



**SYDNEY CENTRAL CITY PLANNING PANEL**

**COUNCIL ASSESSMENT REPORT**

<b>Panel Reference</b>	2018SWC049
<b>DA Number</b>	DA/585/2016/D
<b>LGA</b>	City of Parramatta
<b>Proposed Development</b>	Section 4.55(1A) modification to approval for demolition of existing structures, retention of a heritage item and construction of a 17 storey mixed-use development comprising ground floor retail over basement carpark and shop-top housing comprising 254 units in two residential towers. The modifications include the inclusion of additional windows on Levels 1 - 7 on the northern elevation.
<b>Street Address</b>	30 – 42 Oxford Street, Epping (Lot A DP 354692, Lots 1A and 1B DP 102387 and Lot C DP 389716)
<b>Applicant</b>	Cardno Pty Ltd
<b>Owner</b>	Greaton Epping Holdings Pty Ltd
<b>Date of DA lodgement</b>	15 March 2018
<b>Number of Submissions</b>	One (1)
<b>Recommendation</b>	Approval subject to revised conditions
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	Pursuant to Clause 21 of State Environmental Planning Policy (State and Regional Development) 2011, the proposal is a 4.55(1A) modification to an application with a capital investment value of more than \$20 million.
<b>List of all relevant 4.15(1)(a) matters</b>	<ul style="list-style-type: none"><li>• Environmental Planning and Assessment Act 1979</li><li>• Environmental Planning and Assessment Regulations 2000</li><li>• State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development)</li><li>• State Environmental Planning Policy (Building Sustainability Index: BASIX)</li><li>• State Environmental Planning Policy (State and Regional Development) 2011</li><li>• Hornsby Local Environmental Plan 2013</li><li>• Hornsby Development Control Plan 2013</li></ul>
<b>List all documents submitted with report</b>	<ul style="list-style-type: none"><li>• Attachment 1 - Conditions of Consent</li><li>• Attachment 2 - Architectural Drawings</li></ul>
<b>Report prepared by</b>	Matthew Di Maggio Development Assessment Officer, City Significant Development
<b>Report date</b>	04 May 2018

**Summary of s4.15 matters**

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

**Yes**

**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	<b>Yes</b>
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**Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>N/A</b>
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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.11EF)?	<b>No</b>
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**Conditions**

Have draft conditions been provided to the applicant for comment?	<b>Yes</b>
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## 1. Executive summary

This proposal seeks minor modifications to an approved 17-storey, 2-tower mixed use development. The modifications include the following:

- The provision of additional windows on the northern façade of Building B from Levels 1-7.

Assessment of the application against the relevant planning framework has not identified any fundamental issues or concerns. The application is therefore satisfactory when evaluated against sections 4.15 and 4.55(1A) of the Environmental Planning and Assessment Act 1979.

This report recommends that the Panel approve the modification application, subject to the recommended revised conditions.

## 2. Key Issues

*Apartment Design Guide:*

- **Visual Privacy** – Impact on adjoining properties.

Hornsby Development Control Plan 2013:

- **Privacy** – Impact on adjoining properties.

## 3. Site description, location and context

### 3.1 Background

DA/585/2016 (formerly Hornsby DA/1381/2015) was granted deferred commencement consent by the Sydney West Joint Regional Planning Panel on 20 July 2016 for demolition of existing structures, retention of a heritage item and construction of a 17 storey mixed-use development comprising ground floor retail over basement carpark and shop-top housing comprising 254 units in two residential towers.

A deferred commencement condition required registration and creation of a downstream easement to drain water within 24 months. The deferred commencement condition was satisfied and operational consent was issued on 5 July 2017.

DA/585/2016/A was granted consent by the Sydney Central City Planning Panel on 1 November 2017 to modify the approved development by way of increasing the height of Tower A by 420mm, increasing the size of balconies at Level 8, reducing the floor area, modifying the unit mix, adding essential services, inclusion of basement ventilation stacks and changes to the facade design.

DA/585/2016/B was granted consent by the Sydney Central City Planning Panel on 5 October 2017 to modify the approved development by way of removing street trees and furniture.

DA/585/2016/C was withdrawn by the applicant.

### 3.2 Site Description

The irregular shaped site comprises four allotments known as No. 30, Nos. 32 – 36, No. 38 and No. 42 Oxford Street, Epping. The subject site has a frontage to Oxford Street of 60.32m, a consolidated area of 5,170m<sup>2</sup> and an average cross fall of 5% to the north-eastern corner (rear). No. 38 Oxford Street is listed as a heritage item (No. 804 - House/Shop) of local

heritage significance under the provisions of Schedule 5 (Environmental Heritage) of the Hornsby Local Environmental Plan 2013 (HLEP).

