

COUNCIL ASSESSMENT REPORT

Panel Reference	2018CCI030
DA Number	868/2018
LGA	13 December 2018.
Proposed Development	Construction of 2 x mixed use buildings of 8 and 11 storeys comprising retail, commercial and educational uses and a childcare centre with 2 levels of basement. The proposal also seeks approval for site preparation and tree removal. The proposal is integrated development under the Water Management Act 2000. The proposal will be determined by the Sydney Central City Planning Panel.
Street Address	164 Hawkesbury Road, Westmead
Applicant/Owner	Lot 2 DP 1227281
Date of DA lodgement	Western Sydney University
Number of Submissions	Western Sydney University
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Pursuant to Clause 4 of Schedule 7 of the State Environmental Criteria (Schedule 7 of Planning Policy (State and Regional Development) 2011, the the SEPP (State and development is Council related development with a capital investment Regional Development) value of more than \$5 million
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act and Regulations • State Environmental Planning Policy No. 55 • State Environmental Planning Policy (Sydney Harbour Catchment) 2005 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017. • Infrastructure SEPP (ISEPP) • Parramatta Local Environmental Plan 2011 (PLEP 2011) • Parramatta Development Control Plan 2011 (PDCP 2011) • Parramatta S94A Contributions Plan
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Attachment 1 – Architectural Plans • Attachment 2 – Architectural Design Report (Part 1 to 7) • Attachment 3 - Clause 4.6 variation request to Clause 4.3 Height of Buildings and Clause 4.4 Floor Space Ratio. • Attachment 4 – Childcare Centre Statement and Fitout Plan • Attachment 5 – Addendum Site Audit Statement • Attachment 6 – Statement of Environmental Effects • Attachment 7- Green Travel Plan
Report prepared by	Deepa Randhawa
Report date	1 November 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

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

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

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes
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Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Not Applicable

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report



Report to Sydney Central City Planning Panel

SCCPP reference	2018CCI030
DA No.	868/2018
Date of receipt	13 December 2018.
Proposal	Construction of 2 x mixed use buildings of 8 and 11 storeys comprising retail, commercial and educational uses and a childcare centre with 2 levels of basement. The proposal also seeks approval for site preparation and tree removal. The proposal is integrated development under the Water Management Act 2000. The proposal will be determined by the Sydney Central City Planning Panel.
Street address	164 Hawkesbury Road, Westmead
Property Description	Lot 2 DP 1227281
Applicant	Western Sydney University
Owner	Western Sydney University
Submissions	One
List of All Relevant 4.15(1)(a) Matters	<ul style="list-style-type: none">• Environmental Planning and Assessment Act and Regulations• State Environmental Planning Policy No. 55• State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development)• State Environmental Planning Policy (Sydney Harbour Catchment) 2005• State Environmental Planning Policy (Building Sustainability Index: BASIX)• State Environmental Planning Policy (State and Regional Development) 2011• State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.• Infrastructure SEPP (ISEPP)• Parramatta Local Environmental Plan 2011 (PLEP 2011)• Parramatta Development Control Plan 2011 (PDCP 2011)• Parramatta S94A Contributions Plan
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Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard has been received, has it been attached to the assessment report ? Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? No

Conditions

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

1. Executive summary

This report considers a proposal to construct two mixed use buildings of 8 and 11 storeys comprising retail, commercial and educational uses as well as a childcare centre with 2 levels of basement.

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

This report recommends that the Panel:

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

2. Key issues

- a. Building height – Clause 4.6 written request submitted;
- b. FSR – Clause 4.6 written request submitted; and
- c. Variations to DCP deep soil and landscaping controls

3. Site context

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

The site is:

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



Figure 1: Aerial photo of the subject site within the entire WSU site

4. Site description and location

4.1 Background

4.1.1 Westmead Precinct

The WSU site is located within the Westmead Precinct. This precinct is identified as being of strategic value as it contains a regionally significant Health and Educational hub. Westmead also provides a high-density residential areas which support this primary function.

Redevelopment within the Westmead Precinct should provide additional opportunities for residential, retail, business, hospital, education and community facility development which is to be integrated with the existing public transport network.

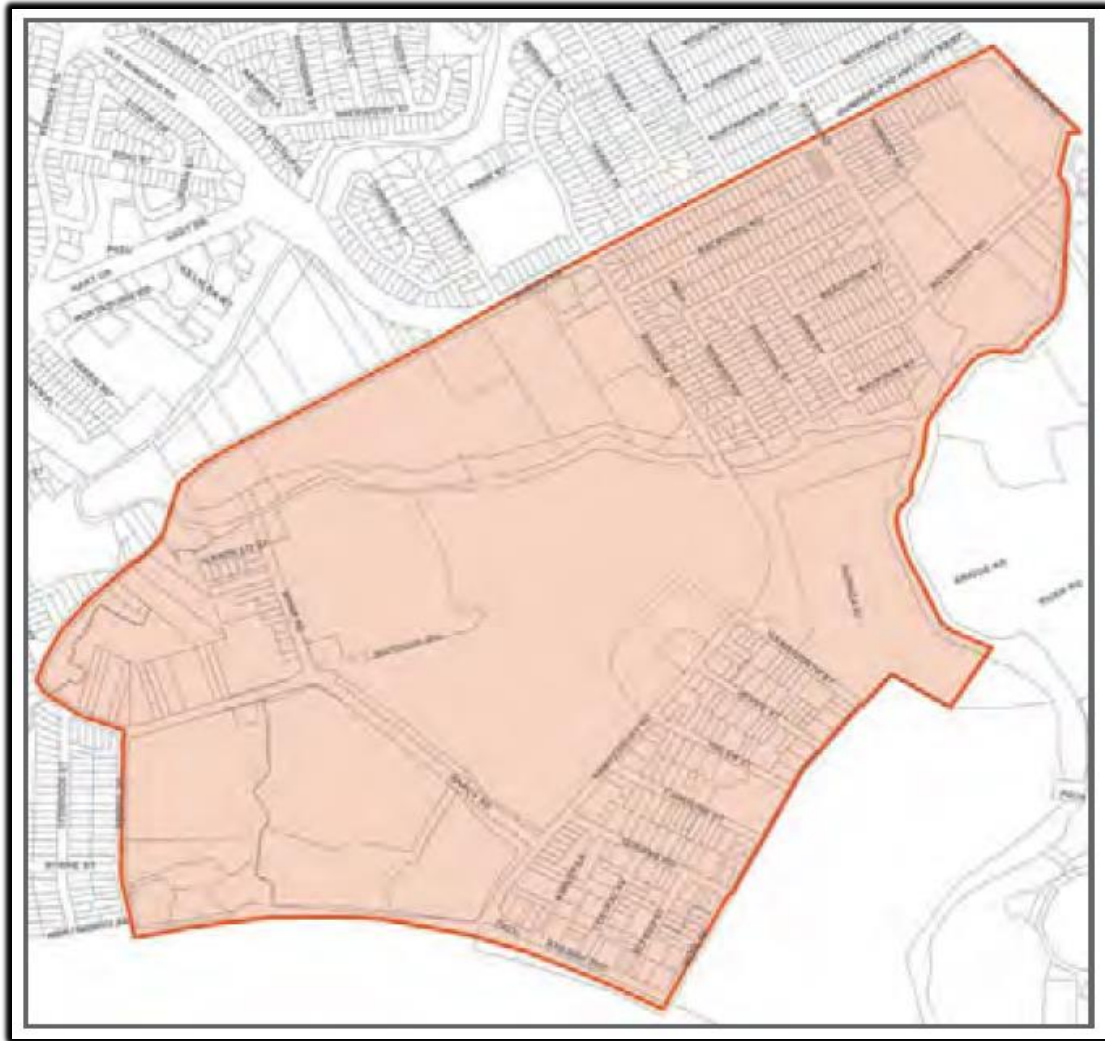


Figure 2: Westmead Precinct

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

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

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

4.1.3 The Stage 1 Masterplan under DA/571/2014

The former Sydney West Joint Regional Panel approved **DA/571/2014** for the demolition of five (5) buildings, tree removal, bulk earthworks, and construction of roads and Torrens title subdivision of the site into five (5) allotments. The current application is subject of Lot 2 created under Masterplan.

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

DA/571/2014 is essentially a Masterplan for the entire site and provides conceptual building envelopes which were a critical component in determining the appropriate subdivision layout and development form. It should be noted that the applicant did not seek approval of the subdivision and building envelopes under Section 83B – Concept Development Applications of the EP&A Act. As such, the variations sought under the current application is not subject to Clause 83D of the EP&A Act.

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

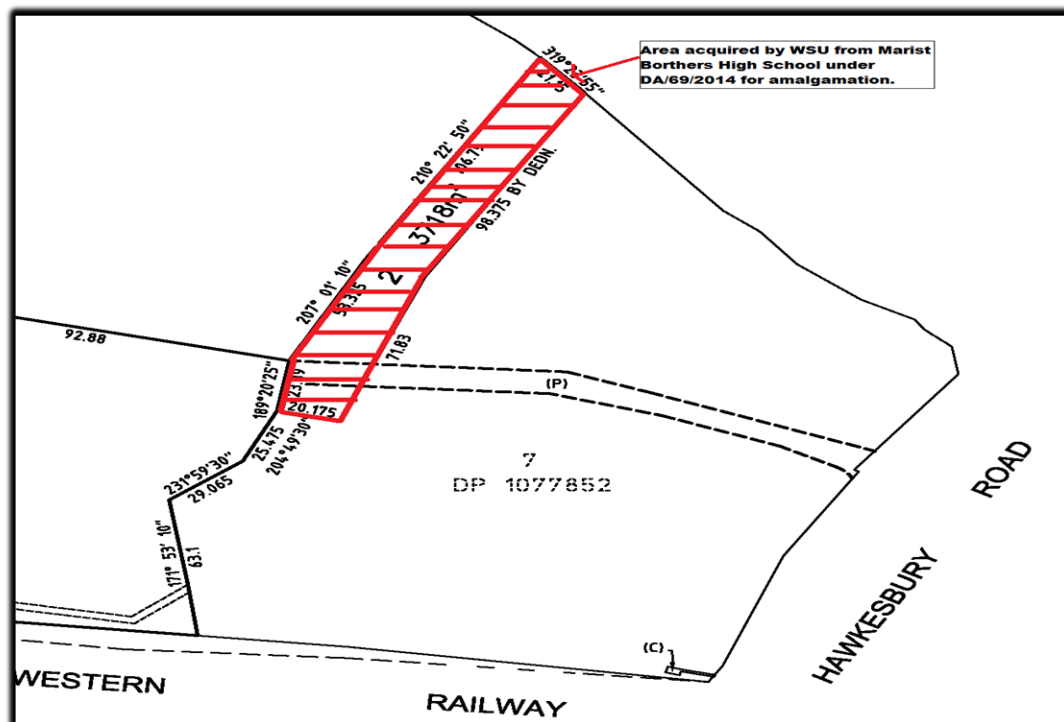


Figure 3: Area acquired by WSU from Parramatta Marist High school under DA 699/2014 for amalgamation.



