated by the Hornsby DCP. The proposed height variation allows the development to achieve a compliant FSR of 6.1 and an appropriate density suitable for the site's positioning adjacent to Epping Railway Station.

Compliance with the maximum height limit would result in an undue reduction to the FSR. Ultimately this would further limit the extent of the floorplates. Any further reduction to the size of the floorplates beyond the current size would result in a poorer standard of residential amenity for occupants. It would also result in smaller commercial tenancies at street level that are less functional and do not offer the same degree of flexibility in terms of their use.

The proposed height variation will facilitate the delivery of economical and adequately sized floorplates that enable the proposal to perform well on a range of amenity measures. In particular, the scheme ensures the provision of compliant unit sizes, floor-to-ceiling heights, ventilation and solar access. Furthermore, the tower element above the podium provides for a 5m setback to the Langston Place street frontage to minimise the impact on the streetscape and allow for adequate landscaping between the development and Langston Place in accordance with the EPDG.

The height variation is in part an outcome of the need to ensure that existing and future developments are capable of maintaining or achieving a high standard of residential amenity. To achieve this, the extent of the floorplate has been limited and strategically sited to maximise the building separation to adjoining future developments to the greatest extent possible.

To the adjoining Tower 2 at 12 – 22 Langston Place, a maximum building separation of 19.8m is provided. In adopting a stepped built form, the floorplate narrows towards the south in order to provide for increased setbacks and limit overshadowing impacts.

To the north a setback of 9m to the site's boundary is provided, allowing for a building separation of 18m in accordance with the ADG should the site be redeveloped in the future. A generous setback of 5m is provided to the Langston Place street frontage in order to accommodate the proposed footpath upgrade and landscape planting.

It is considered that a scheme that complied with the height limit but optimised the residential building footprint control by occupying a larger portion of the site area would result in a sub-optimal design outcome that reduced building separation to the future development at 12 – 22 Langston Place.

In addition to achieving increased building separation, appropriate mitigation measures have been included to limit any impacts associated with the height variation and ensure amenity for adjoining developments. In particular, the lift core and plant are contained internally within Level 26. As these elements do not protrude above the building line the visual impacts associated with the bulk and scale of the development are minimised. To maintain a high standard of amenity, balconies and habitable rooms at the building's southern aspect are oriented towards the east and west to prevent onlooking. Likewise, along the northern boundary, the windows and balconies of habitable rooms are oriented towards the west and east to mitigate privacy impacts.

The preceding assessment demonstrates that despite the non-compliance, the variation will have minimal adverse environmental effects in terms of built form or density and will result in a development that is consistent with Council's desired future character for the area.

Infrastructure capacity of the locality

The site is located adjacent to Epping Station, less than 100 metres to the entrance to the Station. Located on the Northern Line, Epping Station provides connections to the Sydney CBD with service frequencies of up to 15 trains per hour in peak periods. Also located at Epping Station is a bus interchange that provides connections to Macquarie Park, Parramatta, Eastwood and Sydney Central Business Districts. The proximity of existing and future transport infrastructure has the capacity to service any increased pedestrian activity associated with the development.

The various sub-consultant reports appended to the Development Application confirm that the proposed scale of the development notwithstanding the height variation is appropriate given the infrastructure capacity of the locality. The Traffic and Parking Assessment Report at **Appendix J** of the Supplementary SEE confirms that the proposed parking arrangements necessitated by the development will have no adverse impact on the surrounding road network. Being located opposite Epping Railway Station the site is afforded ample access to public transport. Accordingly, the site will not place unreasonable pressure on existing public transport infrastructure services.

As such, no appreciable impact on the locality's infrastructure capacity or pedestrian activity is anticipated to arise as a result of the variation.

4.1.3 The underlying object / purpose would be defeated if compliance was required (Third Method)

In the context of the surrounding development the portion of the development that sits above the maximum building height control is appropriate for the site.

A scheme that complied with the building height standard, but spread the footprint of the building across the site or strictly adhered to the 72m height limit may result in more significant impacts in respect to bulk and scale and have a greater impact on neighbours. In particular, the scheme would result in reduced floor to ceiling heights or reduced building separation. Thus, strict compliance with the height standard may result in a failure to satisfy the objectives of the development standard, and would inhibit the ability for the site to be developed in accordance with the objectives for the B2 Local Centre zone.

A scheme that complied with the building height standard would also result in a built form at odds with the adjoining developments. The future towers located to the south of the site reaches a maximum height of 91.4m and 76.15m, providing substantial variations to the height control. It is important to note that the proposed development will be viewed in the context of these towers. Consequently, a scheme that complied with the height limit would result in a building less compatible with the surrounding built form context.

4.1.4 Standard has been virtually abandoned or destroyed (Fourth Way)

The site is situated within the Epping Town Centre which is envisaged to accommodate high rise developments. The proposal sits adjacent to Epping Railway Station and the future surrounding development is to consist of mixed use towers that provide significant variations to the height limit.

The recently approved development at 12 – 22 Langston Place constitutes one of the largest developments in the Epping Town Centre. Two of the three towers proposed provide generous variations to the maximum height standard of 72m. Specifically, Tower 3 sited to the south of the site reaches 29 storeys and has a height of 91.40m, resulting in a 26.94% variation to the height standard. Tower 2 located directly south east of the site rises to 24 storeys and 76.15m, providing a 5.76% variation to the height limit. These developments set an unprecedented scale for the Epping Town Centre.

In light of the above, it is apparent that the 72m maximum building height development standard has been virtually abandoned within the surrounds of the site, and in this context the strict application of this development standard would be both unreasonable and unnecessary.

It is noted the tower will sit below the height of Tower 3 and will be viewed in the context of these developments. Accordingly, given the surrounding development, the proposal provides for an appropriate variation and will sit comfortably in the streetscape.

4.1.5 Other reasons why compliance is unreasonable or unnecessary

Compliance with the maximum height standard is unnecessary and unreasonable in these circumstances because a better planning outcome for the site and surrounding developments as a whole can be achieved as a result of the non-compliance. The height variation will facilitate the delivery of an improved design outcome for the following reasons in that it will:

- assist in achieving a bulk and scale that will complement the large scale tower to the direct south and east;
- facilitate in optimising the opportunity to increase the provision of residential dwellings on a site that is afforded good access to public transport;
- aid the achievement of increased building separation along with an increased setback to Langston Place and a wider pedestrian footpath without compromising the opportunity to achieve the permissible FSR;
- facilities in achieving an adequate amount of building separation that will not adversely impact the amenity of the surrounding developments or unduly limit the redevelopment of the northern site;
- optimise the site's full FSR potential and deliver a bulk compatible with the site's location adjacent to Epping Railway Station and within a commercial centre; and
- facilitate the delivery of an additional commercial storey at the podium to improve activation along Langston Place in the context of the adjoining developments at 12 – 22 Langston Place which provide only a one storey commercial podium.

4.1.6 Conclusion on clause 4.6(3)(a)

In summary, it is considered compliance with the development standard is unreasonable or unnecessary in the circumstances of the case for the following reasons:

- the objectives of the Height of Buildings development standard are achieved notwithstanding non-compliance with the standard;
- the proposal constitutes a well-considered design that has sought to minimise environmental impacts to surrounding developments and provide a high standard of amenity;
- the portion of the development that exceeds the height limit is of high quality architectural design; and
- the underlying object or purpose of the Height of Buildings development standard would be defeated if the scheme complied with the standard as any reduction in height would unduly result in additional environmental impacts to surrounding developments.

4.2 Clause 4.6(3)(b): Environmental planning grounds to justify contravening the development standard

Clause 4.6(b) of the Hornsby LEP 2013 requires the departure from the development standard to be justified by demonstrating:

That there are sufficient environmental planning grounds to justify contravening the development standard.

There are considered to be sufficient environmental planning grounds to justify the proposed contravention of the maximum Height of Buildings development standard in this specific instance.

In *Four2Five*, the Court found that the environmental planning grounds advanced by the applicant in a Clause 4.6 variation request must be particular to the circumstances of the proposed development on that site.

There are particular constraints pertaining to the site's characteristics which inhibit the development's ability to achieve strict compliance with the maximum Height of Buildings development standard. These are detailed below.

4.2.1 Ground 1: The proposal responds to a number of site constraints

Due to the inability to amalgamate with the northern allotment, the site has a restricted area. It also is constrained by its sloping topography with a crossfall from north to south of approximately 2.5m and a cross fall of 3m from west to east. In order to accommodate adequate setbacks; optimise the development potential of the site within the limits of the FSR control; and maintain adequate FTC heights to allow for sufficient residential amenity and flexibility of uses, a variation to the height standard is required.

In consequence, a smaller floorplate is proposed. The proposed height variation seeks to offset the floorspace that is compromised as a result of the constrained site area.

4.2.2 Ground 2: The proposal provides a high standard of amenity

This report and the SEE demonstrate that aside from the maximum height standard, the proposal is consistent with key built form controls, including the FSR standard. The development also performs well on a range of amenity measures. In particular, the internal layout of the proposal orientates habitable rooms away from adjoining developments (refer to **Figure 6**). Solid walls have been strategically placed to further minimise privacy impacts, as shown below in **Figure 6**. Furthermore, the proposal complies with the ventilation, solar access, FTC height and unit size requirements and is not anticipated to have an adverse impact on the surrounding road network.

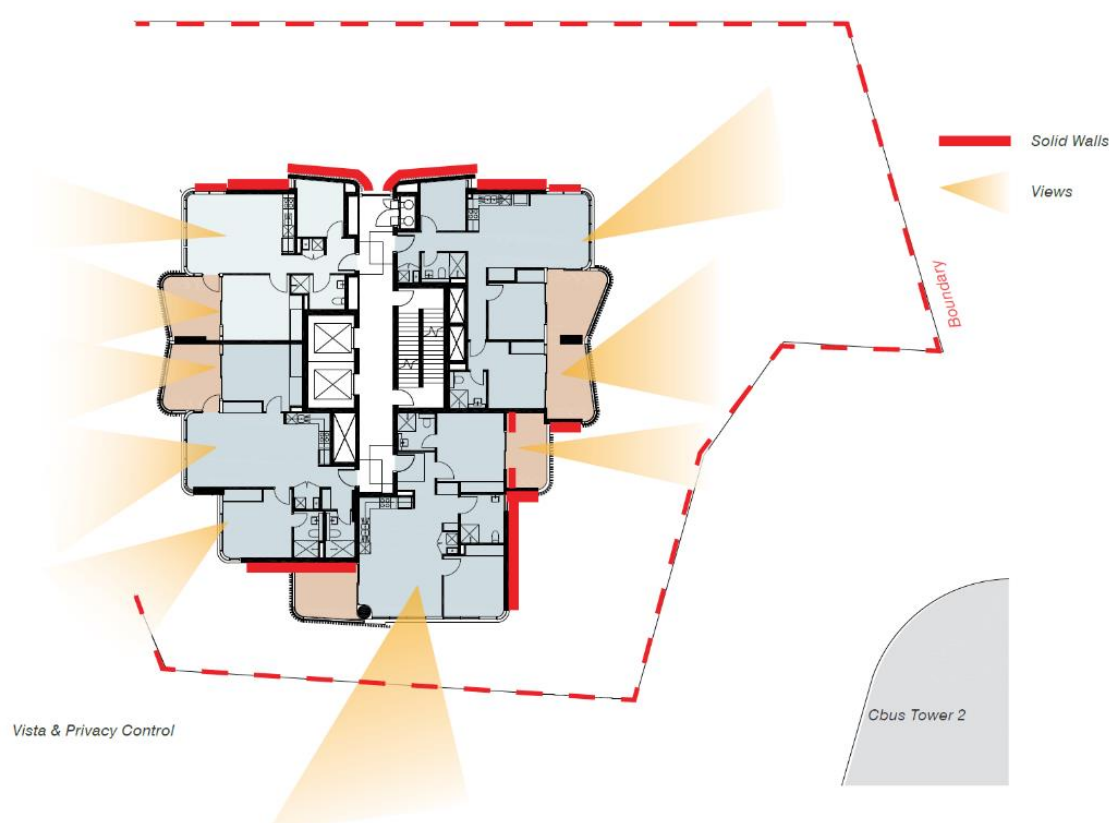


Figure 6 – Typical orientation of units, privacy screening, and solid walls
Source: PTW Architects

4.2.3 Ground 3: The proposal results in minimal environmental impact

It is considered the proposal will have a minimal environmental impact on neighbouring developments. The proposed development has been designed with due consideration given to the amenity of surrounding developments. In particular, the proposal incorporates measures to minimise environmental impacts, including:

- privacy screening on the façade to prevent sightlines to and from the development;

- a stepped floorplate that narrows towards the south to increase building separation to the future development at 12 – 24 Langston Place;
- cascading landscape at the podium to improve visual amenity and soften the perceived bulk of the development;
- the provision of a compliant amount of vehicular and bicycle parking to limit the reliance on vehicular modes of public transport; and
- the orientation of apartments to the east and west to prevent onlooking to adjoining developments. In addition to the above, the shadow cast from the additional height is minor and impacts the surrounding public domain for a limited duration of one hour between 11am and 1pm on the 21st June (refer to **Figure 7**).

