



## **SYDNEY CENTRAL CITY PLANNING PANEL**

### **COUNCIL ASSESSMENT REPORT**

|  |  |
|--|--|
| <b>Panel Reference</b>   | 2018CCI023   |
| <b>DA Number</b>   | DA/843/2018  |
| <b>LGA</b>   | City of Parramatta   |
| <b>Proposed Development</b>  | Demolition, tree removal and construction of a 4 storey Residential Flat Building comprising 22 units over 1 level of basement parking.<br>The application is to be determined by the Sydney Central City Planning Panel.  |
| <b>Street Address</b>  | 18-20 Irving Street, Parramatta NSW 2150<br>Lot 30 DP 2633, Lot 1 DP 830369  |
| <b>Applicant</b>   | NSW Land and Housing Corporation   |
| <b>Owner</b>   | NSW Land and Housing Corporation   |
| <b>Date of DA lodgement</b>  | 4 December 2018  |
| <b>Number of Submissions</b>   | Thirteen (13)  |
| <b>Recommendation</b>  | Refusal  |
| <b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>             | Pursuant to Section 4.7 of the Environmental Planning and Assessment Act 1979 (at the time of lodgement), the development is a Crown Development with a Capital Investment Value greater than \$5 million.   |
| <b>List of all relevant s4.15(1)(a) matters</b>                                    | <ul style="list-style-type: none"><li>• Environmental Planning and Assessment Act 1979</li><li>• Environmental Planning and Assessment Regulations 2000</li><li>• SEPP (Infrastructure) 2007</li><li>• SEPP (State and Regional Development) 2011</li><li>• SEPP (Sydney Harbour Catchment) 2005</li><li>• SEPP (Vegetation in Non-Rural Areas) 2017</li><li>• SEPP No. 55 (Remediation of Land)</li><li>• SEPP (Affordable Rental Housing) 2009</li><li>• SEPP No. 65 (Design Quality of Residential Apartment Development)</li><li>• Parramatta Local Environmental Plan 2011</li><li>• Parramatta Development Control Plan 2011</li></ul> |
| <b>List all documents submitted with this report for the Panel's consideration</b> | Attachment 1 – Architectural Drawings<br>Attachment 2 – Landscape Drawings<br>Attachment 3 – Civil & Stormwater Drawings<br>Attachment 4 – Design Excellence Jury Review<br>Attachment 5 – Applicant External Shading Justification  |
| <b>Report prepared by</b>  | Jonathan Cleary<br>Team Leader – Development Assessments   |
| <b>Report date</b>   | 4 September 2019   |

### 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**

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### 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**

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### 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**

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### Special Infrastructure Contributions

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

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### Conditions

Have draft conditions been provided to the applicant for comment? **N/A**

## **1. Executive summary**

The proposal provides for the demolition of all existing structures and construction of a four (4) storey residential flat building comprising twenty-two (22) residential units over one (1) level of basement parking.

The application is made pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009.

The site is constrained primarily by flooding however it is considered that sufficient evidence has been provided that this risk can be managed appropriately.

Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments has identified fundamental issues of concerns. The application is therefore not satisfactory when evaluated against section 4.15 of the Environmental Planning and Assessment Act 1979.

This report recommends that the Panel:

- Support the recommendation to refuse the application subject to the reasons for refusal in Schedule 1 of Attachment-B.

## **2. Key issues**

- a. Building height;
- b. Variations to DCP controls;
- c. Variations to the ADG; and
- d. Insufficient information;

## **3. Site context**

The site is comprised of two allotments, being No. 18 and No. 20, location on the eastern side of Irving Street, Parramatta. The site has an approximate area of 1,280.3m<sup>2</sup> with a 30.48 metre frontage.

The site accommodates two detached dwelling houses with no other significant improvements.

The Site has a slope of approximately 4% from the western, front boundary to the eastern, rear boundary of the site.



**Figure 1:** Aerial View of Site Context. Site outlined in Yellow. Source: Geocortex



**Figure 2:** Aerial View of the Site. Site outlined in Yellow. Source: GeoCortex 2019

The site adjoins the James Ruse Drive / Victoria Road exit as illustrated in Figure 2 above.

The Site is within an existing residential area comprised of primarily detached dwelling houses notwithstanding the high density zoning. Figure 3 below indicates the approved residential flat buildings in close proximity of the site.



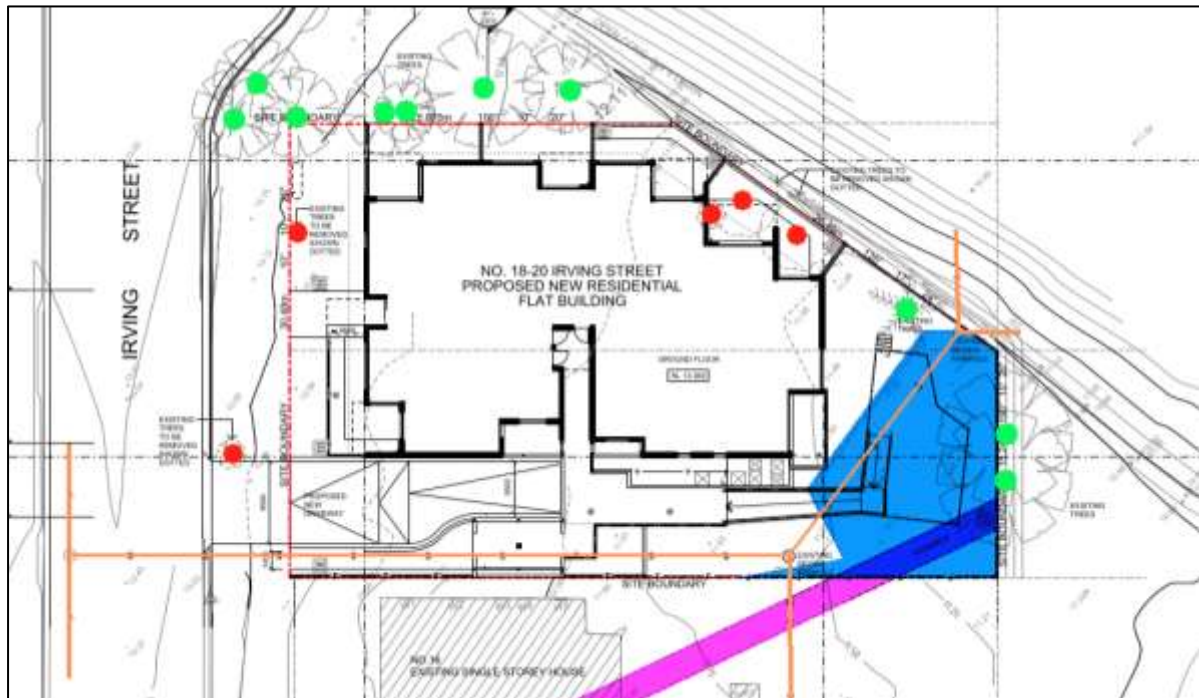


**Figure 3:** Aerial view of the area indicating location of approved and constructed residential flat buildings.

Given this, the locality is undergoing a transition from a low density to a high density residential area.

Figure 4 below indicates the locations of:

- the 1.8-metre wide council-controlled stormwater easement (pink),
- the 1% AEP overland flow path (blue),
- trees and shrubs to be removed (red), and
- trees to be retained (green).
- Sydney Water sewer infrastructure (orange)



**Figure 4:** Annotated Site Plan

## 4. Background

On 12 June 2018, a pre-lodgement meeting with the Parramatta Design Excellence Advisory Panel was held for PL/87/2018. At this meeting, the proposed design was granted a 'green light'. The architectural plans submitted with the development application do not vary significantly from the pre-lodgement plans.

On 4 December 2018, the subject development application was lodged with the City of Parramatta.

The application was advertised from 12 December 2018 to 14 January 2019 in accordance with the Parramatta DCP 2011.

On 7 February 2019, the application was referred to DEAP. The advice from DEAP is included in this report.

On 6 March 2019, the application was briefed to the Sydney Central City Planning Panel. The Panel noted the following:

- *Compatibility of the character test for the future area (will not meet the character test)*
- *Precedent would be set with 4 storeys where there are approved 3 storeys*
- *Appearance of the Street*
- *The panel is not convinced of the design approach to the 4th floor.*
- *The street setback should be increased for the 4th floor*

On 14 March 2019, a request for information was forwarded to the applicant requesting the deletion of the top floor and additional design concerns.

On 24 June 2019, following the submission of amended plans, the applicant was advised that Council will be recommending the application for refusal to the SCCPP. The applicant accepted Council's position.

## 5. The proposal

The proposal comprises the following primary elements:

- 4 storey Residential Flat Building comprising 22 units;
- 11 car spaces and 11 bicycle spaces within 1 level of basement;
- Removal of 3 trees from the site.

The proposed dwelling mix is as follows:

- 12 x 1 bedroom units;
- 10 x 2 bedroom units; and

The allocation of parking within the basement is proposed as follows:

- 11 residential car spaces including 4 accessible spaces

## 6. Public notification

The application was advertised 12 December 2018 to 14 January 2019. In response, thirteen (13) submissions including 1 petition with thirty (30) signatures was received.

The number of times an issue was raised in the submission is indicated below

|  |    |                     |   |                   |   |
|--|----|---------------------|---|-------------------|---|
| Traffic  | 10 | Property Values     | 1 | Pedestrian Safety | 6 |
| Noise & Disturbance  | 8  | Out of Character    | 7 | Setbacks          | 1 |
| Limited vehicle access through Pemberton & Tennyson Street | 5  | Future Occupant     | 5 | Safety            | 1 |
| Privacy to adjoining sites                                 | 5  | Ongoing Maintenance | 1 | Flooding          | 1 |
| Overshadowing  | 4  | Tree Removal        | 2 | Visual Character  | 5 |
| Dumping/ Waste Management                                  | 2  | Parking             | 9 | Height            | 5 |

## 7. Referrals

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

## 8. Environmental Planning and Assessment Act 1979

|  |            |
|--|------------|
| Does Section 3.25 (Significant effect on threatened species) apply ? | No         |
| Does Section 4.10 (Designated Development) apply ?                   | No         |
| Does Section 4.46 (Integrated Development) apply ?                   | <b>Yes</b> |
| Are submission requirements within the Regulations satisfied?        | Yes        |

## 9. Consideration of SEPPs

|  |  |
|--|--|
| Key issues arising from evaluation against SEPPs | <p>Non-compliances with the Apartment Design Guide however acceptable -</p> <p>Non-compliance with SEPP (Affordable Rental Housing) regarding character</p> <p>A detailed assessment is provided at <b>Attachment A.</b></p> |
|--|--|

## 10. Parramatta Local Environmental Plan 2011

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

**Table 1: LEP compliance**

|   | <i>Comment or non- compliances</i>  |
|---|---|
| Zones   | <ul style="list-style-type: none"> <li>R4 High Density Residential</li> </ul>   |
| Definition                                    | <ul style="list-style-type: none"> <li>Residential flat building</li> </ul>   |
| Part 2<br>Permitted or prohibited development | <ul style="list-style-type: none"> <li>Permissible in the zone</li> <li>Inconsistent with the zone objectives</li> </ul>  |
| Part 4<br>Principal development standards     | <ul style="list-style-type: none"> <li>Non-compliance – Clause 4.3 Building height<br/>The development standard is 11 metres.</li> </ul> <p>The maximum height of the building is 15.1 metres (non-compliance is 4.1 metres or 37.2%)</p> <p>A submission under clause 4.6 has been provided. The variation is not supported.</p> |



Part 5

Miscellaneous provisions

All relevant provisions satisfied

Part 7

Additional local provisions

All relevant provisions satisfied

## 11. Parramatta Development Control Plan 2011

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

**Table 2: DCP compliance**

| <i>Comment or non- compliance</i>            |   |
|--|---|
| Part B Section 5 – Residential Flat Building | Not consistent including: <ul style="list-style-type: none"><li>- Height</li><li>- Building Façade and Articulation</li></ul> |

## 12. Conclusion

The proposal fails to respond appropriately to the objectives and controls of the applicable planning framework, in particular, the proposal does not meet the desired future character of the local area, and is an overdevelopment of the site given the environmental constraints.

## 13. RECOMMENDATION

- A. **That** the Sydney Central City Planning Panel, exercising the functions of the consent authority, refuse DA/843/2018 for the demolition, tree removal and construction of 4 storey Residential Flat Building comprising 22 units over 1 levels of basement parking on land at 18-20 Irving Street, PARRAMATTA for the following reasons:
1. In accordance with Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, the proposal fails to achieve the design quality principles in Schedule 1 of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development with respect to Context and Neighbourhood Character, Built Form and Scale, Density, and Aesthetics;
  2. In accordance with Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act, the proposed development is not compatible with the character of the local area pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009;
  3. In accordance with Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act, the proposal does not achieve the objectives of the R4 – High Density Residential zone of the Parramatta Local Environmental Plan 2011;

4. In accordance with Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act, the proposal does not comply with Clause 4.3 Height of Building of the Parramatta Local Environmental Plan 2011;
5. In accordance with Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act, the proposal fails to provide sufficient justification to vary the development standards pursuant to Clause 4.6 of the Parramatta Local Environmental Plan 2011;
6. In accordance with Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act, the proposal fails to comply with the Parramatta Development Control Plan 2011 with respect to building height and building façade and articulation;
7. In accordance with Section 4.15 (1)(a)(iv) of the Environmental Planning and Assessment Act, insufficient information was submitted pursuant to Schedule 1 of the Environmental Planning and Assessment Regulation 2000 including an explanation of how the design principles of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development are addressed in the development.
8. In accordance with Section 4.15 (1)(c) of the Environmental Planning and Assessment Act, the site is not considered suitable for the proposed development;
9. In accordance with Section 4.15 (1)(e) of the Environmental Planning and Assessment Act, the proposal is not in the public interest.

## ATTACHMENT A- PLANNING ASSESSMENT

DA No.