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

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

- Lot 1 – Educational, this lot also includes the heritage items;
- Lot 2 - Commercial, retail, health and serviced apartments;
- Lot 3 - Commercial;
- Lot 4 - Residential; and
- Lot 5 - Residential

The approved building envelopes were designed to reflect the land uses for each subdivided lot. Lot 2 was designed with a plaza and an open piazza to Darcy Road to accommodate a commercial / retail space to service this precinct. Similarly, Lot 3 is located and designed to facilitate additional commercial uses given its proximity to the hospital opposite Darcy Street. Lot 4 and 5 are located adjacent to the railway corridor to allow for higher density residential

development with open landscaped areas whilst respecting the heritage items and curtilage that is located on Lot 1.

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



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

4.1.4 164 Hawkesbury Road (former Lot 2) under the Masterplan

The development subject of DA/868/2018 relates to former Lot 2 of the Masterplan.

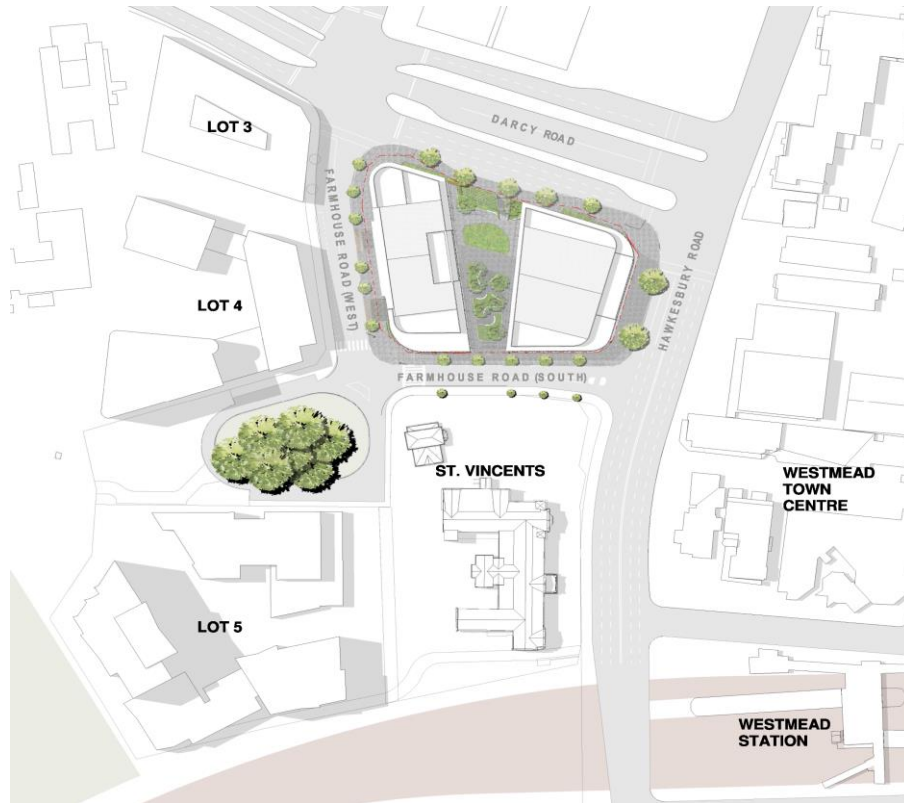


Figure 6: Former Lot 2 of the WSU site (subject of current application).

Under DA/571/2014, Lot 2 was approved as an open piazza with the following dimensions:

- Site Area = 5694m²
- Indicative Land use = commercial, health and serviced apartments)
- Gross Floor Area = 30,700m² (5.33:1)
- Height = Min. 3 storeys and max 9 storeys.

The design rationale behind the open piazza was as follows:

- Provision of a town square.
- Built form fronting Hawkesbury Road and Darcy Road was to locate active uses on the ground floor to increase vibrancy of the Westmead precinct as a whole.

- Built form to be lower in height to optimise solar access to private and public open space that would also allow view corridors to the heritage buildings.
- Define and contain street corridors, street corners and open spaces on the site.

4.1.5 Variation to height and FSR under the current application on Lot 2

The proposal on Lot 2 seeks to depart from the FSR and height standards that apply under the Parramatta Local Environmental Plan 2011.

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

The Stage 1 Masterplan approved under the DA/571/2014 improves the original design for WSU and Lot 2. However, upon further design analysis by the applicant including detailed modelling and application of design controls contained in PDGP 2011, it was deemed that further departures were required to realise the development potential for the site, in particular the height for Lot 2 in a manner that did not unduly impact on the quality of the final outcome.

4.1.6 Approved development on Lot 4 and 5

Since the approval of the Masterplan, the former Sydney West Central Planning Panel has approved developments on 160 and 158 Hawkesbury Road (former Lots 4 and 5). The approved developments are as follows:

162 Hawkesbury Road (former Lot 4)

Construction of 2 x Residential Flat Buildings containing a combined 344 apartments over 4 levels of basement car parking.

160 Hawkesbury Road (former Lot 5)

Tree removal and construction of two Residential Flat Buildings containing 556 apartments over 4 levels of basement car parking. Building A comprises a part 4, part 9 storey building and Building B comprises a part 8, part 15 and part 24 storey building.

5. The proposal

The current proposal comprises the following primary elements:

- Construction of 2 x mixed use buildings of 8 and 11 storeys (to be referred to as East and West respectively).

East Building

- Eight storey East building is to comprise of:
 - Ground level retail tenancies;
 - Level 1-3 for tertiary education;
 - Level 4-6 for commercial uses;
 - Level 7 for tertiary education.
 - Roof top terrace area

The application seeks dual use of Levels 1 – 3 and part of Level 7 as a tertiary education facility or commercial floor space (allowing for either use).

West Building

- Eleven storey West building is to comprise of:
 - Lower ground and mezzanine level retail tenancies;
 - Ground floor level retail tenancies;
 - Level 1 Childcare Centre for 100 children;
 - Level 2-9 commercial levels and a partial 10th level of commercial area;
 - Roof top terrace area.
- Site preparation works including bulk excavation and tree removal.
 - Construction of 2 levels of basement
 - Landscaping and public domain works including the provision of a central public plaza running north south through the site.
 - Signage zones (including building identification and business identification signage)
 - Extension and augmentation of services and infrastructure.



Figure 7: Photomontage of proposed development



Figure 8: Proposed Site Location Plan

6. Public notification

The notification period was 16 January 2019 – 7 February 2019. One submission was received.

7. Referrals

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

Does Section 1.7 (Significant effect on threatened species) apply ?	No
Does Section 4.10A (Designated Development) apply ?	No
Does Section 4.46 (Integrated Development) apply ?	Yes
Are submission requirements within the Regulations satisfied?	Yes

9. Consideration of SEPPs

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

10. Parramatta Local Environmental Plan 2011

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

Table 1: LEP compliance

	<i>Comment or non- compliances</i>
Zones	<ul style="list-style-type: none"> B4 Mixed Use
Definition	<ul style="list-style-type: none"> Mixed Use Development
Part 2 Permitted or prohibited development	<ul style="list-style-type: none"> Permissible in the zone <p>It is also noted that the individual uses contained in the development being retail, commercial, educational facilities and childcare centre are permissible uses in the B4 zone</p> <ul style="list-style-type: none"> Consistent with zone objectives
Part 4 Principal development standards	<ul style="list-style-type: none"> Non-compliance - Building height The development standard is 31m. <ul style="list-style-type: none"> East Building – 39.1m (Non- compliance is 8.1m or 26% variation) West Building – 52.5m (Non-compliance is 21.5m or 69% variation) Non-compliance - FSR The development standards are 3.5:1 and 3:1. The total FSR for the development is 5.38:1 <p>A request under clause 4.6 has been provided. The variations are supported.</p>
Part 5 Miscellaneous provisions	All relevant provisions satisfied
Part 6 Additional local provisions	All relevant provisions satisfied

11. Parramatta Development Control Plan 2011

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

Table 2: DCP compliance

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

12. Response to SCCPP briefing minutes

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

- 1. Exceeds height of building standard by considerable margin.*
- 2. Design issues on ground floor plan due to difference in grade between the street and the central plaza. Also, the non-activation of the frontage along Farmhouse Road needs to be addressed.*
- 3. Need to consider proposed height in the context of future character and the surrounding area and the provisions of the applicable masterplan.*
- 4. Traffic and parking - former already congested and latter in short-supply. Therefore a need to consider the cumulative traffic situation and measures to promote non-car travel including appropriate parking supply level for this proposal.*
- 5. DEAP is asked to review its initial advice given concerns expressed at points 2 and 3 above.*

Applicants/Council Response:

- 1. Additional information has been submitted for review by Council and DEAP regarding the rationale for the height of the development.*
- 2. The proposal has been amended introducing additional terraced bike parking and a new double height commercial lobby fronting Farmhouse Road which allows pedestrian and cyclist movements to activate the western street frontage. The amended plans also incorporate additional glazed windows to the northwest of the Lower Ground floor retail tenancy, signage and public art zones to enhance the visual interest of the western street frontage.*
- 3. As previously noted, additional documentation has been submitted with the application to rationalise the proposed height. This includes a study of height in the wider context of the Westmead Precinct and its impacts on the future character of the area. This will be discussed in detail in Section 2.7 – PLEP 2011.*

4. *Noted. Parking and Traffic is discussed elsewhere in the report.*
5. *The amended proposal including changes to address Points 2 and 3 were reviewed by DEAP. Upon review of the amendments, DEAP raised no further concerns.*

Conclusion

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

RECOMMENDATION

- A. That the Sydney Central City Planning Panel approve the variations to the building height control in clause 4.3 and FSR in clause 4.4 of Parramatta LEP 2011, being satisfied that the applicants written request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone; and
- B. That pursuant to Section 4.17 of the Environmental Planning and Assessment Act, 1979 the Sydney Central City Planning Panel grant consent to Development Application DA/868/2018 subject to the conditions in **Attachment A**.
- C. That the objector be advised of the Sydney Central City Planning Panel's decision.



ATTACHMENT A- PLANNING ASSESSMENT

SWCCP reference 2018CCI030

DA No. 868/2018

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

The following internal and external referrals were undertaken:

Table 2: Referrals

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

2. Environmental planning instruments

Compliance with these instruments is addressed below.

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

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

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

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

- The site assessment and remedial / validation activities are considered to have met the requirements of the Contaminated Sites: Guidelines for the NSW Site Auditor Scheme.
- There were no levels of contaminant of potential concern in the soil and groundwater identified at the subject site which require remediation or management.
- There is no evidence of migration of contaminants from the site which is likely to result in any unacceptable risks to surrounding human or ecological receptors.
- The site is considered suitable for the proposed use (commercial with minimal soil access and open space).
- The land use suitability is not subject to ongoing monitoring or management requirements.