As shown in **Figure 7**, the additional height sought will result in only a marginal increase in shadow compared to that of a complying scheme. The marginal additional shadow cast from the height variation will impact a small number of adjacent properties for a limited time period between 9am and 10am on the 21st of June. Given the location of the site within a dense area and the limited duration of the impacts, the overshadowing impacts associated with the additional height are considered to be minor.

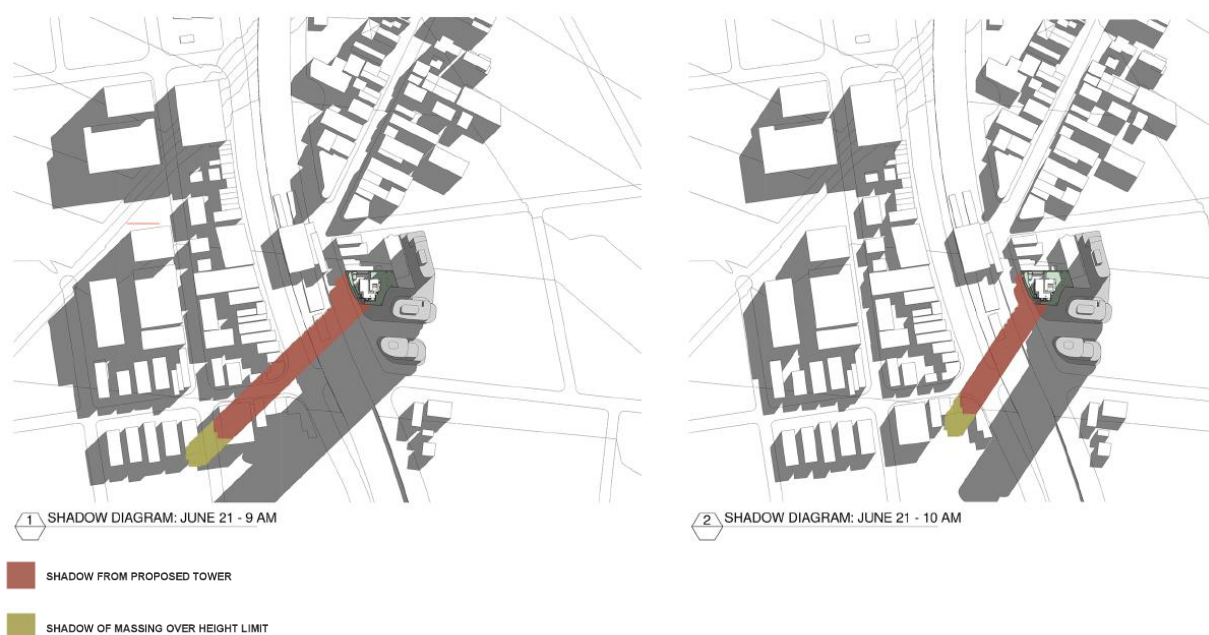


Figure 7 – Overshadowing resulting from additional height (yellow) relative to a compliant height (red) 9am (left) and 10am (right) 21 June
Source: PTW Architects

The contravention to the height limit will also facilitate the provision of improved building separation, which will consequently maintain the amenity of the future development to the north at 2 Pembroke Street and 38 to 40 Langston Place. An urban design analysis prepared by PTW at **Appendix B** of the original SEE demonstrates that a future development to the north is capable of being developed in accordance with the key ADG requirements. As shown below in **Figure 8**, the future development is able to provide adequate building separation, which will allow the development to score well on a range of other amenity measures, including ventilation, visual privacy and solar access.

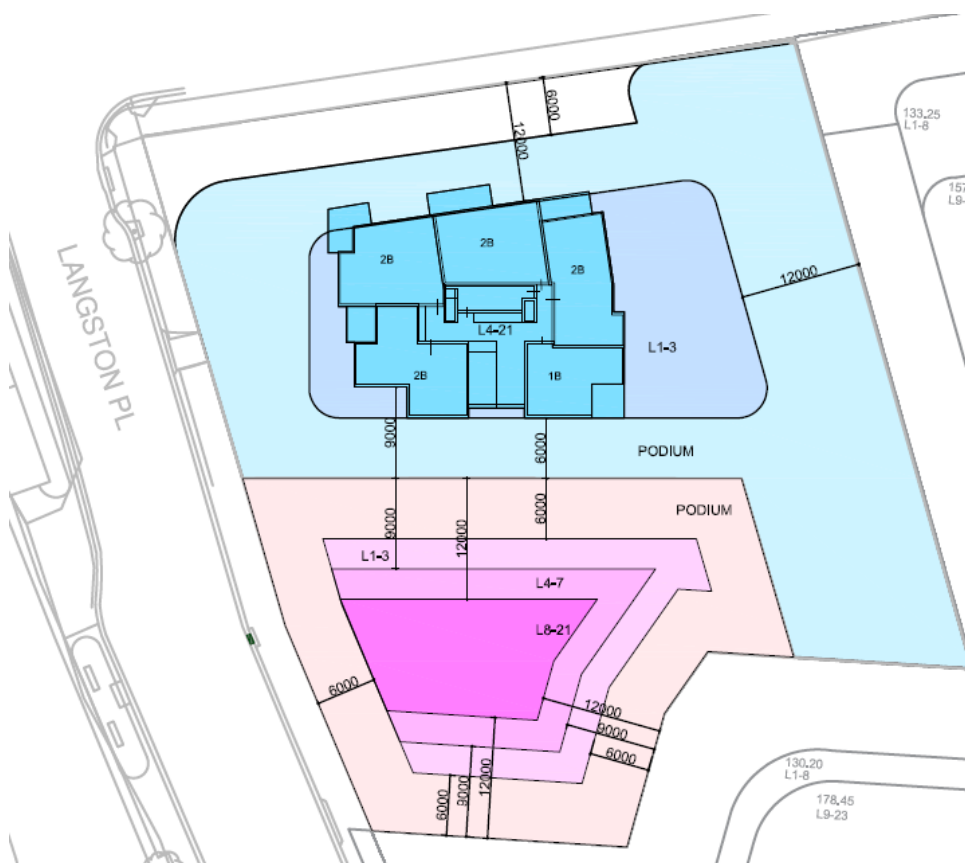


Figure 8 – Future northern development and ADG compliance massing
Source: PTW Architects

In light of the above, it is considered that whilst the proposal exceeds the height limit it delivers a design outcome which results in minimal environmental impact.

4.2.4 Conclusion on clause 4.6(3)(b)

In summary, it is considered there are strong environmental planning grounds to justify the contravention of the development standard, including:

- the height variation is considered to be reasonable given the various site constraints and good access to public infrastructure;
- the objectives of the Height of Buildings development standard are achieved notwithstanding the non-compliance with the 72m height limit;
- a more compliant scheme would not optimise the development potential of the site or achieve an outcome consistent with the envisaged built form for the area; and
- the proposed development will reinvigorate an existing site and have minimal environmental impact.

4.3 Clause 4.6(4)(a)(ii): In the public interest because it is consistent with the objectives of the zone and development standard

The proposed development is consistent with the objectives of the B2 Local Centre zone as follows:

4.3.1 Consistency with objectives of the development standard

The proposed development is consistent with the objectives of the Height of Buildings development standard, for the reasons discussed in section 3.1.2 of this report.

4.3.2 Consistency with objectives of the zone

The proposed development is consistent with the objectives of the B2 Local Centre zone, as demonstrated below.

Objective (a): to provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.

The proposal will facilitate the redevelopment of a mixed use residential development that will provide residential accommodation at varying price points to meet the existing and likely future needs of the local community. The proposal incorporates commercial uses at the podium level, including retail uses at ground level. The commercial podium will encourage greater street level activation along Langston Place and provide employment opportunities and retail uses that serve the needs of the local area.

Objective (b): to encourage employment opportunities in accessible locations.

The mixed use residential development will encourage the creation of employment opportunities in an accessible location. The development is within walking distance of Epping Train Station and incorporates a two storey podium comprising retail and commercial uses. Accordingly, the proposal will facilitate job creation in a location that receives ample access to public transport.

Objective (c): to maximise public transport patronage and encourage walking or cycling.

The proposed development will provide residential accommodation in proximity to shops, services and Epping Railway Station, all of which are less than 200 metres from the site. The proposed quantum of vehicular parking does not exceed the maximum rates nominated by the Hornsby DCP. Accordingly, the proposal will encourage the use of public transport, walking and cycling.

4.3.3 Overall public interest

The proposed development is consistent with the objectives of the B2 Local Centre zone on basis of the grounds detailed below.

- it delivers residential development in a locality well serviced by public transport that provides connections to nearby employment centres including Sydney CBD;
- the proposal provides retail and office uses that will contribute to servicing the needs of the residential population;
- will contribute additional commercial floorspace to the local area and will facilitate job creation; and
- there is no resultant public benefit from enforcing strict compliance with the Height of Buildings development standard that applies to the site.

4.3.4 Conclusion on clause 4.5(4)(a)(ii)

As demonstrated above, the proposal is in the public interest as it accords with the objectives of the zone and development standard. To summarise the above, the proposal:

- is consistent with the objectives of the B2 Local Centre zone as it provides a mixed use residential development in a location well serviced by public transport;
- delivers a development that exceeds the minimum BASIX requirements and provides dual plumbing;
- provides a mix of uses that will service the local community;
- facilitates job creation in a location that receives ample access to public transport; and
- encourages the uptake in sustainable modes of transport by providing bicycle facilities and a compliant amount of vehicular parking.

4.4 Other Matters for Consideration

Under clause 4.6(5), in deciding whether to grant concurrence, the Director-General must consider the following matters:

(5) *In deciding whether to grant concurrence, the Secretary must consider:*

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

These matters are addressed in detail below.

4.4.1 Clause 4.6(5)(a): Whether contravention of the development standard raises any matter of significance for State or regional environmental planning

The proposed 21.9% variation to the Height of Buildings development standard of Hornsby LEP 2013 is considered justified and does not raise any matter of significance for State or regional planning. We do note, however, that the proposal is consistent with the most recent metropolitan plan for Sydney, *A Plan for Growing Sydney* and *Towards Our Greater Sydney 2056* in that it:

- will contribute to the achievement of the ambitious housing targets that have been set for the Hornsby and Parramatta LGAs;
- provides affordable and universal residential accommodation at varying price points to meet the needs of the local population, both at the present time and in the future as Sydney's population grows and ages;
- provides employment opportunities and residential accommodation in a location well serviced by public transport and public services; and
- encourages urban renewal within a Priority Precinct earmarked for high density development.

The proposed development is also consistent with the Draft West District Plan in that it will:

- contribute to the renewal and revitalisation of Epping Town Centre;
- provide office and retail floor space which will facilitate the creation of employment opportunities and allow for convenient access to a range of goods and services for the local population;
- contribute to the achievement of short and long term housing targets; and
- promote housing diversity and affordability by delivering a range of apartment types at varying price points.

4.4.2 Clause 4.6(5)(b): The public benefit of maintaining the development standard

There is no public benefit in maintaining the numerical building height development standard in this instance. In fact, strictly adhering to the maximum height of development standard would result in a worse public outcome for the site. It is considered that maintain and enforcing the development standard in this instance would unreasonably prevent the orderly and economic development, and result in a built form at odds with the bulk and scale of the surrounding future developments.