843/2018

### 1. Overview

This Attachment assesses the relevant matters for consideration under section 4.15 of the Environmental Planning and Assessment Act, as noted in the table below:

**Table 1 : Matters for Consideration**

| <i>Provision</i>   | <i>Comment</i>            |
|--|---------------------------|
| Section 4.15(1)(a)(i) - Environmental planning instruments | Refer to section 3 below  |
| Section 4.15 (1)(a)(ii) - Draft planning instruments       | Not applicable            |
| Section 4.15 (1)(a)(iii) - Development control plans       | Refer to section 4 below  |
| Section 4.15 (1)(a)(iiia) - Planning agreements            | Refer to section 5 below  |
| Section 4.15 (1)(a)(iv) - The Regulations                  | Refer to section 6 below  |
| Section 4.15 (1)(a)(v) - Coastal zone management plan      | Not applicable.           |
| Section 4.15 (1)(b) - Likely impacts                       | Refer to section 7 below  |
| Section 4.15 (1)(c) - Site suitability                     | Refer to section 8 below  |
| Section 4.15 (1)(d) – Submissions                          | Refer to Section 9 below  |
| Section 4.15 (1)(e) - The public interest                  | Refer to section 10 below |

The following internal and external referrals were undertaken as part of the consideration of plans under appeal.

**Table 2: Referrals**

|                                 |   |
|---------------------------------|---|
| Landscape                       | No objections subject to conditions                   |
| Catchment Engineer              | No objections subject to conditions                   |
| Traffic                         | No objections subject to conditions.                  |
| City Architect                  | Supported with amendments required.                   |
| Urban Design                    | No objections subject to submission of amended plans. |
| Environmental Health – Acoustic | No objections subject to conditions.                  |
| Environmental Health – Waste    | No objections subject to conditions.                  |
| NSW RMS                         | No objections subject to conditions                   |

## **2. Integrated Development**

The application was accompanied by a Geotechnical Investigation which identified the presence of groundwater and typically triggers integrated development under the Water Management Act 2000 pursuant to Division 4.8 of the Environmental Planning and Assessment Act 1979.

Pursuant to Section 4.44 of the Act, Division 4.8 does not apply to development made on behalf of the Crown unless the development requires a heritage approval.

The application does not require a heritage approval.

## **3. Environmental planning instruments**

Compliance with these instruments is addressed below.

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

- A Site inspection reveals the site does not have an obvious history of a previous land use that may have caused contamination;
- Historic aerial photographs were used to investigate the history of uses on the site;
- A search of Council records did not include any reference to contamination on site or uses on the site that may have caused contamination;
- A search of public authority databases did not include the property as contaminated;
- The Statement of Environmental Effects states that the property is not contaminated; and
- There is no specific evidence that indicates the site is contaminated and is suitable for the residential use.

Therefore, in accordance with Clause 7 of the State Environmental Planning Policy No 55—Remediation of Land, the land is suitable for residential use. The site does not require a Phase 1 site analysis under the SEPP.

### **3.2 State Environmental Planning Policy (Infrastructure) 2007**

The provisions of State Environmental Planning Policy (Infrastructure) 2007 has been considered in the assessment of the proposed residential flat building.

#### **Clause 102 – Impact of road noise or vibration on non-road development**

The application was accompanied by an acoustic report which considered the impact of road noise on the operation of the child care centre.

The acoustic report considered the existing acoustic environment and recommends additional glazing to the bedroom and living room units on all facades to achieve better acoustic amenity within the development.

Council's Environmental Health Officer has reviewed the recommendations of the acoustic report and raises no additional concerns to the proposal.

A condition of consent is recommended that the development is certified by a suitably qualified acoustic consultant prior to the occupation of the building.

### 3.3 State Environmental Planning Policy – BASIX

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

### 3.4 State Environmental Planning Policy (Vegetation in non-rural areas) 2017

The application has been assessed against the requirements of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017. This Policy seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The application proposed the removal of 3 trees from the site identified as:

| Tree No. | Name                        | Common Name      | Location                      |
|----------|-----------------------------|------------------|-------------------------------|
| 9        | <i>Washingtonia robusta</i> | Mexican Fan Palm | Adjacent to northern boundary |
| 10       | <i>Citrus x limon</i>       | Lemon Tree       | Adjacent to northern boundary |
| 11       | <i>Washingtonia robusta</i> | Mexican Fan Palm | Adjacent to northern boundary |

The application proposes the retention of the trees on the adjoining property to the north:

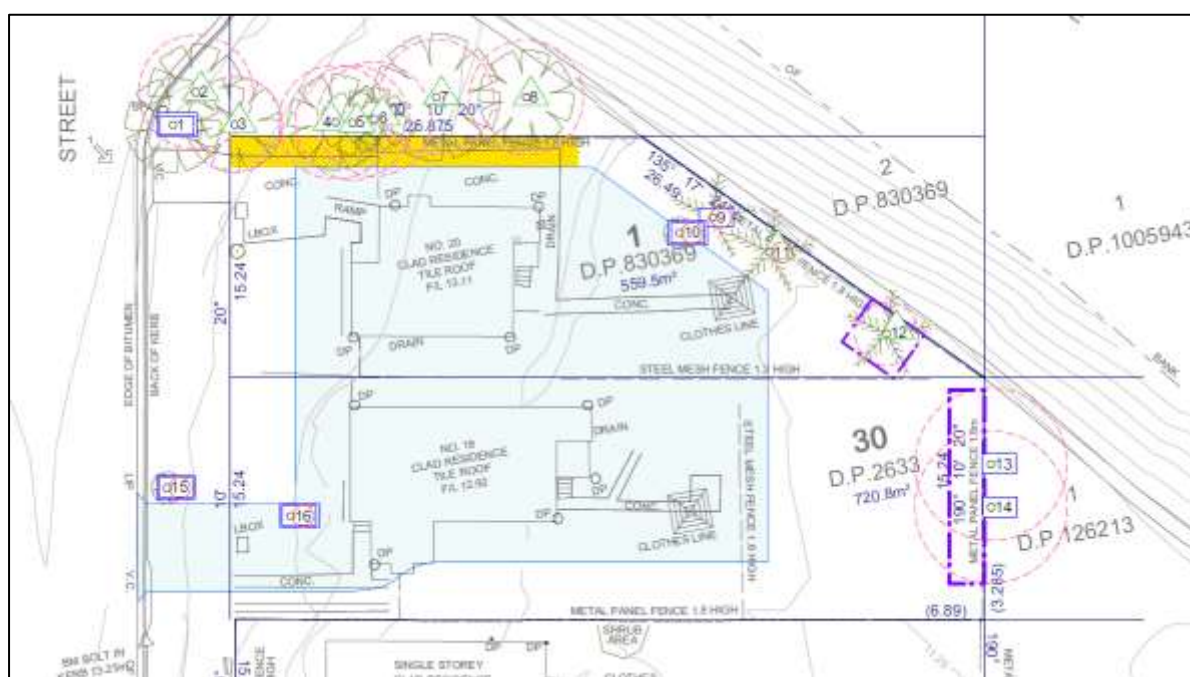


Figure 5: Tree Management Plan (Naturally Trees 2018)



Council's Tree and Landscape Officer supports the removal of these trees subject to the retention and protection of the trees located on the adjoining site.

Subject to conditions for replanting and the protection of the remaining trees on the adjoining site, and replanting of street trees, the application meets the aims of the SEPP.

### **3.5 State Environmental Planning Policy (Sydney Harbour Catchment) 2005 (Deemed SEPP)**

The application has been assessed against the requirements of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. This Policy provides general planning considerations and strategies to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained.

The submitted stormwater plans submitted with the application are considered suitable and include Water Sensitive Urban Design details in compliance with Council's requirements.

If the application were to be supported, subject to appropriate conditions of consent for the implementation of installation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would have minimal potential to impact on the Sydney Harbour Catchment.

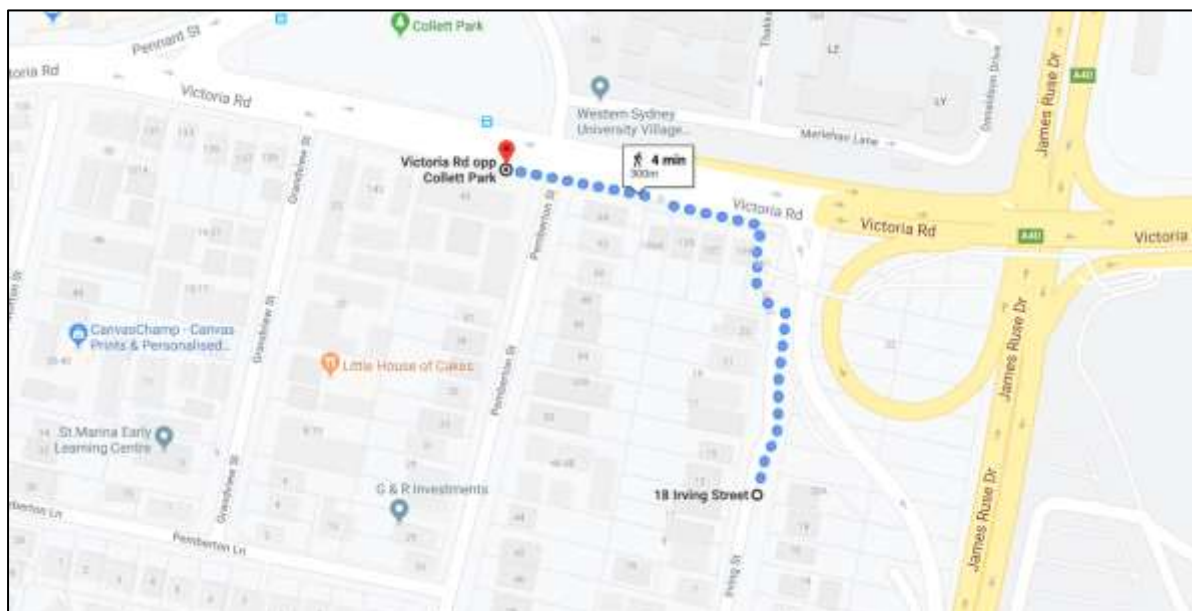
### **3.6 State Environmental Planning Policy (Affordable Rental Housing) 2009**

#### Accessible Area

SEPP (Affordable Rental Housing) 2009 applies to sites located within an **accessible area** defined as:

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

The site is located approximately 300 metre walking distance to the nearest bus stop with the required frequency.



**Table 3: SEPP (Affordable Rental Housing) compliance**

| <b>SEPP (Affordable Rental Housing) 2009</b> |  |  |                              |
|--|--|--|------------------------------|
| <b>Subject</b>                               | <b>Control</b>   | <b>Proposal</b>  | <b>Compliance</b>            |
| <b>Cl. 13<br/>Floor Space<br/>Ratio</b>      | <p>If the maximum floor space ratio is 2.5:1 or less:</p> <p>(i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or</p> <p>(ii) Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent, where:</p> <p><b>AH</b> is the percentage of the gross floor area of the development that is used for affordable housing.</p> <p><b>Y = AH ÷ 100</b></p> | <p>The applicant proposes to allocate 100% of the development to Affordable Rental Housing which would result in a maximum FSR of 1.3:1.</p> <p>The proposal indicates an FSR of 1.25:1.</p> | <b>Yes</b>                   |
| <b>Cl. 14(1)(b)<br/>Site Area</b>            | Minimum 450m <sup>2</sup>  | Site Area 1,280.3m <sup>2</sup>  | <b>Yes</b>                   |
| <b>Cl. 14(1)(c)<br/>Landscaped<br/>Area</b>  | Minimum 35m <sup>2</sup> per dwelling (770m <sup>2</sup> )   | 16.45m <sup>2</sup> per dwelling (362m <sup>2</sup> )  | <b>No<br/>But acceptable</b> |

The proposal does not achieve the minimum requirements for the provision of landscaping as per Clause 14(c)(i) of the SEPP requiring 35m<sup>2</sup> of landscaping per dwelling where the application is made by a social housing provider.

As a percentage of the site, the control requires the provision of 60% landscaping which is considered unrealistic given the size and permissible development types.

Hypothetically, if the number of units were to be reduced so that the proposed amount of landscaping (362m<sup>2</sup>) is compliant, the development would be reduced to 10 dwellings, or 2 storeys if the same footprint were to be maintained. This is considered unrealistic in an area that permits up to a 3 storey development.

Additional landscaping, albeit not deep soil, could be provided on the rooftop, however the NSW LAHC policies restrict the provision of communal open space on rooftop.

As addressed later in this report, the development generally complies with the SEPP 65 ADG design requirements so the footprint of the development is not considered oversized.

|                                    |  |  |            |
|------------------------------------|--|--|------------|
| <b>Cl. 14(1)(d)</b>                | Minimum 15% (192m <sup>2</sup> )   | 21.8% (280m <sup>2</sup> )                             |            |
| <b>Deep Soil Zones</b>             | Min Dimension 3m<br>2/3 located at rear (126m <sup>2</sup> )   | Min Dimension 3m<br>216m <sup>2</sup> provided at rear | <b>Yes</b> |
| <b>Cl. 14(1)(e)</b>                | 70% receive 3 hours  | 72.7% receive 3 hours of sunlight                      | <b>Yes</b> |
| <b>Solar Access</b>                |  |  |            |
| <b>Cl. 14(2)(a)</b>                | 0.4 / 1 bedroom = 4.8 spaces   | 11 spaces provided                                     | <b>Yes</b> |
| <b>Car Parking</b>                 | 0.5 / 2 bedroom = 5 spaces   |  |            |
| <b>Cl. 14(2)(b)</b>                | 50m <sup>2</sup> / 1 Bedroom   | 1 Bedroom min 52m <sup>2</sup>                         | <b>Yes</b> |
| <b>Dwelling Size</b>               | 70m <sup>2</sup> / 2 Bedroom   | 2 Bedroom min 70m <sup>2</sup>                         |            |
| <b>Cl. 16A</b>                     | The consent authority must consider whether the design of the development is compatible with the character of the local area | See discussion below                                   | <b>No</b>  |
| <b>Character of the local area</b> |  |  |            |

Clause 16A of SEPP (ARH) states “A consent authority must not consent to development to which this Division applied unless it has taken into consideration whether the design of the development is compatible with the character of the area”.