It should be noted that an addendum to the Site Audit Statement was submitted that includes commentary regarding the suitability of the childcare centre on the subject premises (as it was not referenced in the original Statement). The addendum to the Statement states:

“...The investigation levels / land use category adopted in the SAS / SAR were appropriate for the assessment of the site despite the inclusion of a childcare centre on the first floor. Moreover, the site investigations and validation assessments undertaken in GPL (2016a, 2016b and 2016c) as stated in the SAR adopted the more conservative investigation levels for residential sites with accessible soils including childcare centres (Category A) (which would be appropriate to adopt if the childcare centre was on the ground floor). Therefore, the site was considered to be suitable (in GPL (2016a, 2016b and 2016c) for residential land use with accessible soils including childcare centres at the completion of the (remediation) works”

Accordingly, the site is suitable for inclusion of a childcare centre on the first floor from a contamination perspective.

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

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

2.2 State Environmental Planning Policy (Infrastructure) SEPP

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

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

The application is subject to clause 85 of the SEPP as the development proposes works within proximity to a rail corridor. As such, Sydney Trains were notified of the proposal within

7 days of the application being made. In response, Sydney Trains confirmed that they did not wish to provide comments given the distance between the rail corridor and the subject site.

The application was also referred to Parramatta Light Rail (PLR) pursuant to Clause 85 of the SEPP as the site is within proximity to a light rail corridor. Upon review of the proposal, PLR raised no further concerns subject to conditions of consent.

The application was referred to RMS pursuant to clause 101 and 102 of the SEPP as the site has a frontage to a classified road (Hawkesbury Road) and that it generates an average daily traffic of more than 20,000 vehicles. Upon review of the proposal, RMS raised no objections to the application.

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

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

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

2.4 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 proposes the removal of 11 trees from the site identified as Spotted Gums and Dwarf Bullbay Magnolia. Councils Landscape Officer notes that these trees will require removal to facilitate public domain works.

Accordingly, Council's Landscape Officer has reviewed the application and raised no objections subject to conditions.

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

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

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

SEPP 65 applies to the development as the building is more than 3 storeys in height and contains a residential component.

Whilst the proposal does not contain residential components, the SEPP is used as a guide only to assist with the assessment of the design component of the development.

Design Excellence Advisory Panel (DEAP)

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

Table 2: DEAP comments and response

DEAP Comments	Applicant Response	Planning Comment
It will be necessary for Farmhouse Road South to remain easy and safe to cross from the St Vincent building to the Commercial Campus. It is recommended that the applicant investigate future traffic volumes and pedestrian movements, and give consideration to a new pedestrian crossing opposite the central courtyard of the Commercial Campus.	<p>Farmhouse Road is currently provided with a pedestrian crossing located at the junction of Farmhouse Road West and Farmhouse Road South. DEAP has recommended that a new pedestrian crossing be facilitated on Farmhouse Road opposite the southern entrance to the central plaza. This would be approximately 25m east of the existing pedestrian crossing.</p> <p>In accordance with development consent DA/57112014 Farmhouse Road has been dedicated to Council. As such, the applicant does not have the authority to implement a second pedestrian crossing. However, the applicant is supportive of the recommendation. and should Council be of a mind to implement this, it could be facilitated through Council's traffic department.</p>	The internal road network including pedestrian crossings were reviewed and approved as part of the Masterplan DA for the WSU site. Accordingly, the pedestrian crossings as existing is considered to be appropriate and consistent with previously approved plans.
The proposal has responded to DEAP comments from February 2019, with more street frontage activation at the corner of Darcy Road and Farmhouse Road West and the introduction of awnings at the corner of Darcy Road and Farmhouse Road West and	Noted.	Noted.

Hawkesbury Road and Farmhouse Road South.		
It is noted that there are 2 pedestrian crossings at this corner and pedestrian shelter would provide useful amenity. The awning should extend to the pedestrian crossing in Farmhouse Road West and stop at the void inside the retail space. The eastern end of this awning should stop at the eastern column of the colonnade on the western side of the central courtyard.	In response to this recommendation, the eastern end of this awning stops at the eastern column of the colonnade on the western side of the central courtyard, as shown in the extract below and the amended Architectural Drawings submitted to Council on 19 July 2019.	A review of the amended plans is considered to be acceptable and in accordance with DEAP recommendations.
It is proposed that the new awning around the corner of Farmhouse Road West and Farmhouse Road South stop at its eastern end at the eastern column of the colonnade on the western side of the central courtyard.	The awning extension stops at its eastern end at the eastern column of the colonnade on the western side of the central courtyard.	A review of the amended plans is considered to be acceptable and in accordance with DEAP recommendations.
Awnings should be constructed of robust metal with structural depth, water drainage, shop signage and the like considered in detail.	All awnings will be constructed from robust metal being bronze aluminium. As noted in the SEE, details of the signage typology, content, and materiality will be the subject of a subsequent development consent, once the retail tenancies have been leased.	This response is considered acceptable.
The proposed landscape contains a range of planting types related to available soil depths in the central courtyard and Darcy Road frontage. It is essential that soil depths support canopy trees where they are shown in the central courtyard. Structural design, soil depths and tree species are to be co-ordinated in detail.	Applicant provided no comment.	Council's Landscape Officer reviewed soil depths and canopy trees contained within the central courtyard area. Upon review, Council's Landscape Officer raised no objections to the soil depths to support canopy trees subject to conditions of consent.
Street trees to Farmhouse Road South, Farmhouse Road West and Hawkesbury Road will need to be co-ordinated with proposed new street awnings. The awnings should be a minimum 3m wide and may need to be designed in relation to the locations and sizes of proposed street trees.	Noted. The applicant supports a condition requiring that street trees do not interfere with the proposed awnings that are to be constructed to a minimum width of 3m.	A condition will be imposed in accordance with the applicant's response.
It is essential that the central courtyard remain open 24 hours per day as it will provide	The courtyard will remain open 24 hours per day, Sunday to Monday inclusive. The	The proposal as well as the supporting documentation is

an important north-south pedestrian link from the hospital to the station and other pedestrian links around the town centre. Good lighting and landscape design based on CPTED design principles should ensure that all parts of the Commercial Campus are safe and secure.	proposed development has been subject to a comprehensive CPTED assessment as detailed within the CPTED Report. Incorporating CPTED principles into the proposal has been ongoing during the preliminary design of the building and will continue through the detailed design.	considered to be satisfactory with regards to CPTED.
The aesthetics of the proposal require refinement in the detailed design of awnings, street trees, paving, furniture, building entries, signage and other detailed design considerations.	The detailed design of these elements will be resolved in the construction documentation and can be submitted to Council for approval via an appropriately worded condition on any development consent.	Council is satisfied that details of these elements will be adequately provided upon preparation of the construction documentation.

Overall the Panel was supportive of the proposal, concluding:

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

Design Quality Principles

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

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

Table 3: Response to SEPP 65 design principles

Principle	Comment
Context and neighbourhood character	The locality, in particular, this portion of the Westmead precinct is transforming to a high density residential/mixed use area. The development generally accords with the desired future character nominated by the Parramatta LEP and DCP. The building will contribute to the quality and identity of the area.
Built form and scale	Notwithstanding the departures to the FSR and height for the site, the development responds to the intent of the Stage 1 concept plan. Site planning, building volume/ mass presentation and detailing are satisfactory noting the conclusions of the DEAP. Public domain outcomes are also satisfactory.
Density	The proposed density is consistent with the precinct specific controls in the Parramatta LEP and DCP. Those controls were developed with

Principle	Comment
	regard to the context of the site in terms of availability of infrastructure, public transport, community facilities and environmental quality.
Sustainability	As noted by DEAP, "...Excellent energy ratings and sustainability principles should drive a commercial project of this type. These should include high star ratings, solar photovoltaics and panels, water re-use and a wide range of sustainability initiatives". This comment is supported by Council.
Landscape	The landscape treatment is generally satisfactory.
Amenity	The proposal is considered to be satisfactory in this regard, optimising internal amenity through appropriate dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, outlook, efficient layouts and service areas.
Safety	Appropriate outcomes achieved through the design generally, and otherwise by conditions of consent as proposed.
Housing diversity and social interaction	Whilst this is not directly applicable to the proposal, the application provides a form of development that contribute to the community by providing a variety of uses to benefit the residents and visitors to the local area.
Aesthetics	The composition of building elements and materials is satisfactory.

2.8 State Environmental Planning Policy – Educational Establishments and Childcare Facilities 2017

Whilst the Childcare fitout does not form part of this application, a concept fit out plan was submitted to Council to demonstrate compliance with the State Environmental Planning Policy – Educational Establishments and Childcare Facilities 2017.

The relevant matters to be considered under this SEPP for the proposed development are outlined below.

Table 4: Educational Establishments and SEPP Childcare Facilities

Development standard	Compliance
Clause 22 – Centre based Childcare Facility – Concurrence Does the floor area of the building or place comply with Regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations? Does the outdoor space requirements for the building or place comply with Regulation 108 of the Education and Care Services National Regulations?	Yes <u>Required</u> Min. Indoor Space – 325m ² Min. Outdoor Space – 700m ² <u>Provided</u> Indoor Space – 326m ² Outdoor Space – 740m ²
Clause 23 – Matters for Consideration. Before determining a development application for development for the	Yes See table below.

purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the <i>Child Care Planning Guideline</i> , in relation to the proposed development.	
Clause 25 – Non- Discretionary Development Standards a.) Location b.) Indoor or Outdoor space c.) Site Area & Site Dimensions d.) Colour of building materials or shade structures	Yes The proposal complies with Regulation 107 and 108 of the Regulations with regards to indoor and outdoor space. The subject site area and dimensions were reviewed under the Masterplan DA. That approval supported the subject site in its current form which also considered the use (mixed use containing a Childcare Centre.) of the site for future development. The Childcare Centre (CCC) is located within a mixed use development. Accordingly, the building materials are considered appropriate for such a use. It should be noted that the subject application relates only for the use of the first floor level of the western building for the purposes of a Childcare Centre.
Clause 26 (A) – Development Control Plans A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility: (a) operational or management plans or arrangements (including hours of operation)	The relevant DCP controls were not used as part of the assessment.

CHILDCARE PLANNING GUIDELINE 2017

The Guideline identifies issues that must be taken into consideration when assessing the proposal for a Childcare Centre. It also refers to the application of the *National Regulations for Childcare Centres*. The table below responds to each consideration raised in the Guideline. The assessment against the National Regulations is addressed in a separate table.