4.4.3 Clause 5.6(5)(c): Any other matters required to be taken into consideration by the Director-General before granting concurrence.

The proposed variation to the height standard is a direct result of the future surrounding built form. In particular, there is an existing precedent established by recent approvals for developments exceeding the height standard. The proposed height is commensurate with the heights established in the surrounding context.

The height variation will enable the development to accommodate reduced floorplates that provide for increased setbacks to surrounding sites and a larger footpath planting and buffer zone along Langston Place. Accordingly, the proposed height variation will facilitate the delivery of a building that will contribute to public domain upgrades; enable future developments to reach their full potential without unduly impacting their amenity; and provide for a bulk and scale that is compatible with the surrounding built form.

5.0 Conclusion

Clause 4.3 (Height of Buildings) of the Hornsby LEP 2013 applies a maximum height of 72 metres to the site. The development proposes a maximum height of 87.8 metres when measured from the façade element, and 87.0m when measured from the building line. This request under Clause 4.6 of the Hornsby LEP 2013 is submitted to Council in support of a departure from the Height of Buildings standard.

There are unique constraints that affect the site and result in a development that exceeds the maximum permissible height, including:

- the site's restrict size which limits the amount of developable area;
- the inability to amalgamate with the sites to the north notwithstanding genuine efforts and reasonable offers;
- the need to provide adequate building separation, particularly to the adjoining development to the south at 12 – 22 Langston Place and any future development to the north;
- the need to address the site's uneven topography; and
- the need to optimises the development potential of the site within the limits of the FSR control and deliver a bulk and scale commensurate with the site's positioning adjacent to Epping Railway Station and within a commercial centre.

As mentioned above, the height variation will facilitate the delivery of increased building separation to adjoining sites and will limit the degree of environmental impact to these developments. Ultimately, the siting of the proposal ensures that adjoining sites that may be redeveloped in the future can achieve a sufficient standard of compliance and residential amenity.

The building with an FSR that performs well on a range of amenity guidelines nominated by the DCP and ADG can be accommodated on the site. Accordingly, the proposed contravention does not result in the over development of the site or adverse impacts. The proposed bulk and scale is commensurate with surrounding future developments and consistent with the envisaged built form for developments adjacent to Epping Railway Station.

Consistent with the aim of Clause 4.6 to provide an appropriate degree of flexibility to achieve better development outcomes for and from development, a departure from the Height of Buildings standard is considered appropriate in these circumstances.

Despite the numerical non-compliance with the height limit, the proposal is considered to satisfy the objectives of the development standard, as well as those of the B2 Local Centre zone, the Hornsby DCP and EPDG Guidelines. The proposal will provide environmental benefits particular to the site including:

- a mixed use residential development that exceeds the BASIX energy targets;
- a high standard of residential amenity for future occupants;
- a widened footpath with landscape embellishments that will contribute to the upgrade of Langston Place and provide an improved standard of amenity for pedestrians; and
- a two storey commercial podium with adequately sized floorplates that will encourage street activation and support the economic viability of the Epping Town Centre.

Given the above, the Clause 4.6 variation is considered well founded and should be supported.

APPENDIX 2 – DESIGN EXCELLENCE ADVISORY PANEL COMMENTS

1. This proposal was the subject of a pre-lodgement meeting with DEAP on 15 December 2016, with a Report subsequently prepared and issued to the proponent. The proponent has addressed a number of the matters raised, including:
 - evidence provided to Council that amalgamation with the site to the north has not been successful.
 - the street setback for the tower has been increased. The Panel has assumed the proposed tower setback to the Langston Place boundary is now a minimum of 6m (Dwg.Nos.1002/3 and 1003/3).
 - ADG compliance for solar access to units is claimed by the proponent, it is recommended this be verified by Council.
 - the location of the tower relative to the central C-Bus tower to the south-east is now considered acceptable (approx. 20m on diagonal).
 - the length of the tower northern facade has been reduced to improve solar access and to reduce the bulk of the building.
2. The previous Report also made the following comments:
 - The eastern side of Epping town centre is going through a major and rapid transformation from a leafy, low-scale local centre of small, strip development to a high-density precinct of larger consolidated sites dominated by densely packed tall residential towers.
 - This site is quite small and 'land-locked' for a development of this height and density. Whilst Council DCP setbacks of 6 metres may be possible, ADG building separation objectives and visual privacy requirements are unlikely to be achieved with the proposed floor plate size and location.
 - The architects have presented a 'best-case' envelope proposition, however the Panel cannot support the proposal in its current form as there are significant shortcomings in its relationships with the public domain and adjacent development either underway or future.
3. The Panel has formed a view that whilst the design of the scheme is moving in the right direction, further amendment is necessary to arrive at an acceptable proposal. To achieve this may require significant design changes to the tower.

The Panel notes that Parramatta Council "inherited" this part of Epping at an exceedingly difficult time, given the 2016 change in LGA boundaries coinciding with the major impacts of the imminent Metro Station and associated development density uplift. The town centre is characterised by a typically irregular late-C19th street layout and a pattern of small sites that have and continue to prove difficult to amalgamate into an orderly plan for density such as is now possible.

Consequently, the Panel suggests that if the allowable development densities are to be realised, some significant variance to the key controls (DCP and SEPP65/ADG) will be necessary to achieve an acceptable urban outcome. Alternatively, these densities would need to be significantly reduced.

Key areas that could be considered for relatively small, land-locked sites such as the subject proposal are:

- some relaxation of DCP street setbacks
 - considered reduction of ADG boundary setbacks and building separation through careful design and on a site-by-site basis
 - increase in building height beyond current limits
4. On this basis, the Panel considers that the following measures could be considered in relation to the proposed tower footprint and height for this development:
 - possible reduction in the Langston Place street setback to a 4.5m minimum (currently 6m). A similar reduction for the site to north along its Pembroke St frontage could also be considered.

- setback to northern side boundary to be minimum 9m (currently 6m is proposed). Concurrent with this would be a similar side setback for the site to the north, creating a minimum building separation of 18m shared equally.
 - reduction in the tower plan footprint (from 5 units to 4 units on the typical floors).
 - an increase in height from the proposed 22 levels (+roof plant) to compensate for the reduced typical floor yield, up to a maximum of 27 levels (+roof plant)
5. There are significant problems in achieving ADG compliance for building separation within existing precincts of this density and height, and that this is a major challenge for all such town centres across the Sydney Metropolitan area.

The Panel acknowledges that the portion of the tower above 8 storeys would provide less than the ADG minimum building separation of 24m to the north. However, this is necessary if this site is to be developed effectively and to the required density. In suggesting this the Panel also recommends that the detailed design of the northern façade of the tower (and the southern façade of any future tower to the north) be very carefully devised to minimise adjacency amenity impacts between units, and to mitigate the visual impact of a potential “canyon” of blank walls between the two buildings.

The Panel also considers in this instance that a taller tower with a smaller footprint has the potential to offer improved formal, amenity and urban design outcomes than a lower, more squat building form.

The proposed 3m tower setback to the southern boundary is acceptable as the C-Bus central and southern towers are sufficiently offset and distant.

6. The Panel is yet to be convinced by the proposed podium design along the Langston Place frontage for the following reasons:
- the lack of articulation between the tower and the podium, as the tower currently appears to gradually blend with the podium at lower level. Detailed form studies at a suitably larger scale are required to provide a convincing argument for any proposed form strategies.
 - there is insufficient detail or drawings at a large scale to sufficiently explain how the scheme may integrate with the development to the south, and there is a need for a meeting with Council’s urban design team to set some design objectives for this important street frontage to ensure an active, lively and well scaled character.
 - the podium would be improved with a richer palette of materials and a more articulated human scale, including at ground level which appears to be comprised of large areas of glazed commercial shopfront.
 - the detailed design of the car ramp entry including lighting and materials is to be of a quality that is commensurate with the urban setting.
7. The lack of any deep soil and a robust alternative planting strategy to balance this is of concern. The Panel considers that the scheme should work harder to reinforce and complement the existing leafy character of Epping and the eastern town centre. This could include plantings on the podium façade and roof, as well as some consideration of green elements on the tower facades. A detailed ground level landscape plan of the street, building interface including footpath canopy, furnishings, landscaping and materials should be provided.
8. The proposed communal open space is unconvincing for a development of this size: it has little sense of place, being a band of open space wrapped around the base of the tower. There are insufficient amenities and access to sun should be checked for ADG compliance.
9. The Panel is yet to be convinced by the aesthetic proposition for the tower. The curvilinear forms applied in both plan in elevation seem superficial and arbitrary, and as noted above a more distinct relationship between the tower and the podium should be considered. Earlier indications provided at pre-DA appeared to offer a more lively dynamic form for the tower.
10. In relation to the design and layout of private balconies, the Panel recommends that:

- HVAC equipment should be grouped within designated screened plant areas either on typical floors or on roof-tops.
- Wall mounted equipment (eg. instantaneous gas HW heaters) and associated pipework is concealed into wall cabinets and ducts
- If equipment is located on private balconies, additional area above ADG minimums should be considered.
- Rainwater downpipes are thoughtfully designed and integrated into the building fabric.
- The above items should be positioned so that they are not visible from common areas or the public domain adjacent to the development.
- Balustrade design must address visual screening of large items typically stored on balconies, for example BBQ's, clothes drying devices and bicycles.

APPENDIX 3 - DRAFT CONDITIONS OF CONSENT

The application be determined by the granting of a “deferred commencement” consent under Section 4.16(3) of the *Environmental Planning and Assessment Act 1979*. Upon strict compliance with all conditions appearing in Schedule 1, and with the issue of confirmation to that effect in writing from Council’s Development and Traffic Services Manager, the “deferred commencement” consent shall revert to operational development consent, inclusive of all conditions appearing in Schedule 2, pursuant to Section 4.16(1) of the Act:

SCHEDULE 1

Structural Impact on Rail Line

1. The Applicant shall prepare and provide to Sydney Trains for approval/certification the following final items:
 - a) Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor.
 - b) Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.
 - c) Cross sectional drawings showing the rail corridor, proposed basement excavation and structural design of sub ground support adjacent to the rail tunnel and tracks. All measurements are to be verified by a Registered Surveyor.
 - d) Detailed Survey Plan showing the relationship of the proposed development with respect to Sydney Trains easement, track and tunnel location.
 - e) If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.

Any conditions issued as part of Sydney Trains approval/certification of the above documents will also form part of the operational consent conditions that the applicant is required to comply with.

Reason: To comply with the requirements of Sydney Trains and State Environmental Planning Policy (Infrastructure) 2007.

Trees on Adjoining Properties

2. A Tree Application shall be submitted to and approved by the City of Parramatta for removal of tree nos. 2 and 3 as outlined in the Arboricultural Impact Appraisal ‘24-36 Langston Place’ by Naturally Trees dated 16 June 2017 **OR** Parramatta Development Application DA/468/2016, 12-22 Langston Place, shall become operational.

Reason: To ensure an operational approval is in place for removal of two trees on the adjoining site at Nos. 12 – 22 Langston Place which will be affected by the proposal.

The applicant must provide to the Council appropriate documentary evidence sufficient to enable it to be satisfied of the matters in the above conditions within **24 months**.