In considering the character of the local area, the Land and Environment Court planning principle, Project Venture Developments Pty. Ltd. V Pittwater Council [2005] NSWLEC 191 is used to define the local character.

### **1. Identifying the local area**

This assessment identified the local area as primarily the visual catchment of the site (as viewed from within the site and directly adjacent to the site on the street) which is shown in Figure 6 below:



Figure 6: The 'local area' as considered by Council.

## 2. Determine the character (present and future) of the local area

### Present Character

The historic subdivision of Tennyson Street (DP7941) and Irving Street (DP2633) as shown in the Figures below:

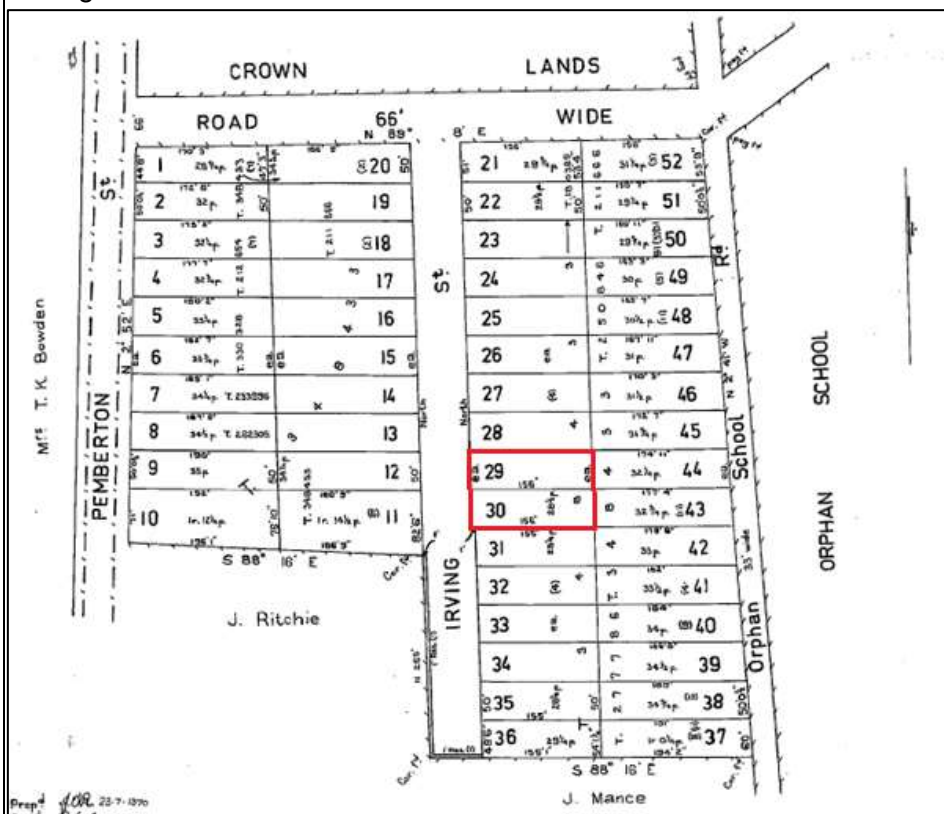
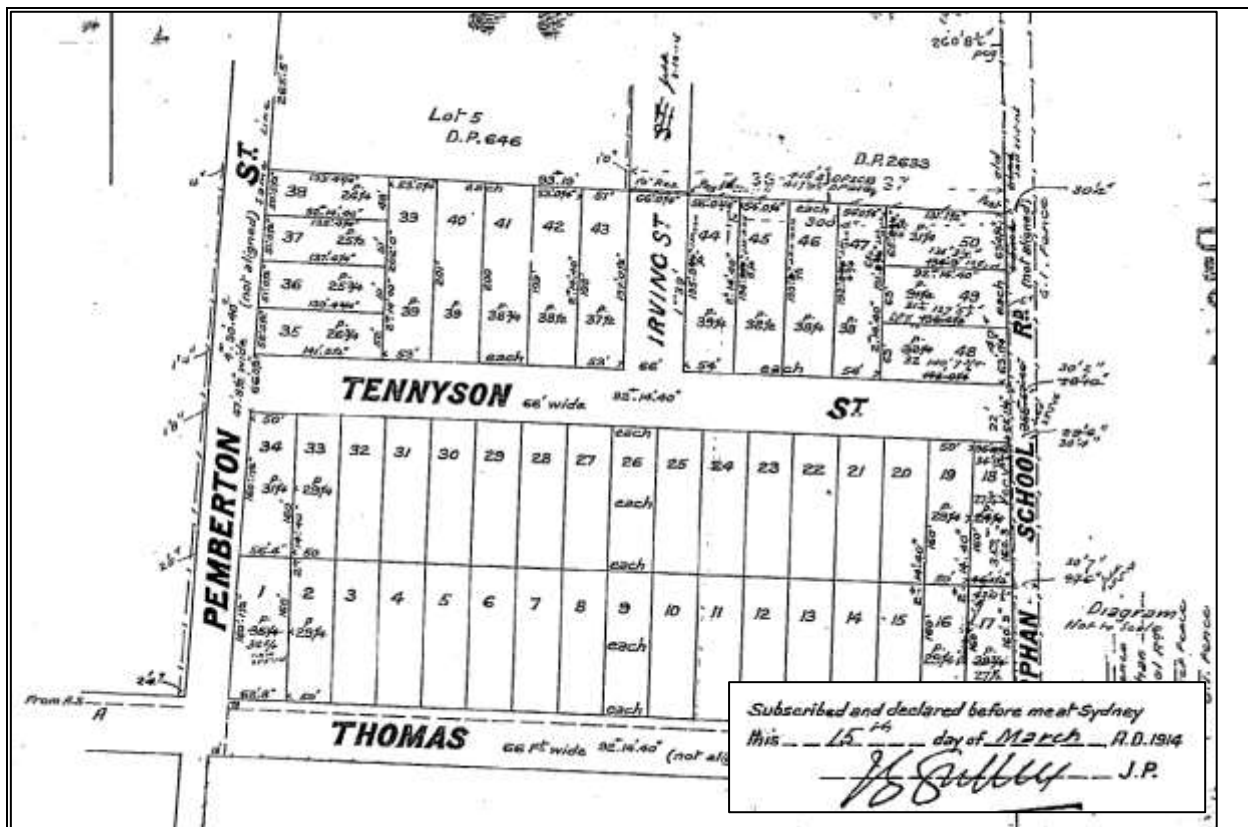


Figure 7: Extract of DP 2633



**Figure 8:** Extract of DP7941

This area within Parramatta has historically been in the form of detached houses on large allotments (740m<sup>2</sup>-970m<sup>2</sup>) each on its own parcel of land.

At the adoption of the Parramatta Local Environmental Plan 2011, the zoning of the site and surrounds changed from 2(b) Residential to R4 High Density Residential while some areas retained a similar R3 Medium Density Zoning.

Since that time, a number of development applications have been lodged and determined for residential flat buildings, and some remain under assessment.

Of particular note are three approved residential flat buildings within the visual catchment of the site, being No. 22-24 Tennyson Street, No. 26 Tennyson Street, and No. 17-19 Irving Street, Parramatta.

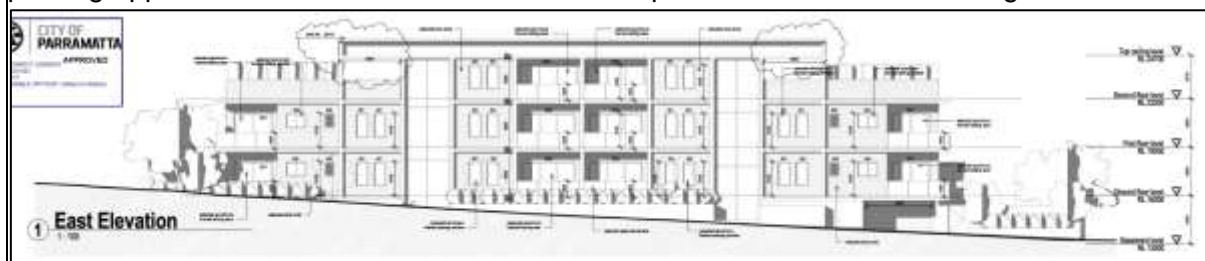
No. 22-24 Tennyson Street is a 3 storey residential flat building comprising 20 units over basement parking approved under DA/524/2012. See Figure 9 below:





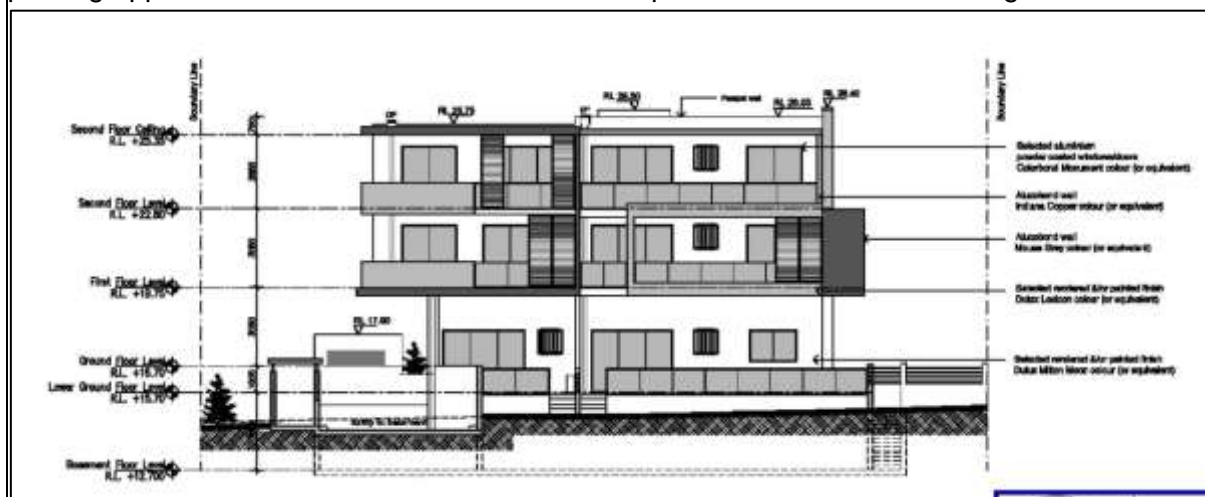
**Figure 9: 22-24 Tennyson Street – 3 storey RFB – No Affordable Housing**

No. 26 Tennyson Street is a 3 storey residential flat building comprising 10 units over basement parking approved under DA/141/2014 and subsequent modifications. See Figure 10 below:



**Figure 10: 26 Tennyson Street – 3 Storey RFB – No Affordable Housing**

No. 17-19 Irving Street is a 3 storey residential flat building comprising 17 units over basement parking approved under DA/221/2016 and subsequent modifications. See Figure 11 below:



**Figure 11: 17-19 Irving Street – 3 Storey RFB – No Affordable Housing**

In detail, the remaining detached dwelling house stock interspersed with multi-dwelling housing developments in the surrounding area retains its general character. The existing dwelling houses are generally setback between 5-9 metres with some variation depending on the age of the dwellings and orientations of the site.

In terms of approved residential flat building at No. 22-24 Tennyson Street, and No. 17-19 Irvin Street, the approved front setback are 6 metres and 7.5 metres, respectively. The approved and constructed residential flat building at No. 26 Tennyson Street, being an individual allotment with two street frontages, has more varied setbacks up to 5 metres from the primary frontage and 2 metres from the secondary frontage.

The setbacks provided by the existing developments within the area and approved residential flat buildings allow for deep soil landscaping and unencumbered private open space.

### **Future Character**

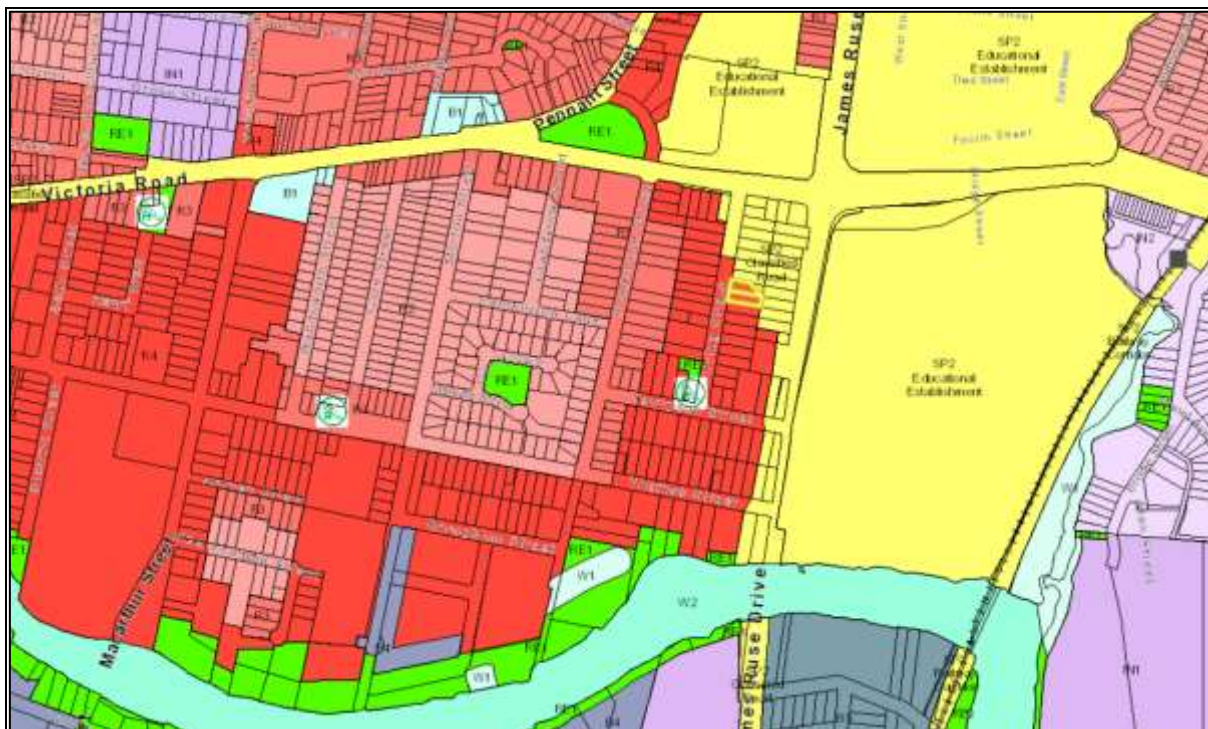
The future character of the area is best determined by consideration of the planning framework that applied to the site under Environmental Planning Instruments and Development Control Plans that are presently in force.