Table 5: Childcare Planning Guideline Table

Consideration	Comments
3.1 Site Selection and Location	Complies

Consideration	Comments
<p>Setbacks, traffic, privacy, environmental safety, proximity to compatible uses, and proximity to health risks.</p>	<p>The building envelope is generally consistent with the approved Masterplan DA. Further assessment of setbacks, traffic, privacy, environmental safety and proximity to health risks are assessed elsewhere in this report.</p> <p>It is noted that the Childcare Centre (CCC) is located within the Westmead Precinct in a mixed-use development. The Westmead precinct contains the hospital and health care uses, educational uses, residential and various commercial and retail developments. Accordingly, it is considered that the proposed Childcare Centre is located in proximity to compatible land uses.</p>
<p>3.2 Local Character</p> <p>Relationship to the character of the surrounding streetscape and transition between public and private realms (e.g. appropriate fencing)</p>	<p>Complies</p> <p>The Childcare Centre was designed to integrate into Level 1 of a mixed-use building, which uses the entire Level 1 to ensure there is a clear delineation between the Childcare Centre and other uses on site and the public domain whilst providing landscaping treatment to contribute to the streetscape.</p>
<p>3.3 Building Orientation, envelope and design</p> <p>Privacy for neighbours, noise minimisation, optimising solar access to internal and external play areas, protection from wind, building scale, setbacks, secure entry, and universal access.</p>	<p>Complies</p> <p>The proposed Childcare Centre is located within a mixed use development. It is noted that there are no residential component located in the mixed-use building. The proposed Childcare Centre is located on the opposite side of Farm House Road (West) facing residential flat buildings to the west and south-west of the site. The nearest residential premises is approximately 27 metres to the west of the Childcare Centre. Given the large separation distance between the Childcare Centre and the residential uses, any unacceptable adverse amenity impacts to the occupants of the residential premises are unlikely.</p> <p>The Childcare Centre is located on the first floor where a majority of the outdoor play area is enclosed and therefore does not require additional protection from the wind. It is noted that there is a balcony area where some outdoor activities for the CCC is located. However, this area is protected by a full height stainless steel mesh for general weather and safety of the children attending the CCC.</p>

Consideration	Comments
	<p>A review of access to internal and external play areas from the ground floor is considered to be satisfactory. Access from the basement and ground floor is via a lift.</p> <p>It is also noted that entry to the CCC are clearly defined and separate from entrances to other uses within the development site.</p>
<p>3.4 Landscaping</p> <p>Landscape design contributing to the streetscape and amenity.</p>	<p>Complies</p> <p>As the CCC is located on the first floor of a mixed use development, there is limited opportunity for landscaping. However, the test fit-out plan is provided for the CCC illustrate areas for simulated outdoor environments such as a garden, sand pits, climbing areas, an outdoor vegetable patch as well as a areas for water play. It is noted that the subject application is only for the CCC use and that the fit out of the CCC will be subject to further approval where additional assessment of the a simulated environment / landscaping will be undertaken.</p>
<p>3.5 Visual and Acoustic Privacy</p> <p>Reducing acoustic and noise transmission to neighbours.</p>	<p>Complies</p> <p>As previously noted, the CCC is located on the first floor of a mixed use development. The mixed use development does not contain residential apartments. The closest residential premises is to the west of the site approximately 27 metres from the CCC. Given the distance between the two uses, it is considered that visual and acoustic privacy to and from the sites are considered negligible in this instance.</p> <p>Notwithstanding, an Acoustic Report was submitted that demonstrates satisfactory acoustic impacts on adjoining premises.</p>
<p>3.6 Noise and Air pollution</p> <p>Reducing noise from cars affecting the ELC and ensuring air quality.</p>	<p>Complies</p> <p>It is noted that car parking areas are located within the basement level. As such, noise and air pollution from vehicles entering and exiting the site are negligible.</p> <p>An Acoustic Report considered the internal and external noise impacts to and from the CCC. Council's Health Officer has reviewed the report and raised no objections to the CCC subject to conditions of consent.</p> <p>The Childcare Centre is appropriately located and the outdoor play area is not oriented to Darcy Road</p>

Consideration	Comments
	or Hawkesbury Road. Further to this, the site is not in the immediate vicinity of any intrusive or industrial development.
3.7 Hours of Operation Limiting core hours (e.g. it notes 7.00am to 7.00pm on weekdays).	Complies The proposed hour of operation for the CCC is 7am to 7pm, Monday- Friday.
3.8 Traffic, parking and pedestrian circulation Safe pedestrian access, car parking within a basement is supported.	Complies The main pedestrian access to the CCC is via the lifts from the ground floor of the Western Building. The development provides 25 car parking spaces located within the mezzanine level and lower ground level basement for the proposed Childcare centre, which include Drop off/pickup parking spaces that are located on the lower ground level basement. The 25 parking spaces comply with required car parking spaces to service the CCC. The development site is also within proximity to public transport including trains and buses and light rail. It is noted that a separate pedestrian access from the car park to the facility can be accessed via the core stairs/lift. Pedestrian entry is separated from the vehicle entry from the street for parents, children and visitors. Council's Traffic Engineer has reviewed the proposal with regard to parking and traffic and raised no objections subject to conditions of consent.

Education and Care Services National Regulations

Table 6: Education and Care Services National Regulations Table

Controls	Proposed	Compliance
4.1 Indoor space requirements		
Regulation 107 Every child being educated and cared for within a facility must have a minimum of 3.25m ² of unencumbered indoor space.	Required – 325m ² Provided – 326m ²	Yes
Verandahs as indoor space For a verandah to be included as unencumbered indoor space, any	The test fit-out of the CCC does not rely on verandas as indoor space.	N/A

Controls	Proposed	Compliance
opening must be able to be fully closed during inclement weather.		
Storage Storage areas including joinery units are not to be included in the calculation of indoor space. It is recommended that a child care facility provide: <ul style="list-style-type: none"> • a minimum of 0.3m³ per child of external storage space • a minimum of 0.2m³ per child of internal storage space. 	Required External Storage – 30m ³ Required Internal Storage – 20m ³ Provided External Storage – 22.5m ³ Provided Internal Storage – 15m ³ The test fit-out of the CCC indicates that a total of approximately 61m ³ of internal/external storage areas is provided. Given the mostly indoor nature of the CCC, a combined internal/external storage areas is considered appropriate.	Yes
4.2 Laundry and hygiene facilities		
Regulation 106 There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering.	A laundry room is provided in the test fit-out of the CCC. This room is contained so as not to pose a risk to children. A condition will be imposed that its construction be in accordance with the relevant BCA and Australian Standards.	Yes
4.3 Toilet and hygiene facilities		
Regulation 109 A service must ensure that adequate, developmentally and age appropriate toilet, washing and drying facilities are provided for use by children being educated and cared for by the service; and the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the children.	Satisfactory toilet and hygiene facilities have been provided for use by children attending the CCC as indicated by the test fit-out plan.	Yes
4.4 Ventilation and natural light		
Regulation 110 Education and Care Services National Regulations Services must be well ventilated, have adequate natural light, and be	The CCC is proposed with a floor to ceiling height of 3 metres and is considered adequate in	Yes

Controls	Proposed	Compliance
maintained at a temperature that ensures the safety and wellbeing of children.	providing satisfactory ventilation as well as solar access. Notwithstanding, the CCC due to its orientation and multiple addresses and openings, will achieve satisfactory solar access and ventilation.	
4.5 Administrative space		
Regulation 111 A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.	The CCC is provided with an office to allow for privacy when consulting with parents of children.	Yes
4.6 Nappy change facilities		
Regulation 112 Child care facilities must provide for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing. All nappy changing facilities should be designed and located in an area that prevents unsupervised access by children.	Nappy change facilities are provided.	Yes
4.7 Premises designed to facilitate supervision		
Regulation 115 A centre-based service must ensure that the rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate supervision of children at all times, having regard to the need to maintain their rights and dignity.	The open floor plan of the CCC facilitates supervision by staff at all times. Similarly, due to the design of the external play areas and the openings of the CCC, supervision is ensured from within the facility and from the external play areas.	Yes
4.8 Emergency and evacuation procedures		
Regulations 97 and 168 Regulation 168 sets out the list of procedures that a care service must have, including procedures for emergency and evacuation. Regulation 97 sets out the detail for what those procedures must cover including: <ul style="list-style-type: none"> instructions for what must be done in the event of an emergency 	It is noted that the current application seeks approval only for the use of the first floor level of the Western Building for the purposes of a CCC. The fit-out of the CCC to be lodged at a later date will require the submission of an Emergency and Evacuation Plan.	Yes

Controls	Proposed	Compliance
<ul style="list-style-type: none"> • an emergency and evacuation floor plan, a copy of which is displayed in a prominent position near each exit • a risk assessment to identify potential emergencies that are relevant to the service. 		
4.9 Outdoor space requirements		
Regulation 108 An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0m ² of unencumbered outdoor space. If this requirement is not met, the concurrence of the regulatory authority is required under the SEPP.	Required – 700m ² Provided – 740m ²	Yes
4.10 Natural environment		
Regulation 113 The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment. Creating a natural environment to meet this regulation includes the use of natural features such as trees, sand and natural vegetation within the outdoor space.	As indicated in the test fit-out for the Childcare Centre, simulated environments such as sand pits, gardens, outdoor vegetable patches, water play areas and climbing areas have been provided. Details of these environments will be subject to a future application for the fit-out of the Childcare Centre.	Yes
4.11 Shade		
Regulation 114 The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.	As the Childcare Centre is located on the first floor, a majority of the floor area is located indoors which provides appropriate shade and weather protection. Notwithstanding, due to the design of the building and that the first floor location of the Childcare Centre will benefit from satisfactory solar access.	Yes
4.12 Fencing		
Regulation 104 Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool	The first floor location of the Childcare Centre ensures that fencing is not required given that the Childcare Centre is the	Yes

Controls	Proposed	Compliance
<p>age or under cannot go through, over or under it.</p> <p>Child care facilities must also comply with the requirements for fencing and protection of outdoor play spaces that are contained in the National Construction Code.</p>	only use located on the first floor of the western building.	
4.13 Soil assessment		
<p>Regulation 25</p> <p>Subclause (d) of Regulation 25 requires an assessment of soil at a proposed site, and in some cases, sites already in use for such purposes as part of an application for service approval.</p>	See SEPP 55 assessment.	Yes

2.8 State Environmental Planning Policy No. 64 – Advertising and Signage

The proposal seeks approval for top of building signage zones and business identification signage across the buildings. Specifically, the proposal identifies 19 signage zones across the two buildings applied to building plant, parapets, comers and entrances.

Details of the signage typology, content, materiality, and illumination within these zones will be the subject of a subsequent application.

The location of the signage zones are as per the image below.