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

SCHEDULE 2

General Matters

Approved Plans and Supporting Documentation

1. The development must be carried out in accordance with the plans and documentation listed below, and endorsed with Council's stamp, except where amended by Council and/or other conditions of this consent:

Architectural Drawings (Job No: PA014879)

Plan No.	Issue	Plan Title	Drawn by	Dated
DA-0000	5	Cover Sheet	PTW	08/12/17
DA-0002	4	Site Plan	PTW	08/09/17
DA-0003	4	Demolition Plan	PTW	08/09/17
DA-1001	5	B5 & B4 & B3 – 2 & B1 Plan	PTW	08/12/17
DA-1002	5	L00, L00 Upper & L01 Plan	PTW	08/12/17
DA-1003	5	L02, L03-08, L09-23 & L24 Plan	PTW	08/12/17
DA-1004	5	L25, L26 & Roof Plan	PTW	08/09/17
DA-1101	4	Adaptable & Liveable Unit	PTW	08/09/17
DA-2001	5	Elevation_North	PTW	08/12/17
DA-2002	5	Elevations_East & West	PTW	08/12/17
DA-2003	5	Elevation_South	PTW	08/12/17
DA-2004	5	Elevation_Street	PTW	08/12/17
DA-3001	5	Section A	PTW	08/12/17
DA-3002	5	Section B	PTW	08/12/17
DA-5201	5	GFA	PTW	08/12/17
DA-6001	2	Perspective 1	PTW	08/09/17
DA-6002	2	Perspective 2	PTW	08/09/17
DA-6003	2	Perspective 3	PTW	08/09/17
DA-6004	2	Perspective 4	PTW	08/09/17
DA-6005	3	Material Board	PTW	08/12/17
DA-7001	3	Street Front	PTW	12/01/18
DA-7002	2	Detail Section	PTW	12/01/18
DA-7003	1	Proposed Alignment Sections	PTW	12/01/18

Civil Drawings (Job No: 202187801)

Plan No.	Issue	Plan Title	Drawn by	Dated
C005	P2	Soil and Water Management Plan	Bonacci	16/03/17
C006	P2	Soil and Water Management Details	Bonacci	16/03/17
C040	P1	Public Domain Details, Longitudinal and Cross Sections	Bonacci	07/12/17

Landscape Drawings

Plan/Document Title	Issue	Prepared by	Dated
Landscape Concept Master Plan	O	Arcadia Landscape Architecture	Dec 2017
Landscape Concept Plan Ground Floor	O	Arcadia Landscape Architecture	Dec 2017

Landscape Concept Plan Level 1	O	Arcadia Landscape Architecture	Dec 2017
Landscape Level 1 ADG Requirements	O	Arcadia Landscape Architecture	Dec 2017
Landscape Section AA	O	Arcadia Landscape Architecture	Dec 2017
Landscape Concept Plan Level 2 + Roof	O	Arcadia Landscape Architecture	Dec 2017
Landscape Public Domain Alignment Concept Plan + Details	O	Arcadia Landscape Architecture	Dec 2017
Landscape Planting Palette	O	Arcadia Landscape Architecture	Dec 2017
Landscaping Plant Schedule	O	Arcadia Landscape Architecture	Dec 2017
Landscape Ground Floor Softworks Plan	O	Arcadia Landscape Architecture	Dec 2017
Landscape Level 1 Softworks Plan	O	Arcadia Landscape Architecture	Dec 2017
Landscape Level 2 Softworks Plan	O	Arcadia Landscape Architecture	Dec 2017
Landscape Roof Softworks Plan	O	Arcadia Landscape Architecture	Dec 2017
Landscape Details and Specification	O	Arcadia Landscape Architecture	Dec 2017

Accompanying Reports

Documents	Prepared By	Dated
Access Assessment Report Ref: 107931-Access-r3	BCA Logic	09/03/17
Air Quality Impact Assessment Ref: 610.17098-R02-v1.0	SLR Consulting Australia	16/03/17
Arboricultural Impact Appraisal	Naturally Trees	16/06/17
BASIX Certificate Ref: 796370M_03	SLR Consulting Australia	29/11/17
BCA Assessment Report Ref: 107931-BCA-r6	BCA Logic	11/09/17
Civil Report 2021878A Rev 3	Bonnaci	06/09/17
DA Acoustic Assessment Ref: 20170263.1 Rev: 2	Acoustic Logic	17/03/17
Electrical Design Statement	Engineering Partners	07/03/17
Environmental Wind Tunnel Test Ref: 610.17098-R04-v3.0	SLR Consulting Australia	23/01/18
Mechanical Services Design Statement	Engineering Partners	08/03/17
Nationwide House Energy Ration Scheme – Class 2 Summary Certificate Number: 0001905880	SLR Consulting Australia	14/09/17
Preliminary Site Investigation (Contamination) 85829.00 Rev 0	Douglas Partners	15/03/17
Report on Geotechnical Investigation 85829.00 Rev 0	Douglas Partners	15/03/17
Solar Reflectivity and Glare Assessment Ref: 610.17098-R01-v1.2	SLR Consulting Australia	18/09/17
Statement of Environmental Effects Ref: 16669	JBA	21/03/17
Supplementary Statement of Environmental Effects Ref: 16669	Ethos Urban	22/09/17
Traffic Analysis [Lift Report] Issue: 2	Kone	04/09/17
Traffic and Parking Assessment Report Final – Revised Scheme	The Transport Planning Partnership	07/09/17
Waste Management Plan Rev C	Elephants Foot	10/03/17

Note: In the event of any inconsistency between the architectural plans, landscape plans, stormwater disposal plans or photomontages, the architectural plans shall prevail to the extent of the inconsistency.

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

Hazardous/intractable waste disposed legislation

2. 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.

Building work in compliance with BCA

3. 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.

Construction Certificate

4. Prior to commencement of any construction works associated with the approved development (including excavation), 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.

No encroachment on Council and/or Adjoining property

5. 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.

Demolition of Buildings

6. Approval is granted for the demolition of all buildings and outbuildings currently on the property, subject to compliance with the following:-

- (a) Demolition is to be carried out in accordance with the applicable provisions of Australian Standard AS2601-2001 - Demolition of Structures.

Note: Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.

- (b) The developer is to notify owners and occupiers of premises on either side, opposite and at the rear of the development site 5 working days prior to demolition commencing. Such notification is to be a clearly written on A4 size paper giving the date demolition will commence and is to be placed in the letterbox of every premises (including every residential flat or unit, if any). The demolition must not commence prior to the date stated in the notification.
- (c) 5 working days (i.e., Monday to Friday with the exclusion of Public Holidays) notice in writing is to be given to City of Parramatta for inspection of the site prior to the commencement of works. Such written notice is to include the date when demolition will commence and details of the name, address, business hours, contact telephone number and licence number of the demolisher. Works are not to commence prior to Council's inspection and works must also not commence prior to the commencement date nominated in the written notice.
- (d) On the first day of demolition, work is not to commence until City of Parramatta has inspected the site. Should the building to be demolished be found to be wholly or partly

clad with asbestos cement, approval to commence demolition will not be given until Council is satisfied that all measures are in place so as to comply with Work Cover's document "Your Guide to Working with Asbestos", and demolition works must at all times comply with its requirements.

- (e) On demolition sites where buildings to be demolished contain asbestos cement, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site to an approved waste facility. This condition is imposed for the purpose of worker and public safety and to ensure compliance with Clause 259(2)(c) of the Occupational Health and Safety Regulation 2001
- (f) Demolition must not commence until all trees required to be retained are protected in accordance with the conditions detailed under "Prior to Works Commencing" in this Consent.
- (g) All previously connected services are to be appropriately disconnected as part of the demolition works. The applicant is obliged to consult with the various service authorities regarding their requirements for the disconnection of services.
- (h) Demolition works involving the removal and disposal of asbestos cement in excess of 10 square meters, must only be undertaken by contractors who hold a current WorkCover "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence".
- (i) 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.
- (j) 1.8m high Protective fencing is to be installed to prevent public access to the site.
- (k) 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.
- (l) 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.
- (m) All asbestos laden waste, including asbestos cement flat and corrugated sheets must be disposed of at a tipping facility licensed by the Environment Protection Authority (EPA).
- (n) Before demolition works begin, adequate toilet facilities are to be provided.
- (o) After completion, the applicant must notify City of Parramatta within 7 days to assess the site and ensure compliance with AS2601-2001 – Demolition of Structures.
- (p) Within 14 days of completion of demolition, the applicant must submit to Council:
 - (i) An asbestos clearance certificate issued by a suitably qualified person if asbestos was removed from the site; and
 - (ii) A signed statement verifying that demolition work and the recycling of materials was undertaken in accordance with the Waste Management Plan approved with this consent. In reviewing such documentation Council will require the provision of original.
 - (iii) Payment of fees in accordance with Council's current schedule of fees and charges for inspection by Parramatta Council of the demolition site prior to commencement of any demolition works and after the completion of the demolition works.

Reason: To protect the amenity of the area.

Sydney Trains - Bus Stops

7. The Applicant must consult the Deputy Project Director, Metro Product and Integration, Sydney Metro Project Office, Transport for NSW ("Sydney Metro"), about the impact of the proposed works on the implementation and operation of the temporary bus stops on Langston Place and Pembroke Street, Epping, identified in the Epping to Chatswood Railway Temporary Transport Plan ("Temporary Bus Stops").

Note: The Epping to Chatswood Railway Temporary Transport Plan, which has planning consent under Part 5 of the *Environmental Planning and Assessment Act 1979*, contains information about the public transport arrangements while the Epping to Chatswood Railway is temporarily closed from late 2018 for approximately 6-7 months in order to convert the line to

Sydney Metro Northwest operations. During this time, rail replacement bus services will operate to continue public transport connections for customers travelling to destinations on the ECR corridor. Further information about the Temporary Transport Plan is available at: <https://www.sydneymetro.info/sites/default/files/Temporary-Transport-Plan-Main-Report.pdf%3Fext%3D.pdf>

Reason: To comply with the requirements of Transport for NSW and SEPP (Infrastructure) 2007.

Water NSW General Terms of Approval

8. The development shall comply with the requirements of the General Terms of Approval in the Water NSW letter Ref F2017/4683 dated 22 August 2016.

Reason: To comply with Water NSW requirements.

Sydney Trains - Disclosure

9. Copies of any certificate, drawings or approvals given to or issued by Sydney Trains must be submitted to Council for its records.

Reason: To comply with the requirements of Sydney Trains and State Environmental Planning Policy (Infrastructure) 2007.

Public Utility Relocation

10. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work, and as required by the various public utility authorities and/or their agents.

Reason: To ensure the applicant bears all reasonable costs for the development.

Method of Electricity Connection

11. The method of connection will be in line with Ausgrid's Electrical Standard (ES)1 – 'Premises Connection Requirements'.

Reason: To satisfy energy provider requirements.

Supply of Electricity

12. It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:

The existing network can support the expected electrical load of development

A substation may be required on-site, either a pad mount kiosk or chamber style and;

Site conditions or other issues that may impact on the method of supply.

Please see Ausgrid's website, www.ausgrid.com.au about how to connect to Ausgrid's network.

Reason: To satisfy energy provider requirements.

Conduit Installation

13. The need for additional electricity conduits in the footway adjacent to the development will be assessed and documented in Ausgrid's Design Information, used to prepare the connection project design.

Reason: To satisfy energy provider requirements.

Vegetation

14. All proposed vegetation underneath overhead power lines and above underground cables must comply with the requirements of ISSC 3 Guideline For Managing Vegetation Near Power Lines.

Reason: To satisfy energy provider requirements.

Underground Cables

15. There are existing underground electricity network assets in Langston Place. Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence, it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Safework Australia –

Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

Reason: To satisfy energy provider requirements.

Communal Open Space

16. All the common areas proposed within the site, including rooftop terraces, shall be fully accessible to disabled persons.

Reason: To provide equitable access for disabled persons.

Prior to the issue of a 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.)

Planning

Building work in compliance with BCA

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

Home Warranty Insurance

18. 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.

Voluntary Planning Agreement / s94 Contributions

19. The applicant shall either pay the applicable Section 7.11 contribution of \$1,294,838.00, or enter into a Voluntary Planning Agreement (VPA) with City of Parramatta Council prior to the issue of a Construction Certificate for the payment of the Section 7.11 contributions as set out below:

Contribution Type	Amount
Plan Administration	\$ 2,460.20
Community Facilities	\$ 100,738.40
Drainage & Water Quality	\$ 22,271.20
Open Space & Recreation	\$ 880,748.80
Public Domain	\$ 187,622.05

Roads & Shared Paths	\$ 100,997.35
Total	\$ 1,294,838.00

All contributions will be index linked in accordance with Part 2.13 (Adjustment of contribution rates in this Plan) of City of Parramatta Council Section 94 Development Contributions Plan (Former Hornsby LGA Land and Epping Town Centre).

Reason: To provide for improvements to community infrastructure.

Long Service Levy

20. 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.

Environmental Enforcement Service Charge

21. 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.

Infrastructure & Restoration Administration Fee

22. 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 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.