This site is within the Epping Town Centre Urban Activation Precinct (ETCUAP), approximately 125 metres north-east of Epping Rail Station and in close proximity to a range of other retail, commercial, education, open space and recreational facilities in and around the Epping Town Centre. The Epping Town Centre is comprised of a range of multi-storey office buildings, retail shops, medium density residential development, schools, places of public worship and other ancillary uses.

Notwithstanding the existing character described above, the locality has been identified as having a future character of high density mixed use buildings. The site and surrounding properties to the west and south are zoned B2 Local Centre. The site adjoins R4 High Density Residential zone to the rear (east) and part of the southern boundary.

The site became part of the City of Parramatta following the proclamation on 12 May 2016 that created a number of new Council entities, formed through mergers and boundary changes.

<b>Area</b>	<ul style="list-style-type: none"> <li>• 5,170m<sup>2</sup></li> </ul>
<b>Zoning:</b>	<ul style="list-style-type: none"> <li>• B2 Local Centre</li> </ul>
<b>Improvements:</b>	<ul style="list-style-type: none"> <li>• Local heritage listed shop/house terrace (to be retained)</li> <li>• Church and 3 x single storey terrace shops (to be demolished)</li> </ul>
<b>Locality:</b>	<ul style="list-style-type: none"> <li>• Town centre (commercial/retail) to the north, south and west.</li> <li>• Church and residential to the east.</li> </ul>
<b>Constraints:</b>	<ul style="list-style-type: none"> <li>• Local heritage listed</li> </ul>
<b>Key Development Standards:</b>	<ul style="list-style-type: none"> <li>• Height: 48m</li> <li>• FSR: 4.5:1</li> </ul>

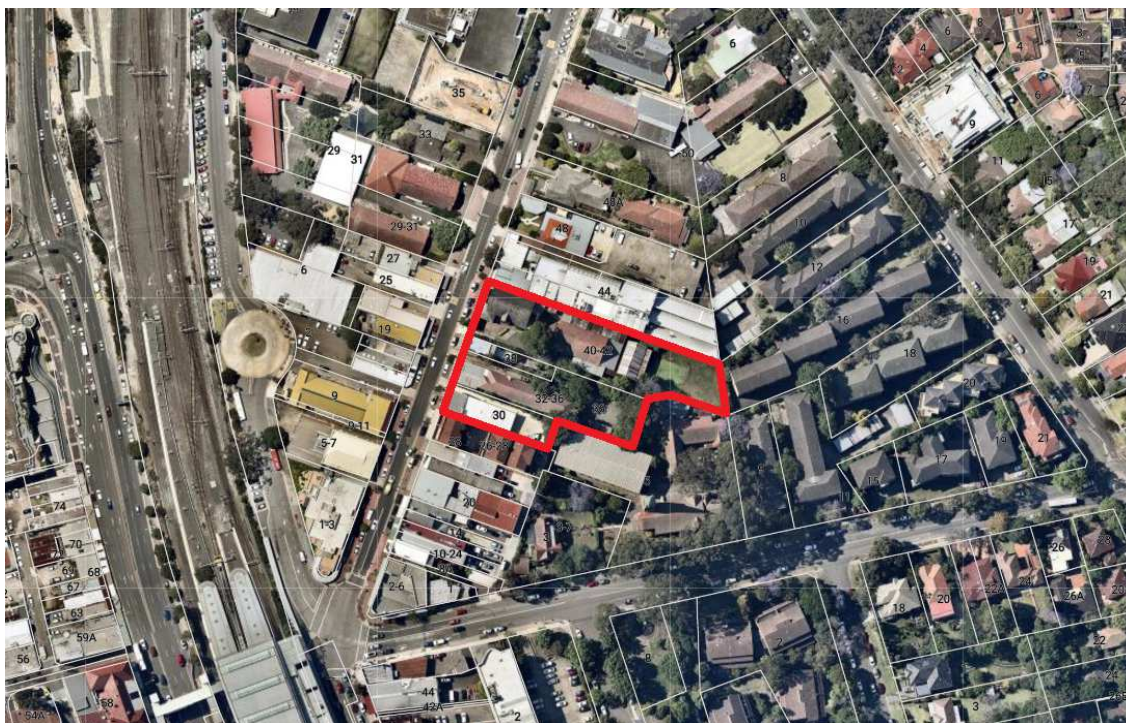


Figure 1. Aerial view of locality (subject site in red).