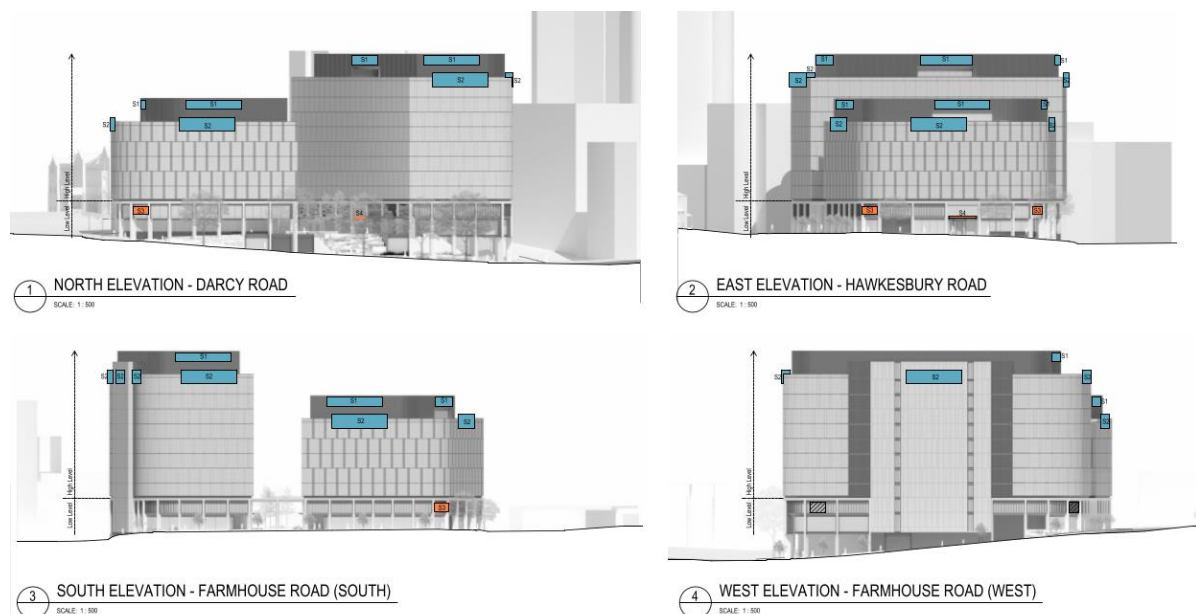


Figure 9: Proposed Signage zones

Table 7: SEPP 64 Assessment

Consideration	Compliance
1 Character of the area	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Yes – the proposal is compatible with the existing character of the area.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	N/A - there is no particular theme for the outdoor advertising to this portion of the Westmead Precinct.
2 Special areas	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	No – the proposal does not detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas.
3 Views and vistas	
Does the proposal obscure or compromise important views?	No – the proposal does not obscure or compromise important views.
Does the proposal dominate the skyline and reduce the quality of vistas?	No – the proposal does not dominate the skyline.
Does the proposal respect the viewing rights of other advertisers?	Yes – the proposal respects the viewing rights of other advertisers.
4 Streetscape, setting or landscape	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Yes – the scale, proportion and form of the signage zones are appropriate for the streetscape setting.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	Yes – the proposal contributes to the visual interest of the streetscape, setting and landscape.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	Yes – the proposal reduces clutter by simplifying existing signage.
Does the proposal screen unsightliness?	No – the proposal does not screen unsightliness.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No – the proposal does not protrude above buildings, structures or tree canopies.
Does the proposal require ongoing vegetation management?	No – the proposal does not require ongoing vegetation management.
5 Site and building	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Yes – the proposal is compatible with the scale and proportion of the existing building and the site.
Does the proposal respect important features of the site or building, or both?	Yes – the proposal respects site and building features.

Does the proposal show innovation and imagination in its relationship to the site or building, or both?	Yes – the proposal demonstrates innovation in its relationship with both the site and the existing building.
6 Associated devices and logos with advertisements and advertising structures	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	N/A – the proposal does not require safety devices.
7 Illumination	
Would illumination result in unacceptable glare?	N/A – Illumination details will be provided for the application of individual signs to be lodged at a future date.
Would illumination affect safety for pedestrians, vehicles or aircraft?	N/A – See above.
Would illumination detract from the amenity of any residence or other form of accommodation?	N/A – See above.
Can the intensity of the illumination be adjusted, if necessary?	N/A – See above.
Is the illumination subject to a curfew?	N/A – See above.
8 Safety	
Would the proposal reduce the safety for any public road?	No – the proposal will not reduce the safety for any public road.
Would the proposal reduce the safety for pedestrians or bicyclists?	No – the proposal will not reduce the safety for any pedestrians or bicyclists.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No – the proposal will not obscure sightlines from public areas.

2.7 Parramatta Local Environmental Plan 2011

Zoning and permissibility

The proposed uses meet the definitions of ‘*mixed use development*’ and is permissible with consent in the zone.

Zone objectives

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

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

The proposed development is consistent with the objectives of the zone.

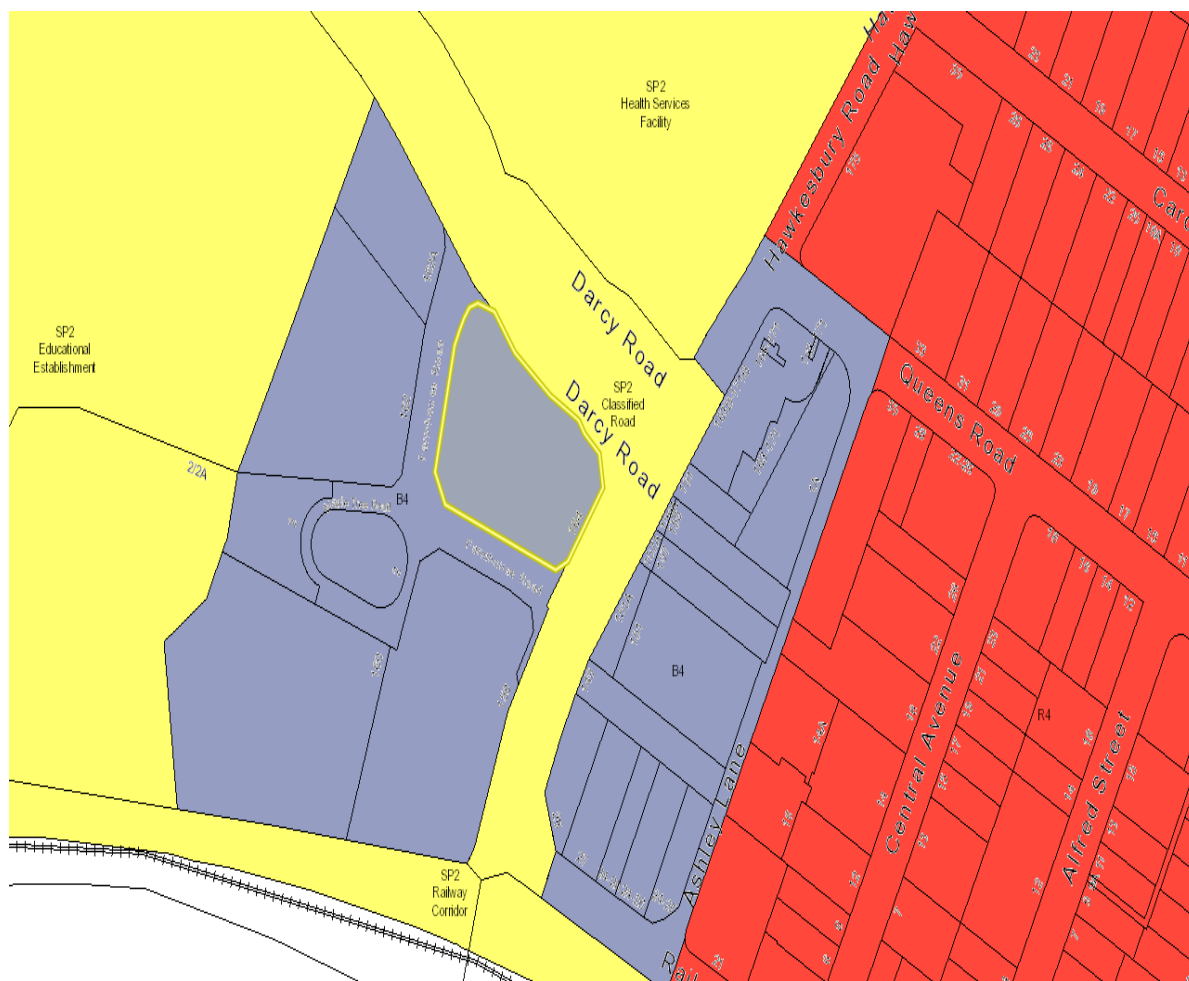


Figure 10: Extract from LEP zone map. Yellow outline denotes subject site.

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

Table 8: PLEP 2011 compliance table


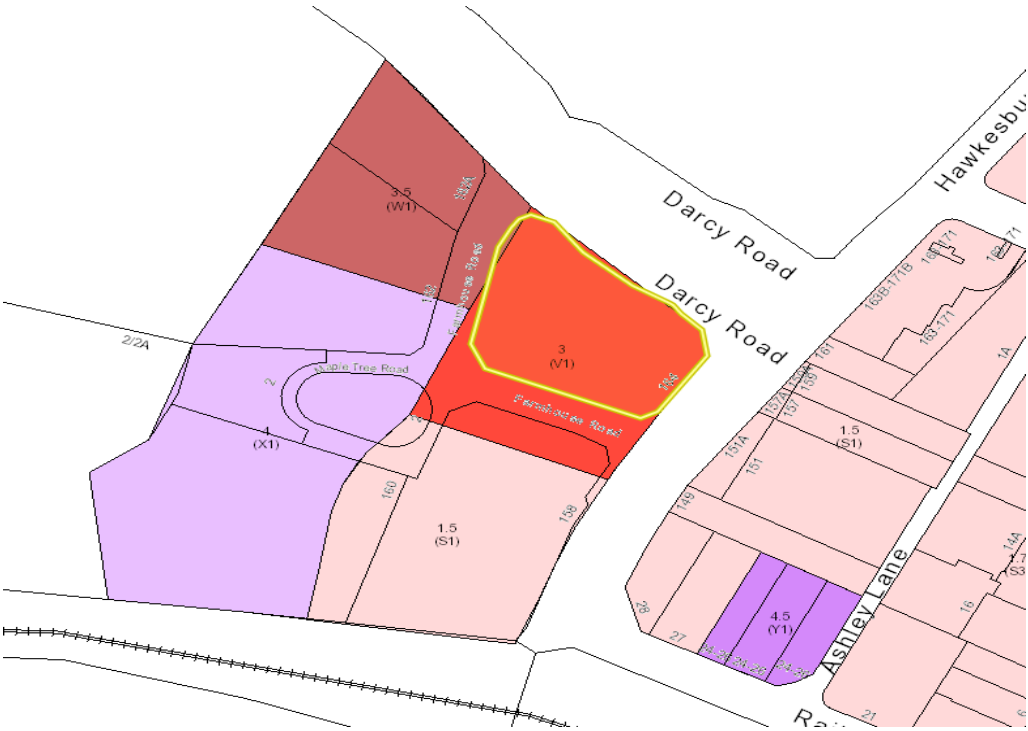
Clause	Comment	Complies
Clause 2.7 Demolition	No demolition is proposed.	N/A
Clause 4.3 Building height	The development standard is 31m. The proposed heights are: <ul style="list-style-type: none"> East Building – 39.1m (Non-compliance is 8.1m or 26% variation) West Building – 52.5m (Non-compliance is 21.5m or 69% variation) 	No, refer to clause 4.6
Clause 4.4 Floor space ratio	The development standards are 3:1 and 3.5:1. The total FSR for the development is 5.38:1	No, refer to clause 4.6
Clause 4.6 Exceptions to standard	The application relies upon this clause to allow the exceedence of the height and FSR standard as noted above. See assessment following at the end of this table.	Yes