In this area, the relevant controls are SEPP 65 (and the ADG), SEPP (ARH), Parramatta LEP 2011, and Parramatta DCP 2011. In terms of building envelope, the Parramatta LEP 2011 defines the permitted building types, permitted uses, building heights, and maximum floor space ratio, while the ADG and Parramatta DCP 2011 defines building setbacks and desired site design. SEPP (ARH) provides a degree of flexibility in floor space ratio for developments which incorporate affordable housing.

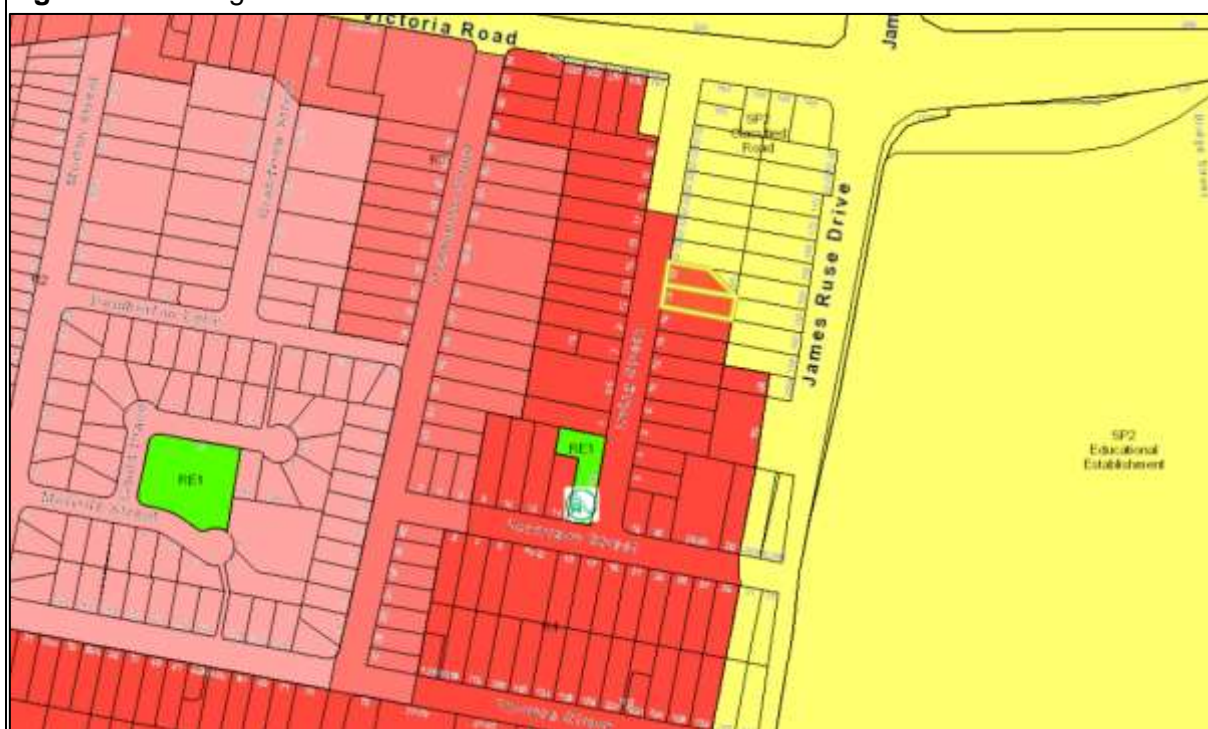
In terms of assessing the desired future character of an areas, zoning, maximum height, floor space, and setbacks are the most deterministic controls with respect to likely planning outcomes. Zoning defines the likely building typology, whereas height, floor space, and setbacks define the size and setting of buildings.

### *Zoning*

Part 2 of the Parramatta LEP 2011 defined the zoning that applies to any given precinct or site. As shown in the figure below, the zoning of the site and around the affected property is R4 High Density Residential with a transitional area of R3 Medium Density Residential to the east under the Parramatta LEP 2011.



**Figure 12:** Zoning of the broader area



**Figure 13:** Zoning of the site.

As indicated in Figure 12 and 13 above, the site forms part of a larger rezoned area which directly relates to the Western Sydney University campus to the west of the site and generally the Parramatta CBD.

The R3 Medium Density zone is positioned in such a way to provide a transition from the high density residential environment to the low density residential zoning around the state heritage listed *Macarthur House* located at No. 8 Melville Street, Parramatta.

### *Maximum Height and Maximum Gross Floor Area controls*

The key controls defining the permitted size of a building are the height of buildings and floor space ratio controls contained in Clause 4.3 and 4.4 of the Parramatta LEP 2011. This site within the Tennyson/Irving Street R4 zoned area have a maximum building height of 11 metre (which equates to 3 storeys in the high density residential context and limited by the Parramatta DCP 2011).

The sites in the Tennyson/Irving Street area therefore share a consistent height limit.



**Figure 14:** Extract of Building Height as per Parramatta LEP 2011.

However, as shown in Figure 15 below, the maximum floor space ratio in the area varies significantly and increases towards the Morton Street Precinct located to the south-west of the site.





**Figure 15:** Extract of FSR as per Parramatta LEP 2011

The subject site has a maximum floor space ratio of 0.8:1 with reducing floor space ratios to the west towards the R2 zoned area around *Macarthur House*.

In terms of setbacks and general building envelope controls applying to the site, these are defined principally the Apartment Design Guide.

This control, along with the zoning and height controls, shows the subject site is likely to have development of a similar nature and scale to the sites around it, being a 3 storey residential flat building which provides a transition in scale between the university and the Morton Street precinct.

#### *Setbacks and other building envelope controls*

Section 3.1.3 of the DCP provided envelope controls for residential flat buildings within the R4 zones being:

- 24 metre site frontage;
- A maximum of 3 storeys;
- A 5-9 metre setback to Irving Street;
- Side setbacks of 4.5 metres to walls and 6m to windows as per the ADG; and
- Rear setback of 7.12m (15%).

The development form expected from the above is in the form of a low scale residential flat building in a landscaped setting. Presently, development on the site is in the form of two, single storey, small-scale dwelling houses with generous private open space areas.

**Determine if the development is compatible with the character of the local area.**



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

- *Are the proposal’s physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*

The above question is relatively objective. Physical impacts generally include privacy, overshadowing, visual bulk and compatibility in the streetscape.

Generally, the development does not have a detrimental impact on the privacy or solar access to the adjoining developments. However, the fourth storey results in unacceptable visual bulk to the adjoining residential developments and within the streetscape.

It is considered that in the current environment, the site is not constrained by developments on the immediately adjoining sites as no applications have been lodged or approvals granted to high density residential developments.

The development is generally able to provide the required setbacks as envisioned by the planning controls in a high density residential environment.

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

The above question is relatively subjective. To be compatible, a development should contain or at least respond to the essential elements that make up the character of the surrounding area.

Historic and recent development in the precinct, and the planning controls applying to the precinct, seek a form of development where the buildings are not visually dominating and are set in the landscape. In this, building height is particularly important in ensuring appropriate compliance is achieved.

The form proposed is not consistent with the character. The proposal significantly exceeds the maximum building height allowable for this site. If the development were reduced by one level in compliance with the Parramatta DCP, the maximum height of building would no longer be exceeded.

An assessment of the nearby developments indicate that they are all compliant with respect to building height. The 11 metre building height is considered sufficient to comfortably allow a three storey residential flat building on a flat site including lift overrun. In this instance, the site experiences a gentle slope to the rear which may require the lift overrun to exceed the maximum building height if the lift is located centrally to the building.

The site, being at the northern end of Irving Street, would be more dominant when travelling north along Irving Street. Due to the existing and approved residential flat building within both Irving Street and Tennyson Street, the additional height proposed would be more obvious within the streetscape.

In conclusion, the height and number of storeys of the building, combined with the additional floor space ratio provided under SEPP (Affordable Rental Housing) 2009 will result in a development out of character with the increasingly high density environment.

In summary, the development is generally compliant with the numerical controls of the ARH SEPP, however fails in meeting the character of the local area and is not supported.

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

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

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

#### Design Excellence Advisory Panel (DEAP)

The development application was considered by DEAP at its meeting of 7 February 2019. The DEAP notes are provided below with the applicant's response to each item:

| <b>DEAP's Comment 7 February 2019</b>   | <b>Applicant's Response 27 May 2019</b>   |
|---|---|
| <i>1. The Panel noted that the applicant has attended a previous pre lodgement DEAP meeting where two options were presented. Option 1 was ultimately supported by the Panel for further development and has now been submitted as a DA.</i>                              | Noted   |
| <i>2. The Panel noted in the pre lodgement that additional height may be considered appropriate in this context as the site is located at the end of the street and has no northern neighbours given the adjoining tree covered embankment and off ramp.</i>              | Noted   |
| <i>3. The additional height has been incorporated into this current submission. Whilst the Panel still feels the additional height is reasonable given the context, Council planners cannot support the proposal at this current time.</i>                                | Noted. Revised plans have been submitted to address Council's concerns regarding the proposed height.   |
| <i>4. Council planners have also raised concerns regarding a minor setback non-compliance along the front western boundary due to a projecting front balcony for Units 101 and 201. The applicant has agreed to revise this in the resubmission. The projecting entry</i> | Units G01, 101 & 102 have been redesigned to ensure that balconies to Units 101 & 201 comply with the minimum setback of 5 metres to Irving Street, as shown on the revised Floor |

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| <p><i>canopy was deemed not to be an issue however. The Panel did not have concerns regarding this matter due site context, however notes Council's position..</i></p>   | <p>Plans (refer to Drawings No. ar-1201, ar-1202 &amp; ar-1203, Revision a03)</p>   |
| <p>5. <i>The Panel noted the awkward configuration of the recessed balconies for Unit L101 and units above, with difficult access off the living areas and limited use possible due to proximity of the bedrooms. An alternative layout is recommended.</i></p>          | <p>The internal layout of Units 101 &amp; 201 have been reconfigured and the balconies have been further recessed to improve the connection between living areas and balconies (refer to the revised floor plans, Drawing Nos ar-1202 &amp; ar-1203, Revision a03). It is not anticipated that the proximity of the second bedrooms will limit the use of balconies.</p>  |
| <p>6. <i>The Panel would like to see an indication of how services, potential substation and waste handling to the street will be dealt with.</i></p>  | <p>Provision for services risers and cupboards have been taken into consideration and are shown on the submitted plans. All roof rainwater outlets (RWOs) will either be discharged through internal risers or downpipes located on balconies. No other extremal services reticulation will be provided on the building facades, other than balcony drainage.</p> <p>A copy of the supply connection offer and design brief are submitted and confirm that an onsite substation is not required. An existing power pole substation located in Irving Street will be upgraded for new connection as shown on the submitted drawing.</p> <p>The proposed garbage storage area is easily accessible from the lifts and secondary pedestrian entry to enable convenient use. Signage will clearly define the general waste and recycling areas, as well as bulk waste storage area within the garbage facility with clear instructions shown. Bins will be wheeled manually from the garbage storage area to the kerbside by Land and Housing Corporation (LAHC) contractors for Council pickup on collection days. LAHC contractors will be responsible for washing and returning the bins to the garbage storage area after collection.</p> |
| <p>7. <i>Whilst BCA compliance matters are generally not raised in DEAP meetings it is noted that the windows and doors along the northern boundary are considered to require fire rating due to their proximity to the boundary. This poses a potential amenity</i></p> | <p>A preliminary Fire Engineering Report has been prepared by Code Performance which provides a fire safety engineering analysis and assessment of the proposed building and verifies compliance of the</p>   |

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| <p><i>issue for the Panel however the applicant has noted that this will be deal with under the provision of alternative solutions</i></p>   | <p>Performance Solutions developed with the relevant Performance Requirements of the National Construction Code, Volume 1 Building Code of Australia (BCA).</p> <p>A Performance Solution has been developed to address the non-compliances with the Deemed-to-Satisfy (DTS) provisions of the BCA relating to the protection of openings, as detailed in the Fire Engineering Report. The report verifies that the relevant BCA Performance Requirements have been addressed.</p>   |
| <p>8. <i>The Communal Open Space located in the back of the site in close proximity to Units G05, G06, 105, 106, 205 and 206. The acoustic impact of the space on these units could result in a loss of amenity for the occupants. The Panel recommends that a window treatment be introduced to address the issue. An angled acoustic barrier could be considered to the proposed window openings and may also assist in further articulating the eastern façade.</i></p> | <p>As recommended by the submitted Acoustic Impact Assessment prepared by Rodney Stevens Acoustics, windows and sliding doors to the eastern facade of units which face the communal open space will have a minimum glazing rating of between Rw24 (eg. 4mm clear glass with acoustically sealed frame) and Rw26 (eg.5mm clear glass with acoustically sealed frame). All proposed windows and sliding doors will be installed with appropriate acoustic seals. Landscaping is proposed between the communal open space and units at the rear of the building which will also assist in providing an acoustic buffer. It is suggested that any additional acoustic treatment could be addressed as a condition of consent if considered necessary.</p> |
| <p>9. <i>Further to this, external sun shading devices should be incorporated into the architecture for currently unprotected west facing windows.</i></p>   | <p>Western facing windows have been sized and positioned to ensure optimal solar access in winter and minimise heat gain in summer. The submitted BASIX and NatHERS assessment confirms that the proposed development achieves an average 7.4 Star rating, which is well above LAHC's minimum requirement and common practice. In this regard, it is considered that the provision of external sun shading devices to western facing windows is not required. However, if considered necessary it is suggested that this requirement could be addressed as a condition of consent.</p>   |