Security Bonds

23. In accordance with Section 4.17(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/237/2017;
- (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
Hoarding (see Schedule of Fees and charges (\$2500 -\$10,000 per street frontage in current financial year)

Nature Strip and Roadway (see Schedule of Fees and Charges, \$1000 - \$20,000 per street frontage in current financial year)

Street Trees (\$2000 per street tree in current financial year)
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A dilapidation report is required to be prepared prior to any work or demolition commencing. This is required to be submitted to City of Parramatta 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.

No external service ducts

24. 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.

Single master TV antenna

25. A single master TV antenna not exceeding a height of 3.0m above the finished roof level must be installed on the 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. The connections are to be operational prior to the issue of any Occupation Certificate.

Reason: To protect the visual amenity of the area.

SEPP 65 verification

26. 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.

Construction Noise Management Plan

27. 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.

Energy Provider Requirements for Substations

28. 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.

Adaptable Dwellings

29. The development must incorporate 11 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 appropriately designed.

Liveable Housing

30. At least 20% of all residential units shall be designed and fit-out to achieve the 'silver level' requirements as set out in the Liveable Housing Design Guidelines Details published by Liveable Housing Australia. Details shall be submitted to the satisfaction of the certifying authority prior to the issue of the Construction Certificate for each stage.

Reason: To ensure study rooms are not converted to use as bedrooms.

Storage Provision

31. Prior to the issue of the Construction Certificate, the basement storage areas will be allocated to the applicable units to the satisfaction of the Principal Certifying Authority. The allocation will be such that each unit has a minimum total secure storage volume (including the storage space within each unit) as follows:

- i) 1 bedroom units – 6m³
- ii) 2 bedroom units – 8m³
- iii) 3 bedroom units – 10m³

Reason: To ensure each unit has sufficient on-site storage capacity.

Waste and Recycling Storage Facilities

32. Waste and recycling storage facilities are to be provided in each residential, office and retail unit. Details of the unit waste storage areas are to be provided to the satisfaction of the Principal Certifying Authority, prior to the issue of a Construction Certificate.

Reason: To ensure adequate storage for refuse.

Specialist Reports

33. The recommendations outlined in the following reports shall be incorporated into the plans and documentation accompanying the Construction Certificate to the satisfaction of the Certifying Authority:

- Acoustic Report No.20170263.1/1703A/R2/MF, dated 17/3/2017, prepared by Acoustic Logic;
- Environmental Wind Tunnel Test Report No.610.17098-R04-v3.0, dated 23/01/2018, prepared by SLR Global Environmental Solutions;
- Solar Reflectivity and Glare Assessment No.610.17098-R01-v1.2, dated 18/09/2017, prepared by SLR Global Environmental Solutions;
- Air Quality Impact Assessment No.610.17098-R02-v1.0, dated 16/03/2017, prepared by SLR Global Environmental Solutions; and
- Preliminary Site Investigation (Contamination) Project No. 85829, dated 15/03/2017, prepared by Douglas Partners.

Reason: To ensure a suitable level of residential and public amenity.

Obscure Glazing

34. All window openings servicing a bathroom and/or WC within each dwelling must have either frosted or obscure glazing. All north facing glazing off of habitable rooms (i.e. living rooms), above Level 8, shall be frosted or obscure glazing. Details are to be provided on the plans and documentation accompanying the Construction Certificate application to the satisfaction of the

Certifying Authority.

Reason: To ensure privacy to adjoining sites is adequately maintained.

Garbage Chutes

35. Any garbage chutes must be designed in accordance with the requirements of the Building Code of Australia and the Department of Environment and Climate Change Better Practice Guide for Waste Management in Multi-Unit Dwellings. Details are to be provided on the plans and documentation accompanying the Construction Certificate application to the satisfaction of the Certifying Authority.

Reason: To ensure waste conveyance equipment is appropriately designed and managed.

Waste Storage Rooms

36. Storage rooms for waste and recyclables are to be provided within the development as indicated on the approved plans, and shall be constructed to comply with the following provisions:
- i) The size being large enough to accommodate all waste generated on the premises, with allowances for the separation of waste types;
 - ii) The floor being graded and drained to an approved drainage outlet connected to the sewer, and having a smooth, even surface, coved at all intersections with walls;
 - iii) The walls being cement rendered to a smooth, even surface and coved at all intersections;
 - iv) Cold water being provided in the room, with the outlet located in a position so that it cannot be damaged, and a hose fitted with a nozzle being connected to the outlet.

Details shall be indicated on the plans submitted with each Construction Certificate application that demonstrate compliance with these requirements to the satisfaction of the Principal Certifying Authority.

Reason: To ensure provision of adequate waste storage arrangements.

Separation of Waste

37. Separate waste processing and storage facilities are to be provided for residential and commercial tenants in mixed use developments. These facilities should be designed and located so that they cannot be accessed by the public, and are accessible by a private waste contractor for collection.

A caretaker is to be appointed by the managing body to be responsible for the management of all waste facilities as indicated in the Waste Management Plan.

Prior to the issue of any Construction Certificate, a 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 subject 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 recycled.

Waste collection from the site shall occur in accordance with the details contained within this report.

Reason: To ensure appropriate waste storage facilities are provided for future occupants.

Access and services for people with disabilities

38. Access and services for people with disabilities shall be provided to the 'affected part' of the building, in accordance with the requirements of the Access to Premises Standard 2010, and the National Construction Code 2013. Detailed plans, documentation and specification must accompany each application for a Construction Certification to the satisfaction of the Certifying Authority.

Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards.

Location of Plant

39. Prior to the issue of a Construction certificate, the Certifying Authority must be satisfied that all

plant and equipment (including but not limited to air condition equipment) is located within the basement or screened on the roof, except as explicitly shown otherwise on the approved drawings.

Note: Architectural plans identifying the location of all plant and equipment must be provided to the Certifying Authority.

Reason: To minimise impact on surrounding properties, improved visual appearance and amenity for locality.

Outdoor Lighting

40. All outdoor lighting and lighting of publicly accessible spaces must comply with the relevant provisions of AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting, and with AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting, and designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill.

A detailed lighting plan demonstrating compliance with these requirements be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To protect the amenity of the surrounding neighbourhood from the emission of light and to provide high quality external lighting for security without adverse effects on public amenity from excessive illumination levels.

Location of Mains Services

41. To reduce the extent of overhead cabling, all service mains required to facilitate the development must be underground, both within the allotment boundaries and the public way. Details must be provided with the plans and documentation accompanying each application for a Construction Certificate to the satisfaction of the Certifying Authority.

Reason: To provide infrastructure that facilitates the future improvement of the streetscape.

Study Rooms

42. The study rooms (i.e. those showing desks) in units including the “+ S” notation shall be reduced in size such that each internal dimension is no more than 2m. These rooms shall be fitted with desk joinery. Details shall be submitted to the satisfaction of the certifying authority prior to the issue of the Construction Certificate.

Reason: To ensure study rooms are not convertible for use as bedrooms.

Reflectivity

43. External materials must be pre-colour coated on manufacture having a low glare and reflectivity finish. The reflectivity index of roof finishes and glazing is to be no greater than 20% so as not to result in glare that causes any nuisance or interference to any person or place. Details demonstrating compliance must be submitted to, and approved by, Council's City Architect prior to issue of any Construction Certificate.

Reason: To have a minimal impact on neighbouring properties and the public domain.

External Walls And Cladding Flammability

44. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:

- (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
- (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

Reason: To ensure building materials are sufficiently non-combustible.

Engineering

Geotechnical Consideration

45. The recommendations as outlined in the Geotechnical Report titled “*Reports on Geotechnical Investigation*”, Report number 85829.00-R.001, Revision “Rev0” dated 09/05/2017, prepared by Douglas Partners shall be implemented to the satisfaction of the Certifying Authority.
Reason: To ensure the geotechnical compliance, ongoing safety and protection of property.

Retaining walls

46. 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.

Sydney Water Tap In

47. The approved plans must be submitted to the Sydney Water [Tap in™](#) online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The Sydney Water [Tap in™](#) online self-service replaces our Quick Check Agents as of 30 November 2015.

The [Tap in™](#) service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water’s [Tap in™](#) online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

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

Dial Before You Dig Service

48. 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.

On Site Detention

49. 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, Hornsby DCP 2013, the relevant Australian Standards and the National Construction Code.
- i. The final drainage plans are consistent with the submitted Drainage Plans i.e. "*Stormwater Plan*" (Drawing reference number 202187801 C020: Site Stormwater Drainage Plan, Revision "P7", C035:OSD tank Sections, Revision "P5", dated 07/06/2017, C030:Drainage Details, Revision "P1", dated 16/03/2017, prepared by Bonacci Group Pty Ltd. (5 Sheets), together with the notes and rectification as required and address the issues.
- **Basement car park in conflict with the Sewer line.**
The existing sewer line crosses the subject site over the proposed basement, thus exposing the sewer pipe. Appropriate measures should be employed in compliance with the requirements of Sydney water. The proposed measure should be acceptable by Sydney water. A letter from Sydney water stating that the proposed measure is acceptable, together with the proposed measure need to be submitted.
 - **Detail of connection point**
It is noted that the connection point to the existing pipe appear to be higher than the proposed. Hence, the outlet pipe does not appear to be able to connect to the existing pipe at the proposed location. The connection point needs to be properly investigated and the invert level of the pipe needs to be confirmed that the proposed location will allow the outflow to be drained by gravity.
 - **Provision of basement pump-out system**
A basement pump-out system shall be provided to manage the subsoil drainage and any runoff from the driveway. The basement stormwater pump-out system, must be designed and constructed to include the following:
 - Holding tank with enough capacity, in case of pump failure, for storing the run-off from a 100 year ARI (average reoccurrence interval) - 2-hour duration storm event and the accumulated volume of subsoil drainage during that period
- (b) The On-site detention (OSD) system shall have a storage capacity of not less than the Site Storage Requirement of 40.5m³ and the orifice size to control the flow to a Permissible Site Discharge of not exceeding 20l/s/ha (total) as indicated by the OSD design Calculation summary sheet.
- (c) Adequate grate(s) to be provided so the OSD tank storage area can be inspected from outside for silt and debris, and to ensure adequate cross ventilation within the tank.
- (d) Certificate from registered structural engineer certifying the structural design adequacy of the OSD tank structure against the loads/forces including buoyancy forces.
- (e) Any changes, other than that are of minor nature (such as minor relocation of pits and pipes), or the changes that affect the approved landscaping require prior approval from the council.
- (f) The OSD Detailed Design Submission (Form B9) and OSD Detailed Calculation Summary Sheets are to be submitted with the documentation accompanying the 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.

Water treatment for stormwater

50. As a part accomplishment of Water Sensitive Urban Design principles, in accordance with the *Section 1C.12 of Part 1 (General) of Hornsby DCP 2013* appropriate Water Sensitive Urban Design Measures (Water Quality measures) shall be employed as a part of Site Stormwater Management. In this regard the followings shall be carried out
- (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 of capturing sediments and spilled hydrocarbon.
 - (b) Filtration system consisting of at least Two (2) numbers of 690mm dia StormFilter cartridges (Stormwater360 make or equivalent with demonstrated performance) that provide water quality flow (Filtration) rate of 8l/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 4.m² area (for 4m³ holding capacity,
 - (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 1.9l/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

Construction of OSD tank/filtration structure

51. 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.

The principal certifying authority shall ensure that upon completion of the works a practicing certified Engineer has duly certified the construction works.

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

Driveway Surface to match existing footpath level

52. The driveway within the property shall be designed and constructed to match the surface levels with that of existing footpath within the property frontage and that joints are smooth, and no part of the concrete protrudes out. To prevent street stormwater spilling into the property through the driveway, the driveway surface should be graded such that it rises upward from kerb & gutter with the crest across the driveway at the property line, which should be at least 150mm higher than the top of kerb.

Reason: To provide suitable vehicle access and smooth junction.

Basement carpark and subsurface drainage

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.

Underground electricity supply

54. 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.

Shoring for adjoining Council property

55. 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.

Construction of a heavy duty vehicular crossing

56. A heavy duty vehicular crossing shall be constructed in accordance with Council's Standard Drawing numbers DS9 and 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.

Exhaust fumes

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.

Security roller shutters for basement car parking

58. Where a security roller shutter or boom gate prevents access to visitor car parking, 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 car parking is accessible.

Impact on Existing Utility Installations

59. 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.