Clause 5.1 Relevant acquisition authority	Not applicable.	N/A
Clause 5.6 Architectural Roof Features	The application does not propose architectural roof features.	N/A
Clause 5.10 Heritage	<ul style="list-style-type: none"> The site is not a listed heritage item, nor is it within a conservation area. The subject site is within proximity to Lot 1 (opposite the site to the south) which contains a heritage item. Council's Heritage Adviser has reviewed the proposal and raise no objections to the development given its distance from the heritage item. 	Yes
Clause 6.1 Acid sulphate soils	<ul style="list-style-type: none"> The site is identified a "Class 5" Acid Sulphate Soil. The works do not trigger need for an ASS management plan. 	Yes
Clause 6.2 Earthworks	<ul style="list-style-type: none"> Consideration of potential impacts upon drainage patterns, and proximity to watercourses have been considered by Council's Development Engineer, who is satisfied the works can be managed without adverse impact. Site works will not adversely impact any future development of any adjoining land, or the amenity of that land. Issues relating to soil quality are addressed via considerations of SEPP 55 No circumstances identified to indicate potential for disturbing relics. 	Yes
Clause 6.3 Flood Planning	The site is not identified on the flood planning map	N/A
Clause 6.4 Biodiversity	The site is not identified on the biodiversity map	N/A
Clause 6.5 Water protection	The site is not identified on water protection map	N/A
Clause 6.6 Landslide Risk	The site is not identified on the landslide risk map	N/A
Clause 6.7 Foreshore Building Line	The site is not identified on the foreshore building line map	N/A

Non-compliance with building height and FSR

Overview

Variation to Clause 4.3	Clause 4.3 of PLEP 2011 - Height of buildings – 31m. See Diagram below.
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	 <p>Figure 11: LEP height limits for the subject site</p>
<p>Variation to Clause 4.4</p>	<p>The development also seeks to vary Clause 4.4 of PLEP 2011 – FSR – 3:1 & 3.5:1. See diagram below.</p>  <p>Figure 12: LEP FSR for the subject site</p>
<p>Objectives of the standard/s</p>	<p>As per clause 4.3(1) of the LEP:</p> <ul style="list-style-type: none"> (a) to establish a maximum height of buildings to enable appropriate development density to be achieved, and (b) to ensure that the height of buildings is compatible with the character of the locality <p>As per clause 4.4(1) of the LEP:</p>

	<p>(a) To regulate density of development and generations of vehicular and pedestrian traffic, and</p> <p>(b) To require the bulk and scale of future buildings to have regard to heritage sites and their settings</p>
Extent of the variations	<p>The maximum defined Height, FSR and the % variations are:</p> <ul style="list-style-type: none"> ○ East Building – 39.1m (Non-compliance is 8.1m or 26% variation) ○ West Building – 52.5m (Non-compliance is 21.5m or 69% variation) ○ Non-compliance is 13597m² or 79.6% departure to the 3:1 FSR control. ○ Non-compliance is 10750m² or 53.9% departure to the 3.5:1 FSR control.

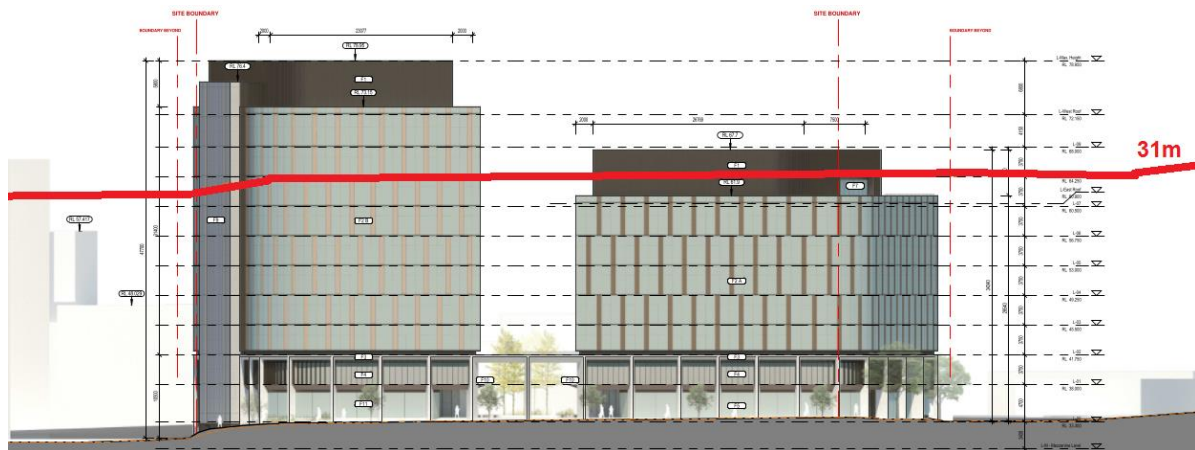


Figure 13: Elevation Drawing (South Elevation).

Evaluation

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

The objectives of this clause are:

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

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

The applicant has submitted a written request seeking variation to the maximum building height and FSR prescribed by Clause 4.3 and 4.4 as required by Clause 4.6 of PLEP 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 operation of Clause 4.6 is not limited by the terms of Clause 4.6(8) of PLEP 2011, or otherwise by any other instrument.

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

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

The applicant contends that compliance with a development standard is unreasonable and unnecessary are listed within the “five part test” outlined in *Wehbe v Pittwater Council* (2007).

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

In summary, the proponent contends with regards to the height standard as follows:

- *The PLEP 2011 nominates different maximum height limits for various areas within the WSU precinct, providing a transition of building heights reducing from 48m at the south west of the WSU precinct to 31m within and surrounding the site.*
- *The Panel has approved development applications on Lot 4 and Lot 5 within the precinct (which are respectively subject to a maximum height of buildings of 48m and part 40m / part 31 m) with a maximum height of up to 70.1m (an exceedance of 75.5% more than the relevant development standard). Clearly a transition in heights is maintained by the proposed development. The proposed development, and specifically those elements of the development which exceed the development standard continue provide a transition of built form and land use intensity in cohesion with the remainder of the precinct, and therefore, satisfies this objective.*
- *This built form proposed by the development (including the proposed height variation) has been designed to respond to and refine the building envelopes approved as part of DA 571/2014. The development now proposed is generally consistent, in terms of the visual impact, with that previously approved. The height variation does not result in the unreasonable disruption of views, loss of privacy or loss of solar access to any surrounding development.*
- *The refinements to the building form that are proposed will improve views to and from public places by allowing the building form that was previously approved adjacent to the neighbouring heritage building (the southern wing of the eastern building) to be relocated within the site. This refinement to the previously approved building envelope will improve views to and from this adjacent heritage building and therefore improve views within and surrounding the precinct. The additional height that is proposed as a result of the relocation of building form within the site will not affect the views of any exiting residential buildings or views from any area of public domain in the vicinity of the site, but rather, facilitate the opening up of views to the heritage item from within the precinct. Views from the site to the east (towards the Sydney CBD and Parramatta) will also be maximised.*
- *The additional height proposed as part of this development will not cause any detrimental impact on privacy as separation to existing and future buildings within the precinct is substantial and well in excess of any guidelines.*
- *Shadow studies have been provided as part of the architectural package for the proposed development which demonstrate that the impact of the proposed height variation on solar access is comparable to the impact of the approved building envelopes.*
- *The height of the proposed development is modest when compared to the heights approved on Lot 4 and Lot 5 and adopts principles for height associated with the envelopes approved in DA/561/2014. The increase in building height that has been introduced as part of the proposed development results from refinements to the approved building envelopes to improve the relationship of the development to the adjacent heritage building, and improve the amenity of the ground plane on Lot 2.*
- *The change to the building form will allow for views to and from the adjacent heritage building to be enjoyed, where if the site were developed in line with the approved building envelopes, these views would not be possible. The proposal allows the heritage buildings to be appreciated and enjoyed from within the proposed public plaza.*
- *The refinements to the building envelopes have allowed for a new view to the adjacent heritage building on Lot 1 to be created from the public plaza. This would not have been possible if the approved building envelopes were maintained. The additional height*

resulting from the relocated floor space does not create any additional impacts on historic views. Because the proposed development will not detrimentally impact any existing historic views and because the refinements proposed to the approved building envelopes will create additional views to the surrounding historic buildings, the development clearly satisfies this objective. The proposed development will not detrimentally affect the character and scale of the surrounding low-density development.

- Shadow studies have been provided as part of the architectural package for the proposed development which demonstrate that the impact of the proposed development on sky exposure and solar access to surrounding buildings and surrounding public domain will be largely consistent with the impact of the approved building envelopes. Therefore, this objective is still achieved despite the height variation.

The proponent contends with regard to the FSR standard as follows

- The proposed development is the same density as that approved as part of DA/571/2014 and does not seek to achieve any more floor space within the precinct than permitted under the PLEP 2011. A requirement to observe the maximum FSR development standard as it applies to Lot 2 would effectively limit the permissible floor space on the site to 17,082m² (55% of that currently approved and proposed). Such an outcome would be inconsistent with the building envelopes approved as part of DA/571/2014 and would not appropriately regulate density on a site such as this, which is located adjacent to Westmead railway station. Accordingly, the proposed variation is consistent with this objective as the density of the development and generation of vehicular and pedestrian traffic can already be considered 'regulated' by the approved development.
- The site's proximity to Westmead station allows this development to leverage the ability of future users of the site to take public transit to reduce the generation of vehicular traffic. In addition, it should be noted that the proposed development forms part of a wider re-development of the entire Westmead WSU campus. Pedestrian and vehicular traffic impacts of the wider precinct redevelopment were assessed as part of the DA/571/2014 and found to be appropriate.

The development now proposed is generally consistent with the intent of the approved DA/571/2014 (as it applied to Lot 2) and is the same in terms of the quantity of GFA delivered. The increased quantity of floor space (and therefore increased FSR) on Lot 2 above that governed by the FSR standard is offset by a reduced FSR elsewhere on the site - for example the areas set aside for public roads, open space and the scale of the development on Lot 1. Therefore, the traffic impact (both pedestrian and vehicular) has been assessed in its relevant context and found to be appropriate.

- In preparing the plans for the proposal, Architectus built upon the work undertaken by Cox in the preparation of the development proposal for the WSU precinct associated with DA/571/2014. This proposal, the building envelopes of which were approved as part of DA/571/2014, envisaged two buildings which defined the street frontage on three sites of Lot 2, creating a plaza to the north of the site, fronting Darcy Road. Architectus' critique of this building form includes:
 - The building form creates a barrier between the new plaza and the heritage asset on Lot 1;
 - The plaza space is reduced by the presence of the building along the southern portion of the site;
 - The building within the plaza area severs views to the south of the heritage building; and
 - The building form as approved restricts the connections to the precinct's central park.
- In addition to the improvements to the ground plane that have been proposed by Architectus, the building now proposed has evolved to have regard to the buildings that have been approved since the approval of DA/571/2014, notably the detailed designs of buildings on Lot 4 and Lot 5 within the WSU precinct. Plans demonstrating how the floor

area within the proposed development has been distributed to maintain the principle of a transition in height and scale from north east to the south west.