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| <p>10. <i>The Panel suggests a bump space could be incorporated in the proposal opposite the mailboxes to encourage social interaction.</i></p>  | <p>In LAHC's experience, the provision of a 'bump space' that is accessible from the public realm can result in people congregating around the entry to the development which may cause nuisance to residents entering the building and can create adverse amenity impacts for dwellings located at the front of the site. It is considered that the communal open space area located at the rear of the development provides a more appropriate space with seating to encourage social interaction.</p> <p>In this regard, LAHC would prefer not to install any seating near the entry, however if considered necessary it is suggested that this requirement can be addressed as a condition of consent.</p> |
| <p>11. <i>The current floor to floor height is shown at 3000mm and the Panel recommends a minimum of 3050mm to allow for the coordination of services and structure whilst not impacting on the required ceiling levels.</i></p>   | <p>As shown on the revised Elevations and Sections, the floor to floor height has been adjusted to 3050mm as requested, i.e. 50mm added to the height of each floor, equal to 200mm in total (refer to Drawing Nos ar-2600 and ar-2601, Revision a03, and Drawing Nos ar-2200, ar2201 and ar-2202, Revision a02). The top of the roof parapet has been reduced by 200mm to maintain the proposed building height as per the originally submitted design to avoid any potential additional amenity impacts to surrounding properties.</p>   |
| <p>12. <i>The Panel reviewed the landscape plans prepared by <b>dem</b> dated 14th Sept 2018 and has the following recommendations:</i></p> <p>(a) <i>The Panel supports the overall landscape principles and landscape response to the site. The use of an elevated deck structure in the communal open space is supported, in order that the root zones of the retained existing trees are protected. The detailed design and location of the structure and footings near or within the root protection zones shall be in accordance with the Arborist report.</i></p> <p>(b) <i>This recommendation also applies to the private decks in the north eastern corner of the site</i></p> | <p>Noted</p> <p>Noted</p>  |



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| <p>(c) <i>The southern concrete pathway and deck could be reduced in width to 1.2m in order to augment the area of landscape (currently under the DCP requirement).</i></p>   | <p>As suggested, the northern concrete pathway has been reduced in width to 1.2m as shown on the submitted Ground Floor Plan and Landscape Plan (refer to Drawing No. ar-1201, Revision a03, and Drawing No. la-0501, Revision A06)</p>  |
| <p>(d) <i>The design of the large communal deck could be improved, with further thought given to the addition of attractive seating alcoves and a more appropriate location/configuration for the 'vegetable garden' planters.</i></p>  | <p>The design of the communal deck has been revised as shown on the submitted Ground Floor Plan and Landscape Plan (refer to Drawing No ar-1201, Revision a03, and Drawing No la-0501, Revision A06).</p>  |
| <p>(e) <i>The steps down to the ground level may have to be relocated to avoid the root zone of the existing tree at the east boundary. An option is to move the western access ramp and communal deck a little further south, away from the private balconies and existing tree.</i></p> | <p>The steps from the communal deck to the ground level have been relocated as shown on the submitted Ground Floor Plan and Landscape Plan (refer to Drawing No ar-1201, Revision a03, and Drawing No la-0501, Revision A06). The location of the communal deck has been designed to provide optimal separation from the adjoining property to minimise any potential impacts and allow for extensive landscaping along the common boundary.</p>   |
| <p>(f) <i>Advanced sized shrub planting is to be installed adjacent to the rear of the building to overcome the fact that they are to be planted in the ground and not in a raised planter.</i></p>   | <p>Proposed shrubs located to the rear of the building will be installed at 200mm pot sizes which are considered to be advanced sized. Landscaping to the rear of the building also includes 3 Blueberry Ash that are capable of reaching a mature height of 6m. These trees will be installed at 75L pot sizes and have been strategically located to provide a pleasant outlook from windows and balconies facing the rear of the site. It is suggested that any additional specifications regarding plant sizes could be addressed as a condition of consent if considered necessary.</p> |
| <p>(g) <i>Incorporate outdoor safety lighting and install hose cocks and irrigation for the extensive planting beds and movable planters.</i></p>   | <p>Noted. Details of outdoor safety lighting, hose cocks and irrigation will be provided at tender documentation stage. It is suggested that these requirements could be addressed as a condition of consent.</p>  |

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| <p>13. <i>In relation to detailed design and layout of private balconies, the Panel recommends that:</i></p> <p>(a) <i>HVAC equipment should preferably be grouped within designated screened plant areas either on typical floors or on roof-tops.</i></p> <p>(b) <i>Wall mounted equipment (e.g. instantaneous gas HW heaters) and associated pipework is concealed into wall cabinets and ducts</i></p> <p>(c) <i>If service equipment is located on private balconies, additional area above ADG minimums should be provided.</i></p> <p>(d) <i>Rainwater downpipes are thoughtfully designed and integrated into the building fabric.</i></p> <p>(e) <i>The above items should be positioned so that they are not visible from common areas or the public domain adjacent to the development.</i></p> <p>(f) <i>Balustrade design must address visual screening of large items typically stored on balconies, for example BBQ's, clothes drying devices and bicycles.</i></p> | <p>Air-conditioning is not provided as part of the proposed development.</p> <p>Noted. A central gas hot water system is proposed within a plant room located on the top floor (refer to Level 3 Plan, Drawing No ar-1204, Revision a02).</p> <p>Noted. No service equipment is proposed on private balconies.</p> <p>All roof RWOs will either be discharged through internal risers or downpipes located on balconies. Proposed downpipes will be discreetly located to minimise any potential visual impacts.</p> <p>Noted</p> <p>Balustrades to balconies facing Irving Street or the communal open space area will comprise perforated metal panels to ensure privacy and screening of large items. Clotheslines will be mounted at balustrade height to avoid any visual impacts.</p> |
| <p>14. <i>Active ESD provisions such as rainwater recycling, solar power and solar hot water were not discussed at the meeting, however it is assumed that at a minimum these measures will be included in the development.</i></p>  | <p>The proposed development incorporates the installation of a solar photovoltaic system for common area lighting, as shown on the revised Roof Plan (refer to Drawing No ar-1205, Revision a02).</p>   |
| <p>15. <i>The Panel recommends that annotated 1:20 scale cross-sections and details of all proposed façade types and materials are included with the DA submission and form part of the consent documentation</i></p>  | <p>Noted. Refer to submitted Wall Detail Sections (Drawing No ar-4200, Revision a01).</p>   |

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| 16. <i>Given the site context, sections and elevation drawings should be extended to include the embankment and off ramp to further assist in the applications assessment.</i> | Noted. Refer to submitted Sections (Drawing Nos ar-2201, Revision a02 & ar-2202, Revision a02). |
|--|---|

#### Planners Comments:

With respect to Item 3, Council notes the Panel's support for the fourth storey, however pursuant to Clause 4.6 of the Parramatta LEP 2011, Council does not support the proposed variation.

Following the submission of amended plans and documentation, the development is considered to achieve design excellence despite the non-compliance with the development standards in the Parramatta LEP 2011.

#### Design Quality Principles

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

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

**Table 4: Response to SEPP 65 design principles**

| <b>Principle</b>   |
|--|
| <p><b>Context and neighbourhood character</b></p> <p>It is noted that a residential flat building development with an appropriate scale and appropriate design could meet the context and neighbourhood character of the precinct. The proposed development, being a residential flat building, meets this principle, however fails to meet the objectives and controls of the Parramatta LEP and Parramatta DCP due to its bulk and scale as discussed late in this report and is not supported.</p>  |
| <p><b>Built form and scale</b></p> <p>The proposed scale, bulk and height is not considered appropriate for the area. The proposal exceeds the maximum building height allowable under the Parramatta LEP.</p> <p>The site is bound to the north and east by classified roads, and the south and west by existing residential dwellings and existing local roads. It is considered that the site is not significantly restricted which limits the achievement of the height of buildings development standard.</p> <p>The proposal does not appropriately address the constraints of the site and is beyond the scale envisioned for the area.</p> |
| <p><b>Density</b></p> <p>The application fails to demonstrate how the proposed density is appropriate to the site and context given the extent of the non-compliance with building height and nearby developments. The proposed dwelling density is not supported and does not meet the Density Principle.</p>   |

**Sustainability**

Energy and water efficiency targets under SEPP (BASIX) 2004 are achieved.

The design is consistent with best practice design criteria for cross ventilation and solar access under the ADG.

**Landscape**

The proposal provided sufficient and appropriate landscaping within the site with opportunities for larger trees within the side setbacks and at the rear.

The application adequately meets the requirements of the Landscaping Principle.

**Amenity**

The proposal achieves the requirements of the ADG with respect to the solar access and ventilation.

The internal amenity of each unit is generally acceptable with no acute angles and unusable corners within bedrooms and living spaces.

The common internal circulation corridors are legible without many corners. Waste disposal is via a chute system to the basement and recycling bins on each floor.

The development is considered to achieve the Amenity Principle.

**Safety**

Windows and units are generally orientated outward of the development which increase the potential for passive surveillance of the existing and future public domain within the roadway.

The landscaping on site is designed to provide a clear delineation between public and private spaces without blocking views to the public domain from the site.

The development is considered to achieve the Safety Principle.

**Housing Diversity and Social Interaction**

The application does not provide any 3 bedroom units in the housing mix. Although typically this would not be supported, in this instance, the specific requirements of the NSW Land and Housing Corporation and demand statistics provided indicate a significantly higher demand for 1 and 2 bedroom units rather than 3 bedrooms.

Opportunities are provided in site, particularly within the communal open space, for social interaction.

The proposal is considered to achieve the Housing Diversity and Social Interaction principle.

**Aesthetics**

The exceedance in building height of the development results in a building out of proportion with the nearby development.

Despite the use of varied finishes and materials within the development, the overall aesthetic of a poorly proportioned building does not achieve this principle.

As the application was not accompanied by a response to the above design principles, Council is not in a position to support the application.

Apartment Design Guide

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

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

**Table 5: Response to ADG**

| Apartment Design Code   |   |                            |                                |   |            |
|---|---|----------------------------|--------------------------------|---|------------|
| Subject   | Control   |                            |                                | Proposal  | Compliance |
| Communal Open Space (COS)   | 25% (320m <sup>2</sup> ) of site<br><br>Developments achieve a min. of 50% direct sunlight to the principal useable part of the COS for a min. 2 hours between 9am and 3pm, mid-winter. |                            |                                | (26.1%) 334m <sup>2</sup> Communal Open Space provided.<br><br>The COS will receive more than 3 hours during the winter solstice  | Yes        |
| Deep Soil Zones   | 7% (90m <sup>2</sup> ) of site<br>Min. dimensions of 3m   |                            |                                | Plans indicate deep soil area principally at the rear<br><br>Total provided: 21.8% (280m <sup>2</sup> ) at the eastern, rear setback with some additional deep soil located within the front setback. | Yes        |
| Visual Privacy/ Building Separation   |   |                            |                                | <u>South</u><br>Balcony for Unit X06 to boundary = 7.2 metres<br><br><u>North</u><br>Reduced setbacks to the north to allow for greater southern separations.   | Yes        |
| Building Height   | Habitable to Habitable  | Non-habitable to Habitable | Non-habitable to Non-habitable |   |            |
| up to 12m (4 storeys)   | 12m   | 9m                         | 6m                             |   |            |
| In this instance, the application proposed reduced northern setbacks to allow for greater building separation to the southern boundary.   |   |                            |                                |   |            |
| The site adjoins a classified road to the north and the reduced setback would not affect the development potential of any other site.   |   |                            |                                |   |            |
| The increased southern setback may result in greater development potential on the southern properties due to more than half the separation distance being provided on the subject site. |   |                            |                                |   |            |
| Parking   | SEPP (ARH) provided the following parking rate:<br><br>0.4 / 1 bedroom unit<br>0.5 / 2 bedroom unit   |                            |                                | 11 spaces are proposed including 4 accessible spaces.<br><br>Development application as lodged had compliant parking. Following amended   | Yes        |

|   |   |   |                          |
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|   | When the application is made on behalf of a social housing provider.<br><b>Total = 10 spaces</b>  | plans which resulted in a change to the unit mix, the development now provided 1 space in excess.   |                          |
| <b>Solar Access</b>                     | Living rooms and private open space of at least 70% of apartments in a building receive a min. 2 hours of direct sunlight between 9am and 3pm on 21 June<br><br>A max. of 15% of apartments in the building receive no sunlight between 9am and 3pm at mid-winter | 19/22 apartments receive 2 hours of sunlight (86.4%).<br><br>All units receive some sunlight  | Yes                      |
| <b>Natural Ventilation</b>              | At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building   | 14/22 apartments under level 9 are naturally cross ventilated (63.6%)   | Yes                      |
| <b>Ceiling Heights</b>                  | Habitable rooms 2.7m<br>Non-habitable 2.4m  | Section and floor plans indicate a floor-to-floor height of 3050mm.<br><br>The development may potentially accommodate a 2.7 metre floor to ceiling height depending on how services are installed. | Yes                      |
| <b>Apartment Size &amp; Layout</b>      | 1 bedroom 50m <sup>2</sup><br>2 bedroom 70m <sup>2</sup>  | 1 bedroom 50m <sup>2</sup><br>2 bedroom 70m <sup>2</sup> (min.)   | Yes                      |
|   | Master bedrooms have a min. size of 10m <sup>2</sup> & other bedrooms 9m <sup>2</sup> (excluding wardrobe space)<br>Min dimension 3m  | Bedroom sizes achieve the minimum dimensions and sizes.   | Yes                      |
|   | Living rooms or combined living/dining rooms have a minimum width of:<br>- 3.6m for studio and 1 bedroom apartments.<br>- 4m for 2 and 3 bedroom apartments.  | All min. dimensions provided  | Yes                      |
| <b>Noise and Pollution</b>              | Rooms with similar noise requirements are grouped together  | Bedrooms are located next to the living rooms of adjoining apartments.<br>Noise attenuation requirements in the BCA would alleviate these concerns.   | <b>No But acceptable</b> |
| <b>Private open space and balconies</b> | All apartments are to have primary balconies as follows:<br>1 bedroom: 8m <sup>2</sup> , min. 2m depth  | All units achieve the minimum dimensions  | Yes                      |



|                           |  |   |     |
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|                           | 2 bedroom: 10m <sup>2</sup> , min. 2m depth<br>3 bedroom: 12m <sup>2</sup> , min. 2.4m depth   |   |     |
|                           | Ground floor units are to have private open space as follows:<br>15m <sup>2</sup> , min 3m depth   | All ground floor units with direct access to ground level receive adequate POS. | Yes |
| <b>Common Circulation</b> | Max. number of apartments off a circulation core on a single level is 8.   | Max. 6 apartments accessed of a dual lift/stair core                            | Yes |
| <b>Storage</b>            | In addition to storage in kitchens, bathrooms and bedrooms, the following storage is required:<br>Studio: 4m <sup>3</sup><br>1 bedroom: 6m <sup>3</sup><br>2 bedroom: 8m <sup>3</sup><br>3 bedroom: 10m <sup>3</sup> | Adequate storage provided to each unit.   | Yes |

### 3.8 Parramatta Local Environmental Plan 2011

#### 3.8.1 Zoning and permissibility

The Site is zoned R4 'High Density Residential'.