#### 4. The Proposal

Consent is sought to modify the approved development as follows:

**Level 1:**

**Building B:**

- Addition of 1 x window servicing the living area of apartment B1.03.

**Level 2 to 3:**

**Building B:**

- Addition of 1 x window servicing the living areas of apartment's B2.03 and B3.03, respectively.

**Level 4:**

**Building B:**

- Addition of 1 x window servicing the living area of apartment B4.03.

**Level 5 to 7:**

**Building B:**

- Addition of 1 x window servicing the living areas of apartment's B5.02, B6.02 and B7.02, respectively.

**BASIX:**

- A modified BASIX certificate has been provided to correspond with the additional windows.

**Reason for the modification:**

The additional operable windows for the select apartments are to complement the existing windows servicing living areas and will improve sunlight access and ventilation, thereby increasing their amenity.



Figure 5-1 Excerpt from approved drawing S96-2.03 Rev I  
Source: Marchese Partners

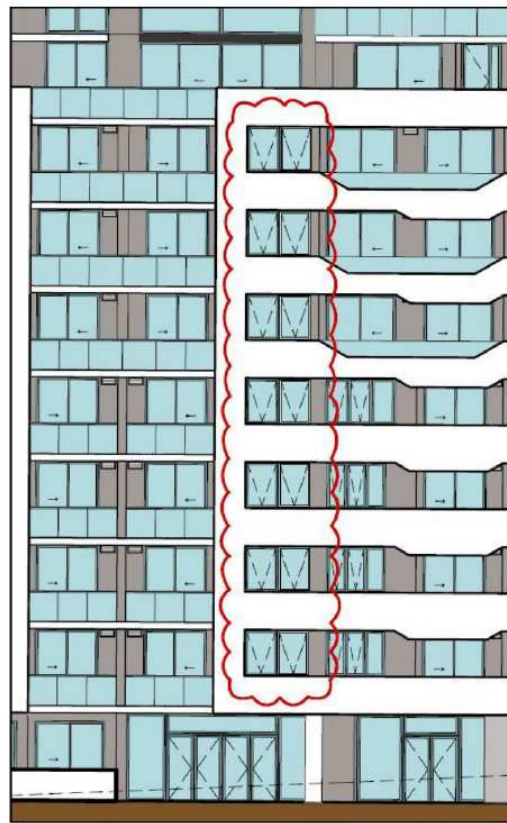


Figure 5-2 Excerpt from proposed amended drawing S96-2.03 Rev J  
Source: Marchese Partners

**Figure 2.** An image of the approved versus the modified northern elevation, with the modifications clouded in red. (Source: Marchese Partners).

## 5. Referrals

Given the nature of the modifications, internal or external referrals were not required.

### Submissions

The application was notified in accordance with Hornsby DCP requirements for a 14-day period between 3 April – 17 April 2018. In response, one (1) submission was received.

The issues raised within the submission do not directly relate to the modifications proposed. Notwithstanding, the issues raised with respect to the modification are addressed below.

Issues raised	Comment
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Privacy/overlooking	<p>Concern was raised with respect to privacy impacts and overlooking caused by the development.</p> <p><b>Planner's comment:</b> The approved setbacks and boundary landscape treatment are to remain unaltered by the modification, which were deemed adequate in terms of maintaining privacy for surrounding occupiers. Further, the additional windows do not directly face the windows of adjacent dwellings/buildings and overlook the landscaped area and access path of the development, thereby increasing opportunities for passive surveillance, which improves safety.</p>
Construction noise	<p>Concern was raised with respect to noise impacts emanating from construction activity.</p> <p><b>Planner's comment:</b> This concern is outside the scope of the modification. Notwithstanding, conditions of consent outlined in the determination notice stipulate construction hours and noise reduction measures for the development and any breaches should be referred to Council's Regulatory Services Team for investigation.</p>
Dust impacts	<p>Concern was raised with respect to dust impacts emanating from construction activity.</p> <p><b>Planner's comment:</b> This concern is outside the scope of the modification. Notwithstanding, conditions of consent outlined in the determination notice stipulate dust control measures for construction of the development and any breaches should be referred to Council's Regulatory Services Team for investigation.</p>
Loss of public parking	<p>Concern was raised with respect to the loss of on-street parking.</p> <p><b>Planner's comment:</b> This concern is outside the scope of the modification. Notwithstanding, the provision of car parking for the development was assessed under the original application and was deemed sufficient.</p>
Loss of solar access	<p>Concern was raised with respect to the loss of solar access for adjacent properties.</p> <p><b>Planner's comment:</b> This concern is outside the scope of the modification. Notwithstanding, solar access impacts caused by the development were assessed under the original application and deemed satisfactory.</p>
Demolition of historic buildings/heritage items.	<p>Concern was raised with respect to the demolition of historic buildings and heritage items with the locality.</p> <p><b>Planner's comment:</b> This concern is outside the scope of the modification. Notwithstanding, an existing heritage listed commercial premise, which forms part of the subject site, is proposed to be retained and incorporated into the development.</p>