Overall, the proposed variation is consistent not only with this objective of the development standard but also with the variation approved for the approved building density on the site. Despite the variation, an appropriate transition in bulk and scale from the higher density areas of the WSU Campus precinct to the south of the site and the low-density residential areas to the north of the site is achieved, and an improved built-form outcome, when compared to that approved as DN571/2014, is facilitated.

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

It is considered that the variation can be supported as the applicant has demonstrated sufficient environmental planning grounds to vary the development standard. The Clause 4.6 Statement is considered well founded and is supported noting the following:

Height

The underlying reason for the proposed increase in building height relates to the refinements to the approved building envelopes and the relocation of building mass along the southern extent of the site to the top of the eastern and western buildings. This design refinement results in two predominant outcomes, which are discussed below.

- The proposed development has departed from the 31m building height control by redistributing the floor space allocated to the lot under the approved envelopes to facilitate the significant central plaza from the northern portion of the site through to the south as illustrated below:

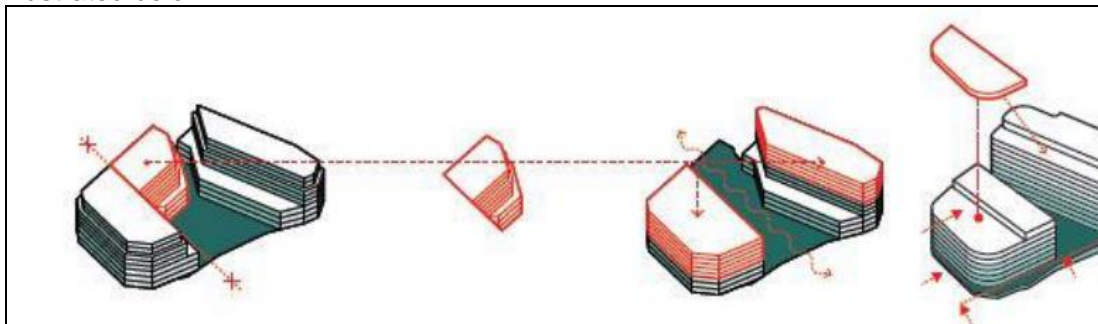


Figure: 14 Floor space and massing redistribution from what was approved under DA/571/2014

- As a result of the design refinements, the two buildings now proposed on the site are taller than the building envelopes previously approved on the site. The increase in building height that is proposed is acceptable because the development is able to satisfy the objectives of the development standard notwithstanding the proposed departure from this standard, and this is in keeping with the previous applications where Council has varied the height of building standard for the WSU Westmead precinct.
- Improved public domain and ground plane orientation: The relocation of building mass from the southern extent of the site results in an ability to improve pedestrian permeability through the site and the relationship of this permeability to existing (and future) transport nodes adjacent, and improve visual connections through the site, including views to and from the adjacent heritage buildings.

Overall, the improved ground plane, pedestrian, and visual connections, facilitated by the proposed development provides benefits to the site which outweigh any impact caused by the building height proposed above the 31m development standard. In light of this there are clearly

sufficient environmental planning grounds to justify the contravention of the development standard.

FSR

The environmental planning grounds relied on in the written request under Clause 4.6 must be sufficient to justify contravening the development standard. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as a whole (*Initial Action v Woollahra Municipal Council* [24] and *Turland v Wingecarribee Shire Council* [42]).

There are sufficient environmental planning grounds to justify a flexible approach to the application of the FSR control as it applies to the site. In *Four2Five*, the Court found that the environmental planning grounds advanced by the applicant in a Clause 4.6 variation request must be particular to the circumstances of the proposed development on that site. The applicable circumstances that relate to the site are discussed below.

The site is located in close proximity to an existing rail station and is being developed as part of a broader redevelopment of the WSU campus at a scale and density consistent with the maximum FSR for the precinct. It is also located in close proximity to the future Stage 1 Parramatta Light Rail project and the envisaged Sydney Metro West, where a railway station has been earmarked for Westmead. As such, the impact of the density proposed by the development is both appropriate to the site and its proximity to transport infrastructure, and has also been able to be assessed holistically, as part of the redevelopment of the whole precinct.

Furthermore, the proposed variation is consistent with that approved as part of DA/571/2014, although the design of the built form has been refined and reshaped to better relate to the adjacent heritage building and to provide a better public domain outcome through the provision of a through-site link and generous public plaza.

On the basis of the above, it is considered that there are sufficient environmental planning grounds to justify contravening the development standard in the circumstances of the proposed variation.

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

The applicant has submitted a written request to vary the Height and FSR standards. The request has adequately addressed the matters required to be demonstrated by subclause (3).

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

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

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

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

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

Conclusion

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

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

However, in designing for the development on 164 Hawkesbury Road, further modelling of the building envelopes approved under DA/571/2014 resulted in a built form that did not reflect the development potential for the site, in particular, the height for the site.

- The variation to the height is in this case a result of an improved design from the U-shaped building envelope approved under the Masterplan DA for WSU site. The improvements on the design included removing the southern arm of the U-shaped building and redistributing the floor area to the remaining western and eastern buildings. This has resulted in both the height of the eastern and western buildings to be taller than the approved heights for 164 Hawkesbury Road under the Masterplan DA.
- The most significant departure to the height relates to the western building which is located closest to Lot 4. Lot 4 was approved with a maximum height of 20 storeys. The tallest part of the proposed development in this instance is a maximum of 11 storeys which then steps down to 8 storeys for the eastern building. This results in the gradual transition of development heights across the former WSU site for a better urban design outcome.
- Despite the variation to the maximum height for the site, the proposal does not in this instance result in adverse visual impacts including the loss of privacy given the sufficient building separation between the closest residential development on Lot 4 opposite the site.
- The proposal does not disrupt any views identified under Appendix 2 of PDCP 2011. The development has been designed as 2 separate buildings to allow for views of the heritage item from the subject to Lot 1 which is an improvement on the U-shaped building envelope envisaged by Stage 1 which did not offer any views to the heritage item on Lot 1.
- The variation to the height does not in this case obstruct helicopter flight paths. The application was submitted with an Aeronautical Report which confirmed that it does not infringe on the approach or departure flight paths for the Westmead Hospital. The development also does not obstruct navigation aids at Sydney or Bankstown Airports. The Civil Aviation Safety Authority (CASA) whom raised no objections to the variation to the height reviewed the application as well as the relevant reports.
- Given the orientation and sufficient building separation from the developments located on 162 and 160 Hawkesbury Road, the subject development does not result in adverse overshadowing. Similarly, the heritage item located on 158 Hawkesbury Road as well as the trees located on the grove to the south-west of the site are also not adversely

impacted by the development with regard to solar access. Further, the variation to the height does not in this instance result in any non-compliance to solar access within the development. Each building will receive the minimum 3 hours of solar access during the winter solstice.

- Whilst the central public open area will result in some loss of solar access, it has very similar solar access as that envisaged as the U-shaped building envelope approved under the Stage 1. Given this, the solar access impacts on the central public open area is acceptable.
- The departure to the height in this instance does not result in any adverse impacts to the heritage item opposite the site given its location and separation. Council's Heritage Adviser upon review of the proposal, found the development to be satisfactory and did not raise objections to the variation to the height.
- As previously noted, the ARUP study that informed the FSR for the site was concept in nature. As such, it did not correspond with the newly created lots on the site upon subdivision. Further, once internal roads as well as the open space were considered into the subdivision design, reduced opportunities for locating built form.
- The proposed FSR is consistent with the Stage 1 FSR approved for 164 Hawkesbury Road and that the bulk and scale impacts of the FSR was envisaged at the Stage 1 approval.
- The departure to the FSR does not result in adverse traffic and parking impacts and has the support of Council's Traffic Engineer.
- The departure to the height and FSR has the support of Council's Urban Designers and DEAP as it is considered to result in a better Urban Design outcome.
- The development contributes to the wider Westmead precinct by providing a mixture of uses to support its primary function as a health and educational hub.
- The departures to the standards does not hinder the development from achieving the objectives of the B4 Mixed Use zone as it contributes to providing residential development in the locality.
- The preconditions of Clause 4.6(4)(a), in relation to the adequacy of the applicant's written request and the public interest, are satisfied.

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

3. Parramatta Development Control Plan 2011

The relevant sections of the DCP applicable to this proposal are the following sections:

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

Compliance tables are provided below:

Table 9: DCP 2011 compliance table

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

2.4.8 Public Domain	<p>The landscape plan submitted with the application does not include provision for species nominated in Appendix 3 of the PDCP 2011.</p> <p>The site does not adjoin bushland nor does it adjoin land zoned E2 or W1.</p> <p>The plans have been amended to provide an appropriate street address with distinguishable entries via a clear pedestrian pathway to ensure clear identification from the public domain.</p> <p>Standard conditions incorporated in the consent requiring the payment of a bond to ensure that the nature strip is maintained and in the event that it is damaged due to the works associated with the proposal that Council be reimbursed for the damages.</p>	Yes
Part 3 – Development Principles		Complies
Height	See LEP assessment under 'height'	No, but acceptable
FSR	See LEP assessment under 'FSR'	No, but acceptable
Minimum Site Frontage	<p>Required – Min. 18m</p> <p>Provided:</p> <p>Farmhouse Road West – 48.6m</p> <p>Farmhouse Road South – 67.59m</p> <p>Darcy Road – 80.8m</p> <p>Hawkesbury Road – 34.3m</p>	Yes
Setback	Required – As per Special Area Controls for 158 – 164 Hawkesbury Road. See Part 4 of this table.	Yes
Deep Soil / Landscape Area	<p>Required – Rear setback is to be landscaped area if residential development is proposed on the ground floor. For all business zones, if site adjoins residential development or a residential zone or otherwise on merit.</p> <p>Provided – No deep soil provided on the site due to the extent of the basement.</p> <p>Landscaping provided within the central plaza area.</p> <p>It is noted that the Stage 1 building envelopes approved under DA/571/2014 envisaged that the majority of the landscaping provided for the site is to be located to the centre of the site which the current proposal reflects. Given this, the location of the landscaped area is considered to be acceptable.</p>	Yes
3.2.1 Building Elements	<p>The bulk of the building is consistent with the desired future character of Westmead.</p> <p>It is considered that the proposed development subject to conditions of consent will not adversely impact on the existing streetscape as plans indicate satisfactory setbacks and articulation, thereby, reducing the bulk and scale of the development and as</p>	Yes