Support for Council Roads, footpath, drainage reserve

60. 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.

Driveway Grades

61. The grades of the driveway, including transitions, must comply with Australian Standard 2890.1 to prevent the underside of the vehicles scraping. Where the geometric change in grade exceeds 18%, the gradients of the driveway and ramps shall be checked using the method at Appendix C in AS2890.1:2004 and adjustments will be made to accommodate suitable transition lengths. 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.

Public Domain

Public Domain Construction Drawings

62. 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 Construction Drawings** must be submitted and approved by Council's DTSU Manager. The drawings shall address the following issues and areas:

- all the frontages of the development site between the gutter and building line, including footpath, verge, drainage, forecourt, front setback;
- dedicated land for public use; and,
- any works in carriageway.

Grading of the pedestrian footway:

- Detailed design spot levels and designed contour levels are required.
- Localised flattening of public footpath levels at building doorways is not permitted. Any change of level required to provide compliant access to the building must be achieved behind the property boundary line.
- Localised ramps are not permitted in the footway. Longitudinal grading must follow the gradient of the top of kerb line unless agreed otherwise with council. Ramping of the footway to suit adjacent building requirements will not be accepted.

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

- the latest Parramatta City Council Chapter 2 Public Domain Guidelines;
- the approved Public Domain Alignment Drawings,
- the approved Public Domain Drawings, and
- all the DA Conditions listed in this consent

Reason: To ensure the public domain is constructed in accordance with Council standards.

Public Domain Requirements

63. Notwithstanding the approved Public Domain Drawings, the following requirements shall be included in the Public Domain Construction Drawings:

Town Centre Paving

Granite flagstone, as per Chapter 2 of the Parramatta Public Domain Guidelines, shall be applied for full length of the site, from back of kerb to building entry points, plus full coordination of service/pit lids, street lighting and tree pits. The footpath paving set out and details should

comply with Council's design standard (DS45). Sealant is to be applied to all paved surfaces in the public domain in accordance with council requirements. All pavement material and finishes used in the public domain must be a non-slip surface in compliance with V5 in both wet and dry conditions.

Kerb & Gutter

The kerb and gutter in front of the site shall be reconstructed in accordance with Council's design standard (DS1) to the full length of the site.

Vehicle Crossing

Council's standard vehicle crossing is to be provided. Refer Council's design standard (DS8&9 and DS45). A change of paving colour for the driveways is not supported.

Exiting vehicles should be perpendicular to the road when entering the road way. The vehicle crossing should extend along the road to suite, even if this exceeds Council's typical maximum vehicle ramp width.

Kerb Ramps

Kerb ramps must be designed and located in accordance with Council's design standards (drawing no: DS4).

Walkways with gradient of 1:20 or steeper require handrail detail as per AS1428.4.1 (2009). Where possible provide walkway gradients flatter than 1:20 from the public domain to the building entry.

Tactile Indicators (TGSIs)

TGSIs must be used on the public footpath complied with the AS 1428.1 and the requirements in the Public Domain Guidelines. The TGSIs must be installed as per advice provide by applicant's access consultant and or as directed by Council.

Street Furniture

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.

Lighting

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.

Drainage

Drainage connection to the nearest storm water pit or other sump area is required from the base of all tree pits and trenches and must be shown on the Public Domain Construction Drawings. The invert level of the storm water pit receiving the drainage water from the tree pits is also to be shown on the Public Domain Construction Drawings.

Multi-media conduit

A conduit for Council's multi-media facilities is required to be installed to the full length of the street frontages on Langston Place. The conduit must be positioned and installed in accordance with Council's standards drawing and specifications.

Documentary evidence of compliance with these requirements is to be confirmed in the Public Domain Construction Drawings to be submitted to and approved by Council's DTSU Manager prior to the issue of the relevant Construction Certificate.

Reason: To comply with the Public Domain Guidelines.

Awning

64. The awning hereby approved is to extend the full length of the site and be of adequate depth to provide seamless protection at the boundary with the awning of properties either side of the site.

Reason: To ensure awning provides adequate and seamless protection and comfort.

Planting Beds along Street Frontage / Awning

65. All the plants in the planter boxes along the building frontages shall be no less than 200mm (or 45L for shrubs) pot sized. All the planter boxes shall have no less than 600mm deep soil level with free draining soil mixes, in accordance with AS 4419:1998 – Soils for landscaping and garden use, and incorporated with drainage layers and pipes connecting to nearest stormwater pit.

All planting in communal open space shall be planted as a minimum, as per 4P Planting on Structure of the ADG

An automatic irrigation system shall be set up for the planting bed. The public domain construction documentation must include the full performance specifications for the installation and operation.

Reason: To ensure high quality building interface to public domain and minimise potential impacts.

Street Tree Placement & Tree Pit

66. 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 standard (CoP_Street tree planting in StrataVault or to match existing Epping Town Centre grates) with adequate clearances to other street elements in accordance with the Public Domain Guidelines. Refer also following conditions for trees located in paved areas. Street trees must be average 8-10m spacing. Tree planting is not permitted within 3.0m of existing buildings.

Reason: To ensure street trees being planted in appropriate locations.

Structural Pavement System

67. A structural pavement system is required around proposed street trees in paved areas in the footway and publicly accessible pedestrian areas to mitigate against soil compaction, maximising aeration and porosity in the tree root zone. Preferred systems include slab suspended on structural cells such as strata cells as per Council's design standard (CoP_Street tree planting in StrataVault or to match existing Epping Town Centre grates). Tree grates may be required depending on the detailed design of the selected pavement structure system as per the Public Domain Guidelines.

Reason: To comply with the Public Domain Guidelines.

Street Tree Stock

68. The required street tree species, quantities and supply stocks are:

Street Name	Botanical Name	Common name	Pot Size	Qty	Ave Spacing
Langston Place	<i>Lophostemon confertus</i>	Brush box	400L	3	As per the PDG

Note: Large trees are currently in short supply and pre-ordering of stock at a very early stage of the project to secure the specified size is required. Size and species adjustments based on lack of project co-ordination will not be permissible.

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

Traffic

Plans for median in street

69. Detailed plans for the construction of a concrete median in Langston Place showing associated line marking and signposting are to be submitted to and approved by Council's Manager Civil Infrastructure and to the Parramatta Traffic Committee through the Service Manager Traffic and Transport prior to the issue of a construction certificate. The median is to be designed such that it would restrict vehicular access to left-in and left-out only into and out of the development site. The installation of the median may require amendments to the Roads and Maritime traffic signal plans for the adjacent intersections. The design and construction shall be at no cost to Council and Roads and Maritime Services.

Reason: To ensure vehicles do not stop to turn and cause a queue into the intersection with Epping Road.

Parking spaces to be provided

70. Parking spaces are to be provided in accordance with the approved plans and with AS 2890.1, AS2890.2 and AS 2890.6.
- A longitudinal section is to be provided for the access driveway ramps and the between basement ramps showing compliance with AS2890.1
 - The gradients of the ramps shall be checked using the method at Appendix C in AS2890.1:2004 and adjustments will be made to accommodate suitable transition lengths.

Details are to be illustrated on plans submitted with the construction certificate.

Reason: To comply with Council's parking requirements and Australian Standards.

Bicycle parking dimensions

71. The bicycle storage areas must be capable of accommodating a minimum of 114 bicycles within fixed bicycle rails. The bicycle storage areas and bicycle rail must be designed to meet the requirements of AS 2890.3 – 2015. Details of compliance with this standard are to accompany a Construction Certificate application to the satisfaction of the Certifying Authority.

Reason: To comply with Council's parking requirements.

Pedestrian safety

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

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

Construction Traffic Management Plan

73. A Construction Traffic Management Plan shall be prepared to the satisfaction of the Council's Service Manager, Traffic and Transport. Details are to be submitted with the construction certificate. The following matters must be specifically addressed in the Plan:

- Construction Management Plan for the Site
 - A plan view of the entire site and frontage roadways indicating:
 - Access arrangements to and from the site.
 - Proposed number of trucks during the phases of development
 - Hours of proposed truck movements to and from the site.
 - Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and demolition related vehicles in the frontage roadways.
 - Turning areas within the site for demolition and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
 - The locations of proposed Work Zones in the egress frontage roadways.

8. Location of any proposed crane standing areas.
 9. A dedicated unloading and loading point within the site for all demolition vehicles, plant and deliveries.
 10. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 11. The provisions of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
- B. Traffic Control Plan(s) for the site:
1. All traffic control devices installed in the road reserve shall be in accordance with the Roads and Traffic Authority, NSW (RTA) publication 'Traffic Control Worksite Manual' and be designed by a person licensed to do so (minimum RTA 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
 2. Approval shall be obtained from City of Parramatta Council for any temporary road closures or crane use from public property.
- C. A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided and a copy of this route is to be made available to all contractors.
- D. The plan must address the following:
1. A schedule of site inductions shall be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations.
 2. Minimising construction related traffic movements during school peak periods.

Reason: To manage construction impacts.

Car Parking Condition

74. Prior to the issue of the construction certificate, the PCA shall ascertain that any new element in the basement carpark not illustrated on the approved plans such as columns, garage doors, fire safety measures and the like do not compromise appropriate manoeuvring and that compliance is maintained with AS 2890.1, AS2890.2 and AS 2890.6. Details are to be illustrated on plans submitted with the construction certificate.

Reason: To ensure appropriate vehicular manoeuvring is provided.

Accessible Car parking

75. Accessible car parking spaces must be provided as part of the total car parking requirements. These spaces, and access to these spaces, must comply with AS2890.6: 'Parking facilities', 'Off-street parking for people with disabilities', AS1428.1: 'Design for access and mobility', 'General requirements for access - New building work' 2001 and 2009, and AS1428.4: 'Design for access and mobility', 'Tactile ground surface indicators for orientation of people with vision impairment', 'Means to assist the orientation of people with vision impairment - Tactile ground surface indicators' 1992 and 2009.

Details are to accompany each application for a Construction Certificate to the satisfaction of the Certifying Authority.

Reason: To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with Federal legislation.

Visitor Parking

76. Each basement visitor car parking space is to be signposted. Details are to be provided with the application for each Construction Certificate.

Reason: To comply with Australian Standards.

Other

Enhanced Glazing

77. Any openings specified as requiring enhanced glazing in the NatHERS certificate hereby

approved shall be clearly specified on the construction certificate drawings and installed in the building to the satisfaction of the Certifying Authority prior to the release of the applicable occupation certificate.

Reason: To ensure the amenity of future occupants.

Planting Upon Structure

78. The following must be provided with an application for a Construction Certificate:

- (a) Construction details showing substrate depth, drainage, waterproofing for all planting on structures, including planting over on-site detention tanks, raised planters and rooftop gardens are to be provided by a suitably qualified structural engineer.
- (b) A specification for the soil volume, soil depth and soil area must meet the prescribed standards in "Apartment Design Guide – tools for improving the design of residential apartment development" (NSW Department of Planning and Environment, 2015) to be provided by a suitably qualified Landscape Architect/Designer for all proposed tree plantings with an expected mature height of five (5) metres or greater.
- (c) A specification ('Fit-for-purpose' performance description) for soil type must be provided by a suitably qualified Landscape Architect/Designer.
- (d) Tree planting densities shall not exceed the prescribed soil volume and area required for plant type and certification must be provided by a suitably qualified Landscape Architect/Designer.

Reason: To ensure the creation of functional gardens.

Bus Stops

79. Prior to the issue of any Construction Certificate, the Applicant must prepare and submit to Sydney Metro a Temporary Bus Stop Traffic and Pedestrian Management Plan, that takes into account the impacts of the proposed development on the establishment, operation and removal of Temporary Bus Stops and the movement of public transport customers and buses to and from Temporary Bus Stops, and receive written advice that Sydney Metro is satisfied with the Temporary Bus Stop Traffic and Pedestrian Management Plan.

The Temporary Bus Stop Traffic and Pedestrian Management Plan must at least address the following matters:

- a) Traffic and public transport customer management in the vicinity of the development;
- b) Placement and location of temporary structures related to the development on Langston Place and Pembroke Street, Epping, in or within 20 metres of the Temporary Bus Stops;
- c) Timing of and reinstatement standards for footpath and road openings;
- d) Location and operation of crossings into the development site within 20 metres of the temporary bus stops;
- e) Communications between Sydney metro and the applicant.