The proposed use meets the definitions of '*residential flat building*' and is permissible with consent in that zone.

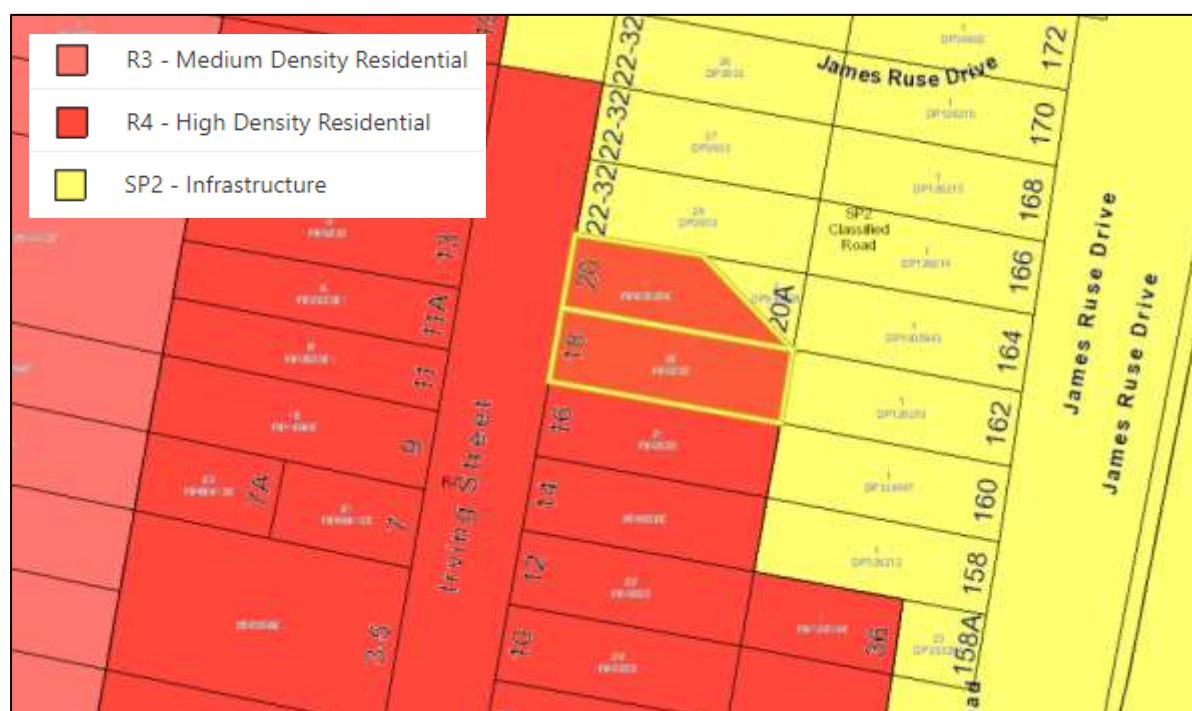
#### 3.8.2 Zone objectives

Clause 2.3(2) requires the consent authority to have regard to the zone objectives when determining a development application. The objectives for the R4 zone are:

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

The proposed development, being a residential flat building incorporating affordable housing, provides for the housing needs of the community. However the development exceeds the envisioned building heights as expected by both the Parramatta LEP and Parramatta DCP, therefore the development is not considered to be commensurate with the surrounding high density residential environment.

In this respect, the proposal fails to achieve the objective of the R4 High Density Residential zone to providing housing within a high density residential environment.



**Figure 16:** Extract of LEP Zone Map. Source: Geocortex

### 3.8.3 Remaining provisions

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

**Table 6: HLEP 2013 compliance table**

| Clause                               | Comment  | Complies   |
|--------------------------------------|--|------------|
| Clause 2.7<br>Demolition             | The application includes the demolition of all existing improvements on the site.  | <b>Yes</b> |
| Clause 4.3<br>Building height        | The mapped control is 11m.<br>The building would have a maximum height of 15.1 metres.<br><b>Variation</b> = 4.1 metres or 37.3%   | <b>No</b>  |
| Clause 4.4<br>Floor space ratio      | Maximum FSR 0.8:1 which equates to 1,024.24m <sup>2</sup> of gross floor area.<br>The building has an FSR of 1.25 which equates to 1598m <sup>2</sup> of GFA.<br>An FSR bonus of up to 0.5:1 is provided under SEPP (ARH). | <b>Yes</b> |
| Clause 4.6<br>Exceptions to standard | The application relies upon this clause to allow the exceedance of the height as noted above. See assessment following at the end of this table.   | <b>Yes</b> |

|   |  |            |
|---|--|------------|
| Clause 5.1<br>Relevant acquisition<br>authority | No land acquisition applies to the land.   | <b>N/A</b> |
| Clause 5.10<br>Heritage                         | The site is not a listed heritage item, nor is it within a conservation area.<br><br>No heritage items in the immediate locality.  | <b>N/A</b> |
| Clause 6.1<br>Acid sulphate soils               | The site is not affected by Acid Sulphate Soils.   | <b>N/A</b> |
| Clause 6.2<br>Earthworks                        | Consideration of potential impacts upon drainage patterns have been considered by Council's Development Engineer, who is satisfied the works can be managed without adverse impact.<br><br>Site works will not prejudice the future development of any adjoining land, or the amenity of that land.<br><br>Issues relating to soil quality are addressed via considerations of SEPP 55<br><br>No circumstances identified to indicate potential for disturbing relics. | <b>Yes</b> |
| Clause 6.3<br>Flood Planning                    | The site is identified a flood prone.<br><br>The application was supported by an overland flood study which was considered by Council's Senior Catchment Engineer.<br><br>In summary, the impacts of the flood on the development and impacts of the development on the flood are manageable with no post-development high hazard flooding on site.  | <b>Yes</b> |

### 3.8.4 Clause 4.3 Height of Buildings

Clause 4.3 of the Parramatta LEP 2011 provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 11m. The application proposes a maximum height of 15.1m. The applicant was accompanied by a Clause 4.6 Statement which is discussed below.

| LEP Height of Building | Proposed Height | Exceedance          |
|------------------------|-----------------|---------------------|
| 11 metres              | 15.1 metres     | 4.1 metres or 37.3% |

### 3.8.5 Clause 4.6 Exceptions to development standards – Building Height

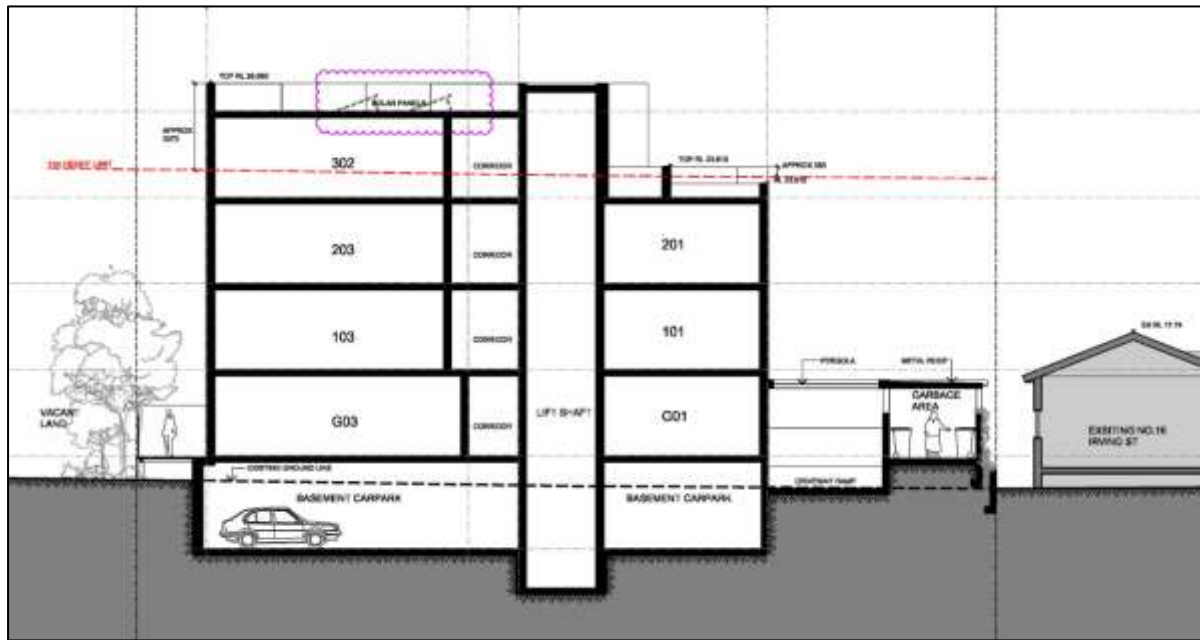
Clause 4.3(2) of the Parramatta LEP 2011 identifies a site on which a building is to be erected shall not exceed 11 metres in height. The application proposes a maximum building height of 15.1 metres, which is a variation of 4.1 metres or 37.3%. See Figure 17, 18, 19 and 20 below:



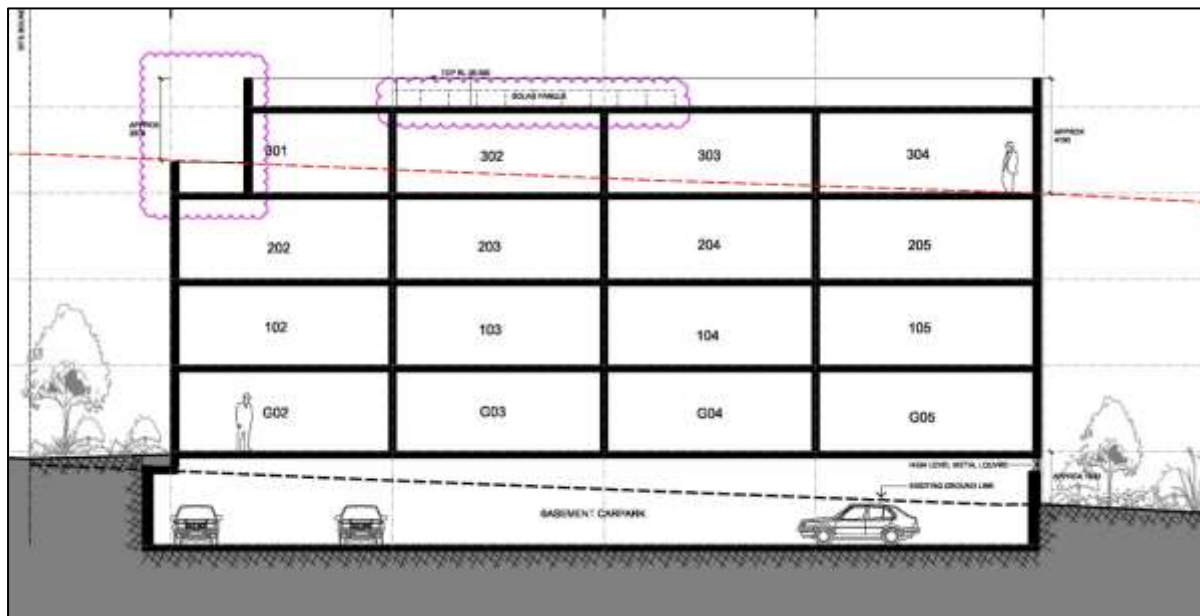
**Figure 17:** Extract of Western, front elevation showing areas of non-compliance



**Figure 18:** Extract of Southern, side elevation showing the area of non-compliance.



**Figure 19:** Extract of Section 4 showing exceedance in building height.



**Figure 20:** Extract of Section 3 showing exceedance in building height.

The applicant has submitted a written request seeking variation to the maximum building height prescribed by Clause 4.3, as required by Clause 4.6 of the Parramatta LEP 2011. Clause 4.6(2) provides that in certain circumstances, consent ...*may be granted for development even though the development would contravene a development standards imposed by this or any other environmental planning instrument.*

The objectives of Clause 4.6 are as follows:

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

Clause 4.6(3) prescribes

- (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.*

The departure from the maximum building height development standard is supported by a written request from the applicant under Clause 4.6 of the Parramatta LEP 2011 as follows:

- *The area has been an introduction of a number of medium density housing developments, including contemporary multi-dwelling housing and residential flat buildings. These indicate that the area is undergoing a transition from low density housing to medium density housing, particular evident along Irving and Tennyson Streets.*
- *The proposed development reflects the existing scale of surrounding residential flat buildings and will contribute to the medium density housing scale of this area of Parramatta. The design, scale and materiality of the proposed development is consistent with the character of the locality.*
- *The proposed development provides a transition in height to the adjacent property to the south as the building steps down from the 4-storey portion of the building, which is located to the north of the site, to the 3- storey portion of the building which is closer to the adjacent property and is compliant with the PLEP 2011 maximum building height of 11m.*
- *The expected impacts of the proposed development will not be noticeably different when compared to a development scheme under the 11 metre height control.*
- *Overshadowing impacts the adjacent property to the south only and impacts of the proposed development compared with a strictly complying development scheme will be minimal. Solar access is maintained to the back yard outdoor space of the neighbouring property for 50% of the day. The height non-compliance does not significantly increase overshadowing when compared to a complying development.*
- *In recent years, the area surrounding the site has seen an introduction of a number of medium density housing developments, and transition away from low density residential development. The proposed development will therefore contribute to the character of medium density development in this area of Parramatta.*
- *The building height non-compliance is therefore necessary to achieve a social housing development to the maximum density under the controls. The portion of the building above the 11m height largely comprises of wall, ceiling area and roof form of four (4)*