	such, any adverse impacts on the amenity of the potential adjoining properties.	
3.2.2 Building Façade and Articulation	<p>The proposal provides appropriate setbacks and building articulation resulting in a reduced perception of bulk and scale.</p> <p>The development is designed with multiple recesses to create articulation, improve solar access to the adjoining properties and to create some visual interest on the pedestrian level. Accordingly, there will be no unreasonable loss of amenity to adjacent properties.</p> <p>Multiple stair lift/cores are provided to encourage multiple street entries.</p>	Yes
3.2.3 Roof Design	<p>The development incorporates a flat roof which is not uncommon with the modern design for similar forms of development. It is noted that the approved development on 160 and 162 Hawkesbury Road with a flat roof and as such, the roof form on 164 Hawkesbury Road is considered to be consistent with previously approved development.</p>	Yes
3.2.5 Streetscape	<p>The urban context of the wider locality is residential of low to high density. Westmead is also a Health and Educational precinct.</p> <p>As previously stated in this report, the development is of an appropriate bulk and scale with adequate setbacks and landscaping. As such, the development is considered to be consistent with the B4 Mixed Use zoning of the site and the future streetscape character of the area.</p> <p>Basement carparking is provided to minimise the impact of parking structures on the building façade and the front setback.</p> <p>The development provides a through site link. Both buildings have been designed to address the through site link as evidenced by the landscape and public domain plans resulting in a public open area and improved pedestrian connections.</p>	Yes
3.2.6 Front Fences	No front fences are proposed.	N/A
3.3.1 Landscaping	<p>The proposed works have the endorsement of Council's Landscape and Tree Management Officer subject to conditions of consent.</p> <p>It is noted that a 1m soil depth is provided above the basement to allow for landscaping for the public open space area.</p>	
3.3.2 Private and Common Open Space	The development does not propose a residential component.	N/A
3.3.3 Visual Privacy	As previously noted ample building separation has been provided between the residential development on 162 Hawkesbury Road	Yes

	and the proposal. As such, any adverse visual impacts as a result of the proposal to the residential development on 162 Hawkesbury Road are negligible.	
3.3.4 Acoustic Amenity	See ISEPP discussion with regard to acoustic amenity.	Yes
3.3.5 Solar Access & Cross Ventilation	Due to the orientation and generous building separation from the developments located on 162 and 160 Hawkesbury Road, the proposal does not result in adverse overshadowing. Similarly, the heritage item located on 158 Hawkesbury Road as well as the trees located on the reserve to the south-west of the site is also not adversely impacted by the development with regards to solar access. Further, the variation to the height of the proposal does not in this instance result in any non-compliance to solar access within the development. Each building will receive the minimum 3 hours of solar access during the winter solstice.	Yes
	The development provides a 4.7m floor to ceiling height on the ground floor and a 3.5m floor to ceiling height on the remaining floors.	Yes
	The development provides an open floor layout to allow variable tenancies and uses on all floors, in particular the ground floor which is provided with a generous floor to ceiling height.	
3.3.6 Water Sensitive Urban Design	Council's Development Engineer has advised that the concept OSD plan is satisfactory and appropriate conditions have been imposed to ensure it is designed appropriately at the construction certificate stage to achieve relevant objectives and design principles outlined in the DCP.	Yes
3.3.7 Waste Management	The Waste Management Plan is satisfactory, detailing the types and amounts of waste that will be generated by the development and the methods of removal and disposal.	Yes
	The garbage room is located within the lower mezzanine level. Waste collection will be undertaken on-site.	
3.4.1 Public Art	An Arts Plan has been submitted with the application. The related documentation was reviewed by Council's Public Art Officer who has raised no objections to the proposal subject to conditions of consent.	Yes
3.4.2 Access for People with disabilities	The application was submitted with a BCA Report as well as an Access Report. These reports as well as standard conditions requiring compliance with the relevant BCA and Australian standards will be included in the consent.	
	It is noted that the ground floor is accessible from the street by people with disabilities. Access from the basement to the upper levels is via a lift.	Yes
	The proposal does not contribute to the provision of any increased opportunity for criminal or anti-social behaviour to occur. The entries face towards the street or the central open space, promoting	

3.4.4 Safety and Security	<p>natural surveillance from within the development to the public domain.</p> <p>The application was provided with a CPTED Report which provides adequate measures to ensure the safety of the users and visitors to the building. This report will be incorporated in the consent.</p> <p>The site does not contain a heritage item.</p> <p>The site is not within a heritage conservation area.</p>	Yes
3.5 Heritage and Archaeology	<p>The site however is located within proximity to heritage listed items on 158 Hawkesbury Road. Council's Heritage Adviser reviewed the proposal and upon review raised no objections to the proposal as there is considered to be generous building separation between sites. As such, it is deemed that no significant views or heritage values will be impacted by the development.</p> <p>Required – As per Special Area Controls for 158 – 164 Hawkesbury Road. See Part 4 of this table.</p>	Yes
3.6 Parking Provisions	The site does not result in the isolation of any adjoining properties.	N/A
3.7 Residential Subdivision		
Part 4 – Special Precinct Subdivision		Complies
Subdivision	No subdivision is proposed under the current application.	Yes
Height	See LEP table	No
FSR	See LEP table	No
Setbacks	<p>Required – Nil + Awning</p> <p>Provided – Nil. Awnings are only provided along the southern elevation and to the north-west corner of the development. Awnings are also provided along the colonnade.</p> <p>Whilst the controls required awnings around the entire development, the awnings that are provided, contribute to the aesthetic presentation of the development as well as some weather protection on the ground level. Council's Urban designers, City Architect as well as DEAP found the departure to this controls satisfactory.</p>	No, but acceptable
Provision of a pedestrian link	A north-south pedestrian link is provided as per Figure 4.3.4.12 of PDCP 2011.	Yes
Provision of a Town centre	A central public open space area is provided as per Figure 4.3.4.12 of PDCP 2011.	Yes

Open Space	Public domain is as per the Stage 1 approved under DA/571/2014 and Figure 4.3.4.1.2 of PDCP 2011.	Yes
Heritage	The subject site does not contain a heritage item. Council's Heritage Adviser reviewed the proposal and upon review raised no objections to the proposal as there is considered to be ample building separation between the subject site and the heritage item to the south.	Yes
Traffic and Transport	The proposed development is subject to the maximum provisions pursuant to Table 4.3.4.1.1 of PDCP 2011. The maximum parking spaces for the development are as follows: Max. 240 commercial spaces Max. 80 retail spaces Max. 25 childcare spaces The application in this instance has provided 137 parking spaces comprising of: 99 commercial spaces 13 retail spaces 25 childcare spaces	Yes

4. Planning agreements

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

5. Environmental Planning

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"> ○ Relevant drawings and montages
Clause 98	All building work will be carried out in accordance with the provisions of the Building Code of Australia.

6. Likely impacts

6.1 Context and setting

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

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

Response

This proposal will result in acceptable physical impacts as follows:

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

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

Response

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

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

6.2 Site works

Excavation

The excavation required to provide the 2 levels of basement is considered to be acceptable. Water NSW have not raised any objections with regards to the extent of excavation work and any impacts to ground water.

Tree removal

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

Utility services

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

6.3 Natural and technological hazards

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

6.4 Site design

Setbacks

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

Height, bulk and scale

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

External materials

The schedule of external materials and finishes is satisfactory.

Wind

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

Table 8: Wind mitigation measures

<i>Location</i>	<i>Mitigation measures</i>
Pedestrian Footpaths and Plaza	<ul style="list-style-type: none">• Provision of street trees along the pedestrian footpath and across the plaza area.• Provision of pedestrian awnings along the eastern side of the western buildings and the western side of the eastern building.• Exposed columns located along each side of the plaza will be effective in wind mitigation
Rooftop Terraces	

	<ul style="list-style-type: none"> • Provision of impermeable balustrades a min. 1m high topped with planting are provided along the edge of the terraces.
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Suitable conditions are included in the recommendation.

Accessibility

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

Landscaping

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

6.5 Amenity considerations

Internal amenity

A satisfactory outcome is achieved.

Common open space

Pursuant to the controls contained in Part 4 of PDGP 2011, a central public open space is provided (Town Centre).

Noise

The application is supported by a technical report which confirms that road traffic noise levels, will exceed relevant minimum and maximum noise criteria, In particular for the childcare centre without noise attenuation measures.

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

6.6 Public domain

Built form relationship to public domain

A positive public domain outcome will result given:

- The building achieves a desirable interface with public areas in terms of the relationship between the ground floor levels and the adjoining footpaths;

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

Public domain works

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

6.7 Relationship to adjacent sites

Overlooking

The development, ensures adequate separation within the development as well as the development to west and to the south.

Overshadowing

This is addressed in detail in the DCP tables.

Operational noise

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

6.8 Access, transport and traffic

Parking supply

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

Parking access and design

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

Construction Traffic

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

6.9 Water management

Stormwater collection and disposal

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

Water quality during construction

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

6.10 Waste management

Construction phase

This matter will be addressed within a Construction Management Plan.

Operation phase

Dedicated space for the storage and collection of waste is provided within the mezzanine level via the loading bay along Farmhouse Road West. Council's Waste Officer has reviewed the Waste Management Plan which supports the application, and is satisfied with arrangements for the storage and collection of waste from the development.

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

6.11 Construction Management

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

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

6.12 Safety, security and crime prevention

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

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

- Lighting of communal areas, entrances, perimeters and all basement levels in accordance with Australian standards;
- Installation of CCTV to vehicle entry points;
- Engage a security firm to undertake regular inspections of the surrounding areas at night
- Provision of bollards, planter boxes or architectural features to prevent vehicular ram raid to ground floor spaces
- Use of swipe cards and locks at appropriate locations to restrict unauthorised access;
- Clearly delineate spaces through signage and boom gates;
- Provision of signage to users of the building and surrounds which identify public areas and way finding through the building;
- Implementation of an on-going maintenance plan for waste, vandalism, toilets, community facilities, landscaping, fencing and lighting
- Provision of a facilities manager to develop an operational plan of management.

6.13 Social and economic impacts

No adverse impacts have been identified.

7. Site Suitability

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

- That the proposal is an appropriate “fit” for the locality given the preceding analysis; and
- Site attributes are conducive, noting a lack of natural constraints/hazards.

8. Public interest

In accordance with the notification procedures that are contained in Appendix 5 of PDCP 2011 owners and occupiers of surrounding properties were given notice of the application for a 31 day period between 16 January 2019 and 7 February 2019. In response, 1 submission was received.

The issues raised in the submissions are as follows.

Issue	Comment
Bulk and Scale	This issue is assessed in detail in this report. Despite the variations to the height and FSR, the proposal is considered appropriate for its location and is designed as envisaged by Council's controls for the Westmead Precinct.
Aesthetics / External Presentation	The proposal has been reviewed by a Design Excellence Advisory Review Panel (DEAP) and Panel supports the proposal a well considered and presented scheme and that the architectural, urban design and landscape quality is of a high standard. Accordingly, the proposal is considered to have a suitable presentation for the site and the Westmead precinct as envisaged by the relevant controls.

Amended plans were submitted in response to DEAP comments as well as in response to commentary from Council's internal specialists. These plans were not re-advertised as the proposal as amended did not increase any amenity impacts to adjoining developments and thus, re-notification of the development application was not considered necessary.