Reason: To comply with the requirements of Transport for NSW and SEPP (Infrastructure) 2007.

Bus Stops – Management Plan

80. The Applicant must comply with the Temporary Bus Stop Traffic and Pedestrian Management Plan.

Reason: To comply with the requirements of Transport for NSW and SEPP (Infrastructure) 2007.

Bus Stops - Operation

81. During the establishment, operation, and removal of the Temporary Bus Stops, no Works Zones are to be located on Langston Place and Pembroke Street within 20m of Temporary Bus Stops.

Reason: To comply with the requirements of Transport for NSW and SEPP (Infrastructure) 2007.

Bus Stop – Concrete Pump Lines

82. During the establishment, operation and removal of the Temporary Bus Stops, no concrete pump lines or pedestrian ramps are to be located in or within 20m of Temporary Bus Stops.

Reason: To comply with the requirements of Transport for NSW and SEPP (Infrastructure) 2007.

Sydney Trains – Excavation

83. Unless advised otherwise, the applicant shall comply with the following items:

- i) All excavation works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.
- ii) No rock anchors/bolts are to be installed into Railcorp's property of easements.
- iii) On completion of the basement slab works, all temporary rock anchors/bolts along the rail corridor boundary are to be destressed in accordance with the Geotechnical and Structural Reports.
- iv) The project engineer is to conduct vibration monitoring during the course of excavation.

A Construction Certificate is not to be issued until the measures detailed in this condition of consent have been incorporated into the construction drawings and specifications.

Prior to the commencement of works, the Principle Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

Reason: To comply with the requirements of Sydney Trains and State Environmental Planning Policy (Infrastructure) 2007.

Sydney Trains – Endorsement

84. The following items are to be submitted to Sydney Trains for review and endorsement prior to the issue of a Construction Certificate:

- i) Machinery to be used during excavation/construction.
- ii) If required by Sydney Trains, track monitoring plan detailing the proposed method of track monitoring during excavation and construction phases.
- iii) If required by Sydney Trains, a rail safety plan including instrumentation and the monitoring regime.

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

Reason: To comply with the requirements of Sydney Trains and ISEPP 2007.

Sydney Trains – Aerial Operations

85. Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue a Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

Reason: To comply with the requirements of Sydney Trains and ISEPP 2007.

Sydney Trains – Liability Cover

86. Prior to the issue of a Construction Certificate, the Applicant must hold current public liability insurance to cover for a sum to be determined by Sydney Trains. This insurance shall not contain any exclusion in relation to works on or near the rail corridor or rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate, the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the applicant on the level of insurance required.

Reason: To comply with the requirements of Sydney Trains and ISEPP 2007.

Sydney Trains – Bond

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

Reason: To comply with the requirements of Sydney Trains and ISEPP 2007.

Sydney Trains – Electrolysis

88. 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: To comply with the requirements of Sydney Trains and ISEPP 2007.

Sydney Trains – Lights and Signs

89. The design, installation, and use of lights, signs, and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor, must limit glare and reflectivity to the satisfaction of Sydney Trains. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

Reason: To comply with the requirements of Sydney Trains and ISEPP 2007.

Sydney Trains – Acoustics

90. 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 Road – Interim Guidelines".

Reason: To comply with the requirements of Sydney Trains and ISEPP 2007.

Sydney Trains – Risk Management

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

Reason: To comply with the requirements of Sydney Trains and ISEPP 2007.

Landscape Details

92. Construction and section details of all proposed on-slab planter boxes showing substrate depth, drainage, waterproofing etc., for ground floor and roof top planter boxes are to be provided with each application for a Construction Certificate.

Despite the requirements of any other conditions of consent, planter boxes located over on site detention tanks and/or podium slabs are to have a minimum depth of 600mm for the planting of shrubs and/or trees, and a minimum of 300mm depth for turf/groundcovers proposed.

The proposed soil depths are to be certified by the Landscape Architect to meet the requirements of the proposed species to be planted, and provided with each application for a Construction Certificate.

Reason: To ensure the creation of functional gardens.

Submit Detailed Concept Development, Including Artwork

93. A Detailed Public Art Plan prepared by a suitably qualified and experienced public art consultant, in accordance with the City of Parramatta's 'Interim Public Art Guidelines for Developers', shall be submitted to and approved by Council prior to the issue of a Construction Certificate.

The Public Art Plan is to include contextual and historical themes, and design details of each public art work, including concept drawings, scale and context, materials and finishes, timeline showing staging of the artwork, and an estimated budget, indicated on the approved plans.

Reason: To achieve public art that is consistent with Council's guidelines.

Prior to Work Commencing

Planning

Appointment of PCA

94. 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.

Enclosure of the site

95. 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.

Site Sign

96. 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.

Toilet facilities on site

97. Prior to work commencing, adequate toilet facilities are to be provided on the work site.

Reason: To ensure adequate toilet facilities are provided.

Public liability insurance

98. 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.

Footings and walls near boundaries

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

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

Survey Report

100. 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.

Engineering

Road Opening Permits

101. 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).

In addition, 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.

Dilapidation Survey & Report for private properties

102. 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.

Geotechnical Report

103. 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 C1 of AS 2870 - 1996.

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

Connection into Existing stormwater drainage system

104. The proposed outlet pipe connection from the subject site into the council's stormwater pipe system shall be designed to comply with the following requirements:

a. new kerb inlet pit and connection

A new kerb Inlet pit and the connection details into the pit shall be designed in accordance with requirements of **Council's Civil Infrastructure Unit** and the relevant Standard Plan as required accordingly (*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 drawings including connection details.

The drawings of the proposed connection and pipeline (if any) should show

- i. Details of the new kerb inlet pit
- ii. Connection details into the **new pit**.

The above drawings including the construction and connection 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, the construction and connection work shall be certified by a qualified engineer. A separate Work-As-Executed plan shall be prepared on the approved stormwater plan and submitted together with the engineer's certificate to Council separately.

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

Erosion and Sediment Control measures

105. 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.

Site Maintenance

106. 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 refuse 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.

Shoring and adequacy of adjoining property

107. 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.

Special Permits

108. 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.

Driveway Crossing Application

109. All works associated with the construction and/or extension of a driveway crossover/layback within Council owned land requires an application to be lodged and approved by Council.

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 accompanied by plans, grades/levels and specifications. A fee in accordance with Council's 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: To provide suitable vehicular access without disruption to pedestrian and vehicular traffic.

Existing Damage to public infrastructure

110. 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.

Other

Hazardous material survey

111. At least one (1) week prior to demolition, the applicant must submit to the satisfaction of the

Principal Certifying Authority a hazardous materials survey of the site. Hazardous materials include (but are not limited to) asbestos materials, synthetic mineral fibre, roof dust, PCB materials and lead based paint. The report must be prepared by a suitably qualified and experienced environmental scientist and must include at least the following information:

- a) The location of hazardous materials throughout the site;
- b) A description of the hazardous material;
- c) The form in which the hazardous material is found, eg AC sheeting, transformers, contaminated soil, roof dust;
- d) An estimation (where possible) of the quantity of each particular hazardous material by volume, number, surface area or weight;
- e) A brief description of the method for removal, handling, on-site storage and transportation of the hazardous materials, and where appropriate, reference to relevant legislation, standards and guidelines;
- f) Identification of the disposal sites to which the hazardous materials will be taken.

Reason: To ensure risks associated with the demolition have been identified and addressed prior to demolition work commencing.

Prior to the Commencement of Construction in Public Domain

112. The certifying authority is to confirm the ground floor slab levels, including finishes, finish flush with existing public domain as per the approved Public Domain Alignment Drawings

Reason: To ensure the public domain is constructed in accordance with Council standards.

Sydney Trains

113. If required by Sydney Trains, prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

Reason: To comply with the requirements of Sydney Trains and Clause 86(4) of SEPP (Infrastructure) 2007.

Pruning/Works on Trees

114. Consent from Council must be obtained prior to any pruning works being undertaken on any tree on site, or any trees located in adjoining properties. All approved pruning works must be supervised by an Australian Qualifications Framework (AQF) Level 3 certified Arborist. This includes the pruning of any roots that are 30mm in diameter or larger.

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

During Work

Planning

Copy of development consent

115. A copy of this development consent, together with the stamped plans, reference documents and associated specifications, is to be held onsite 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.

Materials on Footpath

116. 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.

Materials on Drainage Line

117. Stockpiles of topsoil, sand, aggregate, soil or other material are not to be located on any

drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

Reason: To ensure that building materials are not washed into stormwater drains.

Hours of Work and Noise

118. All work (excluding demolition which has separate 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 Friday 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 and 5:00pm. No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays.

Reason: To protect the amenity of the area.

Complaints Register

119. 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:
- i) The date and time of the complaint;
 - ii) The means by which the complaint was made;
 - iii) Any personal details of the complainants that were provided, or if no details were provided, a note to that affect;
 - iv) Nature of the complaints;
 - v) Any action(s) taken by the applicant in relation to the complainant, including any follow up contact with the complainant; and
 - vi) 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 to ensure complaints are dealt with appropriately.

Importation of Clean Fill

120. Any fill material, required by this consent, 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. The certification of each delivery is to be kept on site and produced for inspection if requested.

Reason: To ensure the site does not become contaminated, and appropriate compaction levels can be achieved.

Engineering

Erosion & sediment control measures

121. 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.

Grated drain at the base of driveway ramp

122. A 200mm 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 driveway ramp to collect driveway runoff. The grated/channel drain shall be connected to the OSD tank basement pump-out tank and shall have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.

Reason: To minimise risk of basement flooding.

Damage to public infrastructure

123. 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.

Construction of a concrete footpath

124. 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.

Car parking & driveways

125. 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.

Vehicle egress signs

126. Appropriate signage must be erected at the vehicle egress points to compel all vehicles to stop before proceeding onto the public way.

Reason: To ensure pedestrian safety.

Nomination of Engineering Works Supervisor

127. 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.

Connection into existing Stormwater pipe

128. The proposed outlet pipe and connection works into the existing downstream kerb inlet pit within the public domain shall comply with the following requirements.

- a) The connection into the stormwater system shall be in the direction of flow (not against the flow).
- b) A new kerb inlet pit (KIP) shall be constructed on Langston Place frontage to connect the site Stormwater pipe into this pit. The new kerb inlet 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*).
- c) Request for inspection by council's Civil Infrastructure Unit, of works during progression as required by Council's Civil Infrastructure Unit.
- d) The connection work must be inspected by the engineer from Council's Civil Infrastructure Unit and approved prior to backfilling.
- e) Remediation of site upon completion of work to the satisfaction of Council's Civil Infrastructure Unit.
- f) 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 of 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.
- g) Final inspection and satisfactory completion of the pipe work to the satisfaction of Council's Civil Infrastructure unit.

Prior approval for the drawings shall be obtained from Council's Civil Infrastructure Unit. No pipe/pit works shall commence until the approval is obtained. During the progress of work, booking for staged/progress inspection by Council's Civil Infrastructure Unit shall be made.

Upon completion of the work, the construction and connection work shall be certified by a qualified engineer. A separate Work-As-Executed plan shall be prepared on the approved stormwater plan and submitted together with the engineer's certificates to Council separately.

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

Handled and disposed of by licensed facility

129. All friable and non-friable asbestos-containing waste on-site shall be handled and disposed off-site at an EPA licensed waste facility by an EPA licensed contractor in accordance with the requirements of the Protection of the Environment Operations (Waste) Regulation 2005 and the EPA publication 'Waste Classification Guidelines - 2008' and any other regulatory instrument as amended.

Reason: To ensure appropriate disposal of asbestos materials.

Waste data maintained

130. 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 are met.

Public Domain Works Inspections

131. 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's Inspection Officer for each inspection listed below. At least 48 hours 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 Officers 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.

De-Watering of Excavated Sites

132. Any site excavation areas must be kept free of accumulated water at all times.

Water that accumulates within an excavation must be removed and disposed of in a manner that does not result in:

- i) The pollution of waters,
- ii) Nuisance to neighbouring properties, or
- iii) Damage/potential damage to neighbouring land and/or property.