*apartments only. The additional height above the 11m control is required to achieve a full habitable floor with appropriate ceiling heights, as required by SEPP 65 and the ADG.*

- The proposed development provides for ceiling heights for habitable and non-habitable rooms in accordance with minimum requirements under the ADG. The proposed minimum floor-to-floor height will be 3m, which satisfies the recommended 2.7m minimum habitable room ceiling height and 2.4m minimum non-habitable room ceiling height.*
- it is considered that the development is consistent with this objective as the development has been designed to minimise visual impacts, privacy impacts, and loss of solar access on the residential property to the south and will not be noticeably different when compared to a development scheme under the 11 metre height control.*

In consideration of the variation to Clause 4.3 of the PLEP 2011, the following is noted:

- The elevation and sections plans in Figures 17, 18, 19 and 20 above, illustrates that the exceedance includes almost the entirety of the fourth floor including external walls, ceiling, and services.
- Using the finished floor level of the fourth floor as a guide (RL22.510), only a small portion (approximately 40mm of vertical height) of the third floor exceeds 11 metres.
- It is acknowledged that the City of Parramatta's Design Excellence Advisory Panel raised no design objection to the fourth floor. If the exceedance in building height were only within a lift overrun and rooftop plant equipment, the non-compliance would be acceptable.
- The deletion of the fourth floor (275m<sup>2</sup>) from the development would result in a total GFA of 1,323m<sup>2</sup> or an FSR of 1.03:1 which is still in excess of the maximum permissible under the Parramatta LEP (0.8:1) and includes a benefit of 0.23:1 under SEPP (ARH).

The Clause 4.6 statement and justification was considered against the following cases:

1. *Wehbe v Pittwater Council [2007] NSW LEC 827*

*Wehbe* requires that the applicant must argue, and the consent authority must be satisfied, that compliance with the development standard is unreasonable or unnecessary with the following test:

Compliance with the development standard is reasonable or unnecessary because

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) 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; or



The maximum building heights in the immediate surrounds and in the broader context provide a transition between the low density areas of Rydalmere and Telopea to the higher density areas closer to the Parramatta River. The building heights, when compared with the zoning maps, indicate a transition of heights towards *Macarthur House*.

In this instance, the additional height would be more appropriate further to the south, closer to the existing high density residential and mixed use developments at Morton Street.

The proposed additional height, being one of the furthest R4 zoned properties from the Morton Street development, is not the appropriate location to provide a transition in built form and land use intensity.

Therefore, Council considers that the development fails to achieve the first objective of Clause 4.3 of the Parramatta LEP 2011.

In consideration of the second objective, the following is noted:

- The development achieves more than the minimum building separation distances as required by the ADG;
- The shadow diagrams provided indicate that the overshadowing impacts of a compliant development would not be significantly better than the proposed development; and
- The subject site and the surrounding properties do not benefit from significant views or historic views which require protection.

Notwithstanding the above, the additional storey will be obvious within the built form, particularly when viewed from any future development at No. 16 Irving Street, or on the western side of Irving Street.

In this regard, Council considers that the development fails to achieve the second objective of Clause 4.3 of the Parramatta LEP 2011

2. *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245; *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61; and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130

*Al Maha* provides that the consent authority (or Commission in that instance) “*had to be satisfied that there were proper planning grounds to warrant the grant of consent, and that the contravention was justified*” [21].

*Baron* elaborates on *Al Maha* in that “*the consent authority’s consideration of the applicant’s written request, required under cl 4.6(3), is to evaluate whether the request has demonstrated achievement of the oncomes that are he matters in cl 4.6(3)(a) and (b). Only if the request does demonstrate the achievement of these outcomes will the request have “adequately addressed the matters required to be demonstrated” by cl. 4.6(3), being the requirement in cl. 4.6(4)(a)(i) about which the consent authority must be satisfied. The request cannot “adequately” address the matters required to be demonstrated by cl 4.6(3) if it does not in fact demonstrate the matter*” [78].

In *RebelMH*, the court found that “the primary judge addressed the principal argument advanced in the request to justify the contravention of the height development standard that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The primary judge was not satisfied that the argument in fact demonstrated that compliance with the development standard is unreasonable or unnecessary. On a proper construction of cl 4.6, he was entitled, indeed required, to do so. It was open to the primary judge to find that, by reason of that argument not demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case (the matter in cl 4.6(3)(a)), the request itself did not adequately address the matter required to be demonstrated by cl 4.6(3)(a).

In this instance, the applicant’s justification for the contravention of Clause 4.3 relies partially on the additional gross floor area granted under SEPP (ARH). In some instances, this would be acceptable, however in this instance, almost the entirety of the fourth floor would be above the 11 metre maximum building height. The deletion of the fourth floor would still allow for the development to take advantage of the SEPP (ARH) bonus up to 0.23:1.

The applicant’s justification also relies partially on the provision of social housing stating “the proposed building height exceedance will provide for four (4) social housing apartments, out of a combined total of twenty two (22) apartments. It therefore further increases the available social housing support, supported by the relevant strategic plans”. In Council’s view, this argument does not hold significant weight as a compliant development would provide sixteen (16) social housing apartments and continue to meet the aims and objectives of *Parramatta Affordable Housing Policy*, the NSW Government’s *Plan Future Directions for Social Housing in NSW*, the *Greater Sydney Region Plan 2018*, the *Central City District Plan 2018*.

The applicant’s justification relies partially on the topography of the site sloping to the rear resulting in a degree of exceedance. In Council’s view, the topography of the site may account for some of the exceedance in building height, however the extent of the non-compliance still remain even if the site were flat due to the development being a four storey building where the planning controls envision a three storey building.

In this instance, Council is satisfied that applicant’s Clause 4.6 Statement does not adequately address the matter in Clause 4.6(3) of the Parramatta LEP and has not provided a suitable argument as why the standard is unreasonable and unnecessary in this case or demonstrate sufficient environmental planning grounds to justify contravening the Height of Building development standard.

## **4. Parramatta Development Control Plan 2011**

### **4.1 Overview**

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the Parramatta Development Control Plan 2011 (PDCP). The following table sets out the proposal’s compliance with the prescriptive requirements of the Plan:

| CONTROL  | COMPLIANCE | DISCUSSION   |
|--|------------|--|
| <b>2.4.1 Views and Vistas</b>  |            |  |
| <i>Preserve significant features and areas of high visibility</i>  | N/A        | The site is not identified as containing significant views.  |
| <b>2.4.2.1 Flood affectation</b>   | Yes        | The site is identified as flood affected. The site is primarily affected at the rear of the site within the area identified for communal open space. Council's Senior Catchment Engineer has reviewed the proposal and supports the application subject to a number of conditions requiring the protection of the basement carpark up to the Flood Planning Level.                       |
| <b>2.4.2.2 Protection of Waterways</b><br><i>Does the site adjoin a waterway?</i>                          | N/A        | The site does not adjoin a waterway.   |
| <b>2.4.2.3 Protection of Groundwater</b><br><i>Is a basement car park proposed?</i>                        | Yes        | Council's Senior Catchment Engineer supports a basement car park in this instance however raises concerns with respect to the potential for ground and floor water to inundate the basement.<br><br>A condition of consent is recommended that the basement is of 'tanked' (waterproof) construction so there is no reliance on a pump out system to dispose of water from the basement. |
| <b>2.4.3.1 Soil Management</b><br><i>Are there adequate erosion control measures?</i>                      | Yes        | An erosion and sedimentation plan has been submitted with the application.   |
| <b>2.4.3.2 Acid sulfate soils</b>  | Yes        | Refer to LEP discussion above.   |
| <b>2.4.3.3 Salinity</b><br><i>Moderate, high or known salinity potential?</i>                              | Yes        | The site is of low salinity potential and accordingly salinity is unlikely to impact on the development. The landscaping is appropriate for the salinity hazard and appropriate conditions have been included in the recommended conditions.   |
| <b>2.4.4 Land Contamination</b>  | Yes        | Refer to assessment under SEPP 55 heading.   |
| <b>2.4.5 Air Quality</b><br><i>Will demolition and construction contribute to increased air pollution?</i> | Yes        | Standard conditions of consent will be applied to ensure the minimisation of potentially harmful airborne emissions.   |
| <b>2.4.6 Development on Sloping Land.</b>  | Yes        | The site experiences a gentle slope to the rear. The development does not include any significant excavation   |

| CONTROL  | COMPLIANCE | DISCUSSION   |
|--|------------|--|
| <i>Does the design of the development appropriately respond to the slope of the site?</i>  |            | within the habitable floors of the development to response to the slope. Notwithstanding the non-compliance with the building height development standard for the topmost floor, the lower three residential floors are appropriate. |
| <b>2.4.7 Biodiversity</b><br><i>Is vegetation removal appropriate?</i>   | Yes        | Council's Landscape Officer has assessed the following application and is supportive of the proposed tree removal, subject to conditions of consent.   |
| <b>2.4.7.2 Does the land abut the E2 Environmental Protection zone or W1 Natural Waterways zone</b>  | Yes        | The site does not adjoin land zoned E2 or W1.  |
| <b>2.4.8 Public Domain</b><br><i>Does the building address the public domain, provide appropriate passive surveillance opportunities, and have appropriate public domain enhancements?</i> | Yes        | The proposal adequately addresses Irving Street.<br>No specific public domain updates are proposed.  |
| <b>3. Preliminary Building Envelope</b>  |            |  |
| <b>Frontage</b><br><b>Minimum 18m if the development is more than 10 metres in height.</b>   | Yes        | 30.48m frontage.   |
| <b>Height (refer also to LEP table)</b><br><i>Does the proposal exceed the number of storeys outlined in the DCP height table?</i>   | No         | Please refer to Clause 4.6 variation under PLEP 2011 discussion.   |
| <b>Front Setback</b><br><b>Ground floor consistent with predominant street setback?</b><br><br>Residential component to be set back an additional two metres.                              | Yes        | Amended plans were submitted which increased the front setback to 5 metres in keeping with recent RB approvals.  |
| <b>Side Setback</b><br>Dependent on amenity impacts on adjoining developments.   | Yes        | Please refer to ADG discussion for side setbacks.  |
| <b>Deep Soil and Landscaping</b><br><br>Required to the rear setback if the site adjoins residential development or otherwise on merit.  | Yes        | Refer to previous ADG assessment.  |
| <b>3.2. Building Elements</b>  |            |  |



| CONTROL   | COMPLIANCE         | DISCUSSION   |
|---|--------------------|--|
| <b>3.2.1 Building Form and Massing</b><br><br><i>Height, scale and bulk consistent with existing or planned building patterns in the street?</i>  | No                 | <p>The proposed height, scale and bulk is not consistent with the existing or planned building patterns in the street.</p> <p>The site is not substantially constrained which prohibits compliance with the height, bulk and scale controls.</p>   |
| <b>3.2.2 Building Façade and Articulation</b><br><i>Does the building exceed the building envelope by more than:</i> <ul style="list-style-type: none"> <li>800mm for balconies and eaves:</li> <li>600mm for Juliet balconies and bay windows</li> </ul> <p>Are the building facades modulated in plan and elevation to reduce building bulk?</p> <p>Are Multiple stair lift/cores provided to encourage multiple street entries?</p>  | No                 | <p>The façade of the development includes multiple elements and is well modulated.</p> <p>Notwithstanding support from the Parramatta Design Excellence Advisory Panel, the additional level results in unacceptable perceived bulk and scale within the streetscape.</p>                                      |
| <b>3.2.3 Roof Design</b><br><i>Does that roof form minimise the bulk and scale of the building, and respond to the existing or planned form?</i>  | Yes                | <p>The roof itself, as distinct from the fourth floor, does not unnecessarily add to the bulk and scale of the development.</p>  |
| <b>3.2.5 Streetscape</b><br><br><i>Does the development respond to the existing or planned character of the street?</i><br><br><i>Are garages and parking structures dominant?</i><br><br><i>Are pedestrian or vehicular laneways activated?</i><br><br><i>Are the mail boxes visually integrated within the built form and conveniently accessed?</i><br><br><i>Does the development provide for active non-residential uses with at grade pedestrian access?</i><br><br><i>Minimal solid walls used on the ground floor shop front.</i> | Yes                | <p>The proposed development, being a four storey structure, does not meet existing or planned character of the street.</p> <p>The underground basement is not dominant in the streetscape and the portico over the entry reduces the dominance of the underground garage.</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> |
| <b>3.2.6 Fences</b>   | No but acceptable. |  |