## 6. Environmental Planning and Assessment Act

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

## **6.1 Section 4.15: Evaluation of Proposed Modifications**

This section assesses the impacts of the proposed modifications in the context of the relevant planning instruments and plans, including but not limited to *State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development)* (SEPP65), *Hornsby Local Environmental Plan 2013* (HLEP) and *Hornsby Development Control Plan 2013* (HDCP).

### **6.1.2 Privacy**

The modification includes the addition of a total of seven (7) windows on the northern façade to service the living areas of select apartments. The modifications are acceptable for the following reasons:

- The provision of the additional windows does not alter the principles outlined in SEPP 65.
- The building setbacks stipulated by the Apartment Design Guide (ADG) and the HDCP remain unaltered by the modifications, thereby maintaining privacy for surrounding occupiers.
- The additional windows do not directly face the windows of adjacent dwellings/buildings and overlook the landscaped area and access path of the development, thereby increasing opportunities for passive surveillance, which improves safety in accordance with the safety principles of SEPP 65 and the HDCP.
- The additional windows do not affect the proposal's original compliance with the HLEP.

### **6.1.3 BASIX**

The application was accompanied by an amended BASIX certificate that corresponds with the modifications and is in accordance with *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

## **6.2 Section 4.55(1A): Evaluation**

The development consent has been activated (demolition and excavation has been commenced) and as such can seek to benefit from Section 4.55(1A) 'Modifications involving minimal environmental impact' of the EP&A Act 1979, subject to the following requirements:

The following clause must be satisfied for 4.55(1A) modification applications:

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

- (a) it is satisfied the modification is of minimal environmental impact;*
- (b) it is satisfied the development as modified would be substantially the same development as that for which consent has already been granted; and*
- (c) it has notified the application in accordance with the regulations, or a development control plan, and has considered any submissions.*

The above 'test' is satisfied given:



- The amendments would not result in any adverse outcomes for the natural or built environments beyond those accepted in conjunction with the assessment of the original development application;
- In terms of both quantitative and qualitative considerations, the development as amended would remain substantially the same as that already approved given the scope of the changes do not:
  - Comprise any radical transformation of the consent; or
  - Relate to material and essential features of the approved development.

### **6.3 Section 4.55 - All applications for modifications**

The following clause must be satisfied for 4.55 modification applications:

*In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.*

*The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

- The matters for consideration prescribed under section 4.15(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act) are addressed directly above.

## **10. Planning Agreements**

The subject application is not subject to a planning agreement.

## **11. The Regulations**

The proposed modifications would not impact on the relevant regulations, compliance with which is conditioned in the original consent.

## **12. The likely impacts of the development**

The likely impacts of the development have been considered in this report.

## **13. Site suitability**

The site was determined to be suitable for the proposed use and buildings as part of the original consent. The proposed modifications are not considered to affect the original decision.

## **14. Public interest**

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

## **15. Disclosure of Political Donations and Gifts**

No disclosures of any political donations or gifts have been declared by the applicant or any

organisation / persons that have made submissions in respect to the proposed development.

## 16. Development Contributions

*City of Parramatta S94 Development Contributions Plan (formerly Hornsby LGA Land & Epping Town Centre)* requires that development contributions be paid based on the number and type of additional residential units and commercial floor space. As the modification does not result in an increase to the number of or type of units or commercial floor space, the proposal would not result in an increase in the contributions payable. As such, the relevant condition does not require modification.

## 17. Summary and conclusion

The application has been assessed relative to Sections 4.15 and 4.55(1A) of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls. On balance the modifications are considered to be satisfactory and approval is recommended.

## 18. Recommendation

**That**, pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, the Sydney Central City Planning Panel grant consent to modify Consent reference DA/585/2016 as shown on the plans submitted with the modification application, subject to modified conditions of consent as outlined in **Attachment 1**.