A De-Watering Plan is required to be included and submitted to the Principal Certifying Authority for review prior to issue of a Construction Certificate.

Reason: To protect against subsidence, erosion and other nuisances.

Traffic

Occupation of any part of footpath/road

133. 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.

Oversize vehicles using local roads

134. 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.

Other

Sydney Trains – Inspection

135. Sydney Trains and Transport for NSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been, or are being, constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought.

Reason: To comply with the requirements of Sydney Trains and State Environmental Planning Policy (Infrastructure) 2007.

Contamination – Additional Information

136. 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.

Dust Control

137. 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 the City of Parramatta 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.

Tree Removal

138. All approved tree removal must be supervised by an Australian Qualification Framework (AQF) Level 3 Arborist in accordance with the provisions of the Draft Tree Work Code of Practice 2007.

Reason: To ensure works are carried out in accordance with the Draft Tree Work Code of Practice 2007.

Prior to the issue of an Occupation Certificate / Subdivision Certificate

Planning

Occupation Certificate

139. Occupation or use of the building or part is not permitted until an Occupation Certificate has been issued in accordance with Section 6.9 of the Environmental Planning and Assessment Act 1979.

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

Record of inspections carried out

140. 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.

Street Number when site readily visible location

141. 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.

BASIX Compliance

142. 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. 796370M_02, will be complied with prior to occupation

Reason: To comply with legislative requirements of Clause 97A of the Environmental Planning & Assessment Regulation 2000.

Provision of Endeavour Energy services

143. 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.

The Release of Bond(s)

144. 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.

SEPP 65 verification statement OC stage

145. 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.

Adaptable Dwellings

146. 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.

Liveable Housing

147. Confirmation that 20% of the units comply with the Liveable Housing Guidelines Silver Level design feature is to be prepared by a suitably qualified consultant and submitted to Council prior to the issue of an Occupation Certificate.

Reason: To ensure that the development provides accessible dwelling options for future occupants.

Road Dedication

148. Prior to the issue of an Occupation Certificate, the applicant shall establish a public right of way over the 1.5m ground floor setback area for use as an unrestricted public footpath to the public in perpetuity.

Reason: To ensure that public benefits are provided in keeping with the applicant's offer.

Certification – Fire Safety

149. Prior to the issue of each Occupation Certificate, a final fire safety certificate must be issued as required by Clause 153 of the Environmental Planning and Assessment Regulation 2000.

Reason: Protection of life and to comply with legislative requirements.

Schedule of Street Numbering

150. Prior to the issue of an Occupation Certificate, the developer must provide Council with a schedule of individual unit/street numbers as displayed within the development for identification purposes. The numbering sequence must be in accordance with the street numbering approval letter issued by Council.

Reason: To ensure developments are appropriately numbered.

Street Numbering

151. A street number is to be placed on the building 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 assist wayfinding.

Waste Storage Rooms

152. Adequate ventilation to the waste storage room shall be provided in accordance with the requirements of the Building Code of Australia. Certification that the system functions in accordance with Australian Standard AS 1668 is to be provided to the certifying authority prior to occupation of the premises.

Reason: To ensure appropriate waste storage facilities are provided for future occupants.

Broadband Access

153. Prior to the issue of any Occupation Certificate, the developer is to provide evidence that satisfactory arrangements have been made with the National Broadband Network (NBN) Company where relevant, and implemented at no cost to Council for the provision of broadband access to the development.

Note: For more information contact NBN Co. Development Liaison Team:

Call: 1800 881 816
Email: newdevelopments@nbnco.com.au
Web: www.nbnco.com.au/NewDevelopments.

Reason: To ensure that appropriate provision has been made to accommodate broadband access to the development.

Provision of Telephone Services

154. The submission of documentary evidence from the telecommunications provider authorised under the *Telecommunications Act 1997* confirming arrangements have been made for the provision of telephone services prior to the issue of a Subdivision Certificate.
Reason: To ensure appropriate telephone services are provided.

Strata Subdivision Certificate

155. A separate application must be made to Council to obtain approval of the strata plan under section 37 of the *Strata Schemes (Freehold Development) Act 1973*. The linen plan must not be issued until a final occupation certificate has been issued.
Reason: To comply with the *Strata Schemes (Freehold Development) Act 1973*.

Study Rooms

156. The study rooms (i.e. those showing desks) in units including the “+ S” notation shall be fitted with desk joinery. Details demonstrating compliance shall be submitted to the satisfaction of the certifying authority prior to the issue of the Occupation Certificate.
Reason: To ensure study rooms are not convertible for use as bedrooms.

Green Travel Plan

157. A Green Travel Plan to promote non-private vehicle transport for employees and visitors is to be submitted to the satisfaction of the Certifying Authority and a copy provided to Council prior to the issue of the final Occupation Certificate.
Reason: To discourage trips by private vehicle.

Engineering

Reinstatement of laybacks

158. 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. DS1. 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.

Lot consolidation

159. All individual parcels of land holding a separate title within the development site must be consolidated into one lot. A plan of consolidation must be registered with the Land and Property Information Division of the Department of Lands, prior to an Occupation Certificate being issued.
Reason: To comply with the Conveyancing Act 1919.

Section 73 Certificate

160. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

If you require any further information, please contact Lulu Huang of Growth Planning and Development on urbangrowth@sydneywater.com.au.

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

Work-as-Executed Plan

161. Works-As-Executed stormwater plans shall be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate, certifying that the stormwater drainage system has been constructed and completed in accordance with the approved stormwater plans. The person issuing the Occupation Certificate shall ensure that the following documentation is completed and submitted

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

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

Reason: To ensure works comply with approved plans and adequate information are available for Council to update the Council's Record.

OSD Positive Covenant/Restriction

162. 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 88E Instruments are to be generally in accordance with Council's "standard terms" available in Council's website, under Development Forms.

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 to Occupation or use of on-site.

Reason: To ensure maintenance of on-site detention facilities.

Positive Covenant for Water Treatment Devices

163. 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

Street Numbering

164. 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.

Driveway Crossover

165. 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.

Post-construction dilapidation report

166. The applicant shall engage a suitably qualified person to prepare a post construction dilapidation report at the completion of the construction works. This report is to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads. The report is to be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of occupation certificate. 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.

All works/methods/procedures/control measures

167. Prior to the issue of an occupation certificate (Interim or Final) written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and the City of Parramatta, stating that all works/methods/procedures/control measures approved by Council in the following specialist reports have been implemented:

- Acoustic Report No.20170263.1/1703A/R2/MF, dated 17/3/2017, prepared by Acoustic Logic;
- Environmental Wind Tunnel Test Report No.610.17098-R04-v3.0, dated 23/01/2018, prepared by SLR Global Environmental Solutions;
- Solar Reflectivity and Glare Assessment No.610.17098-R01-v1.2, dated 18/09/2017, prepared by SLR Global Environmental Solutions;
- Air Quality Impact Assessment No.610.17098-R02-v1.0, dated 16/03/2017, prepared by SLR Global Environmental Solutions; and
- Preliminary Site Investigation (Contamination) Project No. 85829, dated 15/03/2017, prepared by Douglas Partners.

Reason: To demonstrate compliance with submitted reports.

Traffic

Median in street

168. Prior to the issue of any occupation certificate a concrete median shall be constructed in Langston Place to restrict vehicular access to left-in and left-out only into and out of the development site.

Reason: To ensure vehicles do not stop to turn and cause a queue into the intersection with Epping Road.

Car Share

169. The Applicant shall provide written evidence to Council's DTSU Manager, prior to release of the final Occupation Certificate, demonstrating that at least one (1) car share space has been offered to all car share providers operating in Sydney together with the outcome of the offers or a letter of commitment to the service.

Reason: To comply with Council's parking requirements.

Other

Sydney Trains - As Built Drawings

170. Prior to the issue of an Occupation Certificate, the Applicant is to submit the as-built drawings to Sydney Trains, Transport for NSW and Council. The principal Certifying Authority is not to issue the Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

Reason: To comply with the requirements of Sydney Trains and ISEPP 2007.

Certification – Artwork

171. Final documentation including details of fabrication and installation of the public art work, including a maintenance schedule, must be submitted and approved by Council and the art work completed in full and installed to the satisfaction of Council prior to the issue of the final Occupation Certificate.

Reason: To comply with Development control requirements.

Commencement of waste collection services

172. Prior to the issue of any occupation certificate, evidence that a waste collection service contractor has been engaged to service the site shall be submitted to the satisfaction of the PCA.

Reason: To ensure a waste collection service is commenced at the time of occupation of the development.

Energy Star Ratings

173. Prior to the issue of any occupation certificate for dwellings the Principal Certifying Authority is to ensure that all Fridges, Clothes Washers, Clothes Driers, Dishwashers and Air Conditioners are of at least a 4 Energy Star Rating as required by the BASIX certificate.

Reason: To ensure the Environmental Sustainability Commitments are met.

Public Domain Works-as-Executed

174. 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.

A two year (104 week) maintenance and defects period is required for any public domain works that include WSUD devices, including bio-retention tree pit, rain garden, swale etc., to be carried out by the developer following final OC approval of the public domain works by Council Officers.

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

Tree Planting Above 25L Container Size

175. All trees supplied above a 25L container size must be grown and planted in accordance with Clarke, R 1996 Purchasing Landscape Trees: A guide to assessing tree quality. Natspec Guide No.2. Certification is to be forwarded to the Principal Certifying Authority upon completion of the planting, certifying the trees have been grown to Natspec guidelines. A copy of this certificate is to be forwarded to Council with the Occupation Certificate.

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

Landscape Certification

176. 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.

Operational Conditions - The Use of the Site

Air-conditioning Noise Emission

177. 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.

Any air conditioners must not emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):

- i) Before 8:00am and after 10:00pm on any Saturday, Sunday or public holiday; or
- ii) Before 7:00am and after 10:00pm on any other day.

Emit a sound pressure level when measured at a boundary of any other residential property, at a time other than those specified in (a) and (b) above which exceeds the background (LA90, 15 minute) by more than 5dB(A).

The source noise level must be measured as a LAeq 15 minute.

Reason: To minimise noise impact of air conditioning equipment and protect amenity

Graffiti Management

178. 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.

Noise from mechanical equipment

179. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997.

Reason: To protect the amenity of the area.

Garbage Collection

180. All garbage collection must occur on site (i.e. off-street).

Reason: To minimise impact on the road network.

Signage Consent

181. No advertisement or signage shall be erected on, or in conjunction with the development without prior consent. No digital displays are to be installed behind the shop display or otherwise.

Reason: To comply with legislative controls.

Shopfront Appearance

182. Roller shutters are not to be placed over any external door or window of the premises.

Reason: To provide an appropriate streetscape appearance.

Maintenance of Public Domain Works

183. A two-year (104 weeks) maintenance period, from the date of issue of the final Occupation Certificate, 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, prior to the issue of the final Occupation Certificate, that specifies after Council's final approval who and how to maintain the public domain works during the 104 weeks.

Reason: To ensure the required public domain improvements are maintained.

184. ***Retail Operation***

The hours of operation of the ground floor retail premises are restricted to 7:00am to 10:00pm daily, unless approved otherwise under a separate application.

Reason: To minimise the impact of the use on adjoining properties.

Maintenance of Waste Storage Areas

185. All waste storage areas are to be maintained in a clean and tidy condition at all times.

Reason: To ensure the ongoing management of waste storage areas.

Waste Storage

186. Between collection periods, all waste/recyclable materials generated on site must be kept in enclosed bins with securely fitting lids so the contents are not able to leak or overflow. Bins must be stored in the designated waste/recycling storage room(s) or area(s) between collection periods.

Reason: To ensure waste is adequately stored within the premises.

Putrescible Waste

187. All putrescible waste shall be removed from the site with sufficient frequency to avoid nuisance from pests and odours.

Reason: To ensure provision of adequate waste disposal arrangements.

Green Travel Plan

188. The Green Travel Plan, required by these conditions, shall be displayed through the commercial areas of the site.

Reason: To discourage trips by private vehicle.

Car Share

189. If one or more car share provider accepts the applicant's offer of a car share space, at least one (1) car share space shall be provided to the preferred operator on the site for as long as the car share operator would like to occupy the space or as otherwise agreed by Council's DTSU Manager.

Reason: To comply with Council's parking requirements.