| CONTROL   | COMPLIANCE | DISCUSSION  |
|---|------------|---|
| <i>Front fence a maximum height of 1.2 metres?</i>  |            | The application does not proposed a fence on the front boundary, however the proposed fence around the private open space of G01 is 1.8 metres set back 2.5 metres from the front boundary with landscaping provided in front.  |
| <b>3.3 Environmental Amenity</b>  |            |   |
| <b>3.3.1 Landscaping</b><br><i>Natural features retained and incorporated?</i><br><i>Minimum soil depth of 1m provided above basement?</i>  | Yes        | There are limited natural features existing on the site to be preserved. The proposal provides sufficient deep soil landscaping as per the ADG.   |
| <b>3.3.2 Private Open Space</b><br><i>Minimum of 10m² private open space with minimum dimensions of 2.5m per unit?</i>  | Yes        | The proposal provides sufficient private open space per unit as per the ADG.  |
| <b>3.3.2 Common Open Space</b>  | Yes        | Refer to previous ADG assessment.   |
| <b>Swimming Pool proposed?</b>  | N/A        | A swimming pool is not proposed.  |
| <b>3.3.3 Visual Privacy</b><br><i>Do balconies face the street or another element of the public domain such as a park?</i><br><br><i>Is a minimum building separation of 12m provided between habitable rooms/ balconies?</i> | Yes        | Balconies face front, rear, or northern boundary of the subject site  |
| <b>3.3.4 Acoustic Amenity</b><br><i>Does the dwelling adjoin a noise-generating land use?</i>   | Yes        | The site adjoins James Ruse Drive/Victoria Road off ramp.<br><br>The application was supported by an acoustic report which concluded that the development would achieve suitable acoustic amenity.<br><br>Council's Environmental Health Officer has reviewed the acoustic report and supports the recommendations. |
| <b>3.3.5 Solar Access</b><br><i>Will adjoining properties receive a minimum of 3 hours sunlight to habitable rooms and 50% of their private open space areas between 9am and 3pm on 21 June?</i>                              | Yes        | Complies  |
| <b>Cross Ventilation</b>  |            |   |

| CONTROL   | COMPLIANCE                      | DISCUSSION   |
|---|---------------------------------|--|
| <p>Minimum floor to ceiling height ground (3.3 metres) and upper levels (2.7m)</p> <p><i>Are 80% of dwellings naturally cross ventilated?</i></p> <p><i>Are single aspect apartments limited in depth to 8m from a window?</i></p> <p><i>Does the building have a maximum depth of 18m?</i></p> | Yes                             | <p>Achieves the requirements of the ADG.</p> <p>See previous ADG assessment.</p>   |
| <p><b>3.3.6 Water Sensitive Urban Design</b></p> <p><i>On-site detention system appropriately designed?</i></p>   | Yes                             | See Engineers comment in Referrals section.  |
| <p><b>3.3.7 Waste Management</b></p> <p><i>Is the waste management plan satisfactory?</i></p> <p><i>Is the bin room appropriately sized for the number of bins required?</i></p> <p><i>Will a private contractor be required to minimise bins on the street for pickup?</i></p>                 | Yes                             | Yes, a satisfactory waste management plan has been provided  |
| <b>3.4 Social Amenity</b>   |                                 |  |
| <p><b>3.4.1 Public Art – is an Arts Plan provided?</b></p> <p><i>(CIV of more than \$5,000,000.00, and located in CBD/town centre).</i></p>   | N/A                             | A Public Arts Plan is not provided.  |
| <p><b>3.4.2 Access for People with disabilities.</b></p> <p><i>Does the development contain adequate access for people with a disability?</i></p>   | Yes                             | Proposal contains three (3) adaptable units and suitable internal pathway grades   |
| <p><b>3.4.4 Safety and Security</b></p> <p><i>Has the development been designed in accordance with crime prevention principles?</i></p>   | Yes                             | The orientation of the building and location of living spaces and balconies allows for passive surveillance of Irving Street. A clear pedestrian entry allows for a more navigable development.              |
| <p><b>3.4.5 Housing Diversity and Choice</b></p> <p>Is the unit mix in accordance with the following:</p> <p>3 bedroom 10% - 20%</p> <p>2 bedroom 60% - 75%</p> <p>1 bedroom 10% - 20%</p> <p>Adaptable dwelling provision</p>  | <p>No</p> <p>But acceptable</p> | <p>Provided -</p> <p>12 x 1 bedroom units (54.5%)</p> <p>10 x 3 bedroom units. (45.5%)</p> <p>The demand requirements of the NSW LAHC indicate a deficit in single and two bedroom social housing units.</p> |

| CONTROL  | COMPLIANCE                                       | DISCUSSION  |
|--|--|---|
| Less than 10 units = 1<br>10-20 units =2<br>More than 20 units = 10%   |  |   |
| <b>3.5 Heritage and Archaeology</b><br>The site is not within a heritage conservation area or in the vicinity of a heritage listed item.   |  |   |
| <b>3.6.2 Sustainable Transport</b><br><i>Is a publicly accessible car share parking space required and provided, with evidence of an offer to car share providers?</i>             | Yes  | No shared parking space provided.   |
| <b>3.6 Parking Provision</b><br><i>Required parking:<br/>1 space per 1 bedroom<br/>1.25 spaces per 2 bedroom<br/>0.25 visitor space per unit<br/><br/>Total 36 spaces requires</i> | No<br>But acceptable as compliance with SEPP ARH | The application provides a total of 11 spaces within the basement. The allocation of spaces is considered appropriate in consideration of the basement design and location of parking spaces. |
| <b>3.6.3 Accessibility and Connectivity</b><br><i>Is a 3m wide pedestrian through link required and provided?</i>  | Yes  | No pedestrian through-link provided or required.  |

## 5. Planning agreements

No applicable planning agreements apply to the site or development.

## 6. Environmental Planning and Assessment Regulation 2000

This application satisfies relevant clauses of the Regulation as follows:

**Table 7: Relevant EPA Regulations**

|                 |   |
|-----------------|---|
| Clause 50(1)(a) | The nominated documentation is provided being <ul style="list-style-type: none"> <li>○ A design verification statement;</li> <li>○ Relevant drawings and montages</li> </ul> No explanation of the design in terms of the principles in SEPP 65 were submitted. |
| Clause 92       | Any demolition work will be undertaken in accordance with AS 2601 - 1991: The Demolition of Structures  |
| Clause 98       | All building work will be carried out in accordance with the provisions of the Building Code of Australia.  |

## **7. Likely impacts**

### **7.1 Site works**

#### Excavation

The development includes the excavation of three levels of basement for car parking. The geotechnical suitability of the site is considered suitable for the development.

#### Tree removal

The application proposes the removal of a number of trees from the site. The scheme makes satisfactory adequate arrangements for the re-landscaping of the private elements of the proposal however fails to proposed adequate landscaping to address the through-site link on the adjoining site.

#### Utility services

All utility services are available to the site by virtue of the existing development. Those services will be decommissioned / diverted as necessary to enable construction, and would be augmented as nominated by the relevant service providers to satisfy the demands generated by this proposal.

### **7.2 Natural and technological hazards**

#### Geotechnical

The proposal requires the excavation of one level of basement for parking. A geotechnical assessment was submitted with the application which indicates that the site is geotechnically suitable for the development,

### **7.3 Site design**

#### Setbacks

Notwithstanding the non-compliance with building height, the proposal achieves greater setbacks than required by the ADG to the neighbouring residential allotments.

#### Height, bulk and scale

The height of the building is not supported as previously discussed. The bulk and scale of the proposal is no consistent with the outcomes contemplated by the precinct planning controls and is not satisfactory on merit.

#### Presentation to Irving Street

Council's DEAP generally supported the proposal and the materials used subject to minor changes.

### External materials

The schedule of external materials and finishes is satisfactory.

### Accessibility

The application is supported by a technical report which concludes the proposal is able to achieve compliance with the requirements of the BCA and AS 4299, subject to resolution of nominated design matters.

### Landscaping

Council's Tree Management and Landscape Officer is generally satisfied with the landscape treatment.

## **7.4 Amenity considerations**

### Internal amenity

Generally, the internal amenity for the development is satisfactory noting the following:

- 63.6% of apartments benefit from cross ventilation;
- 86.4% of apartments receive more than 2 hours direct solar access between 9am and 3pm at midwinter
- Ceiling heights to habitable rooms are capable of achieving 2.7m.

### Common open space

The primary common open space is located at the rear of the site. Overall the development achieves the numerical requirements of the ADG for size (minimum 25% of the site area) and solar access (50% receiving 2 hours of solar access at midwinter).

## **7.5 Public domain**

### Built form relationship to public domain

The development would adequately address the public domain.

### Public domain works

No additional public domain works are required as part of this application.

## **7.6 Relationship to adjacent sites**

### Overlooking

The proposal achieves greater than the minimum separation distances as per the ADG.



### Overshadowing

The development would significantly overshadow the adjoining residential allotment, however a compliant development would similarly overshadow the adjoining site.

### Operational noise

The operational noise from the development would not be unreasonable within a high density residential environment.

### Lighting

Adequate lighting of street frontages will be necessary for pedestrian amenity and safety.

## **7.7 Access, transport and traffic**

### Parking supply

The parking provided exceeds the requirements of SEPP (Affordable Rental Housing).

### Parking access and design

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

A pergola over the driveway to minimise its visual impact from the street.

### Construction Traffic

No Construction Traffic Management Plan was provided with the application. A preliminary CTMP is required to consider, at a high level, the management of traffic during demolition, excavation, and construction including the parking of vehicles within the site.

## **7.8 Water management**

### Stormwater collection and disposal

The disposal of the stormwater is considered appropriate subject to conditions to relocate the OSD system so that it is not directly under a residential unit.

### Water quality during construction

Erosion and Sediment Control plans have been submitted and would form part of the approved plans if the application were to be supported.

## **7.9 Waste management**

### Construction phase

A Waste Management Plan detailing the management of waste during construction was provided.

#### Operation phase

A bin storage room is located adjacent to the driveway.

### **7.10 Construction Management**

A Construction Management Plan would typically be required to be prepared prior to the issue of a construction certificate addressing the following matters:

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

### **7.11 Safety, security and crime prevention**

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

Evaluation of the application with consideration of the principles which underpin CPTED (surveillance; access control; territorial reinforcement and space management) indicates the design has given due regard to many issues.

To ensure a suitable outcome is achieved, the following additional measures would be required:

- Internal and external lighting to Australian Standards;
- Installation of CCTV to the basement entry;
- Way finding measures within the parking level;
- The roller door to the basement /service entry to be closed;
- Pedestrian entry doors to be accessed by residents or visitors.

The matters listed above could be addressed by conditions.

### **7.12 Social and economic impacts**

No adverse impacts have been identified.

### 7.13 Site Isolation

The site would not isolate any adjoining property.

## 8. Site suitability

As addressed above, although suitable for residential flat buildings, the site is not suitable for this development given the following:

- The proposed development exceeds the height of buildings development standard of the Parramatta LEP 2011.

The site is capable of development for a residential flat building. However, as proposed the development is considered to be an overdevelopment of the site.

## 9. Public interest

### 9.1 Draft Greater Sydney Regional Plan and (Revised) Draft Central City District Plan

The *Greater Sydney Regional Plan* has been prepared by the Greater Sydney Commission to manage growth and change and guide infrastructure delivery over the next 40 years. The Plan sets a strategy for accommodating Sydney's future population growth and identified the need to deliver 817,000 new jobs and 725,000 new homes by 2036. The Plan identified the need for new housing within walking distance of a local or strategic centre and open space.

The Greater Sydney Commission will use the District Plans to inform Council's plans, guide assessment of local planning proposals, and information the delivery of infrastructure within the district. The City of Parramatta has been grouped with Blacktown, Cumberland, and The Hills Councils. The *Revised Draft Central City District Plan* will be reviewed with the on-going monitoring of housing supply to ensure planning controls are in place to stimulate housing development.

The proposed development is consistent with the *Greater Sydney Regional Plan* as it would provide 22 additional social housing dwellings but outside the LEP limits in terms of Height.

### 9.2 Public Notification

The application was advertised 12 December 2018 to 14 January 2019 in accordance with the Parramatta DCP 2011. In response, thirteen (13) submissions including 1 petition with thirty (30) signatures was received.

The issues raised in submission are addressed below:

| Issue              | Response   |
|--------------------|--|
| Traffic Generation | The application proposes a residential flat building within an area zoned for high density residential developments. The traffic generation from the |

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|  | rezoning of the area was considered at the time.<br>If the application were to be supported, conditions of consent would be recommended that a construction traffic management plan be prepared prior the commencement of work.  |
| Noise & Disturbance  | If the application were to be supported, conditions of consent would be recommended that the site is appropriately managed during construction and during occupation.  |
| Limited vehicle access through Pemberton & Tennyson Street | Council's Traffic Engineers have reviewed the proposal and support the capacity of the road to accommodate the development.<br>It should be noted that the proposed development, albeit larger than the envisioned planning controls, is a high density development within an already zoned high density precinct. |
| Privacy to adjoining sites                                 | The development provides greater than the required setbacks as required by the ADG.<br>The proposal provides adequate privacy to the adjoining properties in a high density residential zoned area.  |
| Overshadowing  | The shadows cast by the proposal are commensurate with a high density residential environment.   |
| Dumping/ Waste Management                                  | The NSW Land and Housing Corporation would be responsible for the ongoing management of the site, including the dumping of waste within the site.<br>If the application were to be approved, conditions of consent   |
| Property Values  | Not a matter for consideration.  |
| Out of Character   | Council generally agrees that the development is out of character with the area  |
| Future Occupant  | The future occupants of the apartments would be managed by NSW Land and Housing Corporation  |
| Ongoing Maintenance  | The ongoing management of the site would be managed by NSW Land and Housing Corporation.   |
| Tree Removal   | The removal of the trees has been considered by Council's Tree and Landscape Officer and is supported.   |
| Parking  | The site benefits from the reduced parking rate as per SEPP (ARH) while also being in an accessible area.<br>In this instance, as the site is owned and managed by a social housing provider, the minimum parking rate is reduced further.   |
| Pedestrian Safety  | Irving Street is not currently serviced by a footpath on either side of the street.<br>If the application were to be approved, a condition of consent would be recommended that a footpath be  |

|                  |   |
|------------------|---|
|                  | constructed along the frontage of the site in accordance with Council's Standard Drawings. It is envisioned that footpaths would be constructed along Irving Street as the area continues to redevelop.         |
| Setbacks         | The setbacks of the development are consistent with the expected form of development for a residential flat building in this area.  |
| Safety           | The on-going management of the site would be through NSW Land and Housing Corporation and their contractors.  |
| Flooding         | The site is flood prone, however Council's Senior Catchment Engineer has reviewed the proposal and raise no objections to the proposal subject to conditions of consent is the application were to be approved. |
| Visual Character | The proposal is considered to be out of character with the existing and future desired character of the area as a result of the additional storey.  |
| Height           | The application exceeds the 11 metre height development standard.<br>Council supports the concerns raised in submissions regarding the exceedance in height.  |