



**CITY OF  
PARRAMATTA**

## Report to Sydney Central City Planning Panel

<b>SWCCP Reference</b>	2018SWC081 DA
<b>DA No.</b>	DA/469/2018
<b>Date of Receipt</b>	16 July 2018
<b>Proposal</b>	Construction of a place of worship building comprising a Grand Cathedral, public forecourt space, multipurpose hall and associated basement parking. The application is identified as Integrated Development for the purposes of the Water Management Act 2000. The determining authority is the Sydney Central City Planning Panel (SCCPP).
<b>Street Address</b>	163-165 George Street, PARRAMATTA
<b>Property Description</b>	Lot 1 DP 78716, Lot 1 DP 113513 & Lot 1 DP 650704
<b>Applicant</b>	The Hellenic Orthodox Community of Parramatta
<b>Owner</b>	The Hellenic Orthodox Community of Parramatta
<b>Submissions</b>	Two (2) submissions received
<b>Conciliation Conference Held</b>	Not Required
<b>List of All Relevant s4.15(1)(a) Matters</b>	<ul style="list-style-type: none"><li>• Environmental Planning and Assessment Act and Regulations</li><li>• State Environmental Planning Policy No. 55</li><li>• State Environmental Planning Policy (Sydney Harbour Catchment) 2005</li><li>• State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li><li>• State Environmental Planning Policy (State and Regional Development) 2011</li><li>• State Environmental Planning Policy (Infrastructure) 2007</li><li>• Parramatta Local Environmental Plan 2011</li><li>• Parramatta Development Control Plan 2011</li></ul>
<b>Recommendation</b>	Refusal
<b>Council Officer</b>	City Plan Strategy & Development (consultant planner on behalf of City of Parramatta)

### Summary of Section 4.15 matters

Have all recommendations in relation to relevant Section 4.15 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?

Yes

**Integrated Development**

Is the application identified as Integrated Development for the purposes of the *Water Management Act 2000*?

Yes

**Clause 4.6 Exceptions to development standards**

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

Yes

**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions?

No

**Conditions**

Have draft conditions been provided to the applicant for comment?

N/A

**1. Executive summary**

This report considers a proposal for the construction of a place of public worship comprising a grand cathedral, public forecourt space, multipurpose hall and associated basement parking.

The proposal (as amended) comprises the following:

- A two-storey grand cathedral with a seating capacity of 338, including narthex, nave, sanctuary (with vestry), chapel, mothers' room, confessional room, priest's office, and seating within the mezzanine level;
- Ancillary hall and kitchen facilities;
- Extensive paved forecourt;
- New landscaping;
- Toilets; and
- A six-level underground carpark with 428 car parking spaces.

The Capital Investment Value is \$28,155,457.

After consideration of the proposed development against Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and the relevant planning framework and consideration of matters by

Council's technical departments, the proposal is considered not suitable for the site and not in the public interest.

This report recommends that the Panel:

- Not support the variation to the building height controls in Parramatta Local Environment Plan 2011, via Clause 4.6 of that Plan; and
- Refuse the application as the applicant has failed to respond to the key issues listed under Section 2 below and Attachment B of this report.

## 2. Key issues

- Building Height:** The application seeks to vary the height standards applicable to the site under Clause 4.3 of the Parramatta Local Environmental Plan 2011, from RL 14m to RL 34m (143% variation). The submitted Clause 4.6 request is not supported.
- Flooding:** Insufficient information has been provided in order to assess the flooding impacts associated with the proposal, including risks associated with mainstream flooding and potentially overland flow flooding.
- Parking:** The application fails to comply with the parking provisions for places of public worship established under the Parramatta Development Control Plan 2011.
- Urban Design:** The application lacks detailed contextual analysis and has not adequately considered the constraints of the site and adjoining development within the streetscape.
- Landscaping:** The siting of the proposed development results in minimum setbacks which limits the opportunities to create a landscape setting. In addition, insufficient information has been provided in order to assess the impacts on trees to be retained.
- Heritage:** No Heritage Impact Statement was submitted with the application to allow consideration of heritage items in the vicinity, including significant views and vistas.
- Parramatta Light Rail (PLR) Works:** The proposal fails to demonstrate the effective operation of the basement car park, including the location and configuration of the access arrangements via George Street, which are impacted by the approved corridor for the PLR. Also, the endorsement of the project and design from the PLR is still outstanding.

## 3. Background

The applications relevant to the site are outlined in the following table:

Table 1: Relevant Applications

<i>Application No.</i>	<i>Proposal</i>	<i>Status</i>
RZ/3/2018	Rezoning/Masterplan - Amending Schedule 1 Subclause 10 which permits additional uses at 163-165 George Street Parramatta to permit the additional use of a 'car park'.	Initial Assessment
DA/87/2018	Development application for alterations and additions to an approved centre based childcare facility with changes to the ground floor of an existing building, addition of signage, amendments to the approved number of children to a maximum of 83 and changes to the hours of operation.	Approved 11 May 2018

DA/839/2015	Development application for change of use and fit out of the former Parramatta Workers Club to operate as a place of public worship (with a capacity of 200 people), (excluding fitout of the childcare centre), childcare centre/preschool (maximum 80 children), school community hall, function centre, community rooms (for playgroups, choirs, dance school, community groups and parish community meetings etc., Greek school, signage associated ancillary works, internal fitout works, landscaping, and external facade modifications/upgrades.	Approved 11 April 2016
RZ/12/2014	Site rezoned from RE2 Public Recreation to SP1 Special Uses (Place of Public Worship/ Educational Establishment) and the insertion of a Schedule 1 Additional permitted use provision or local clause to permit function centres, childcare centres, community facilities, restaurant or cafe, and office premises with development consent.	Gazetted 18 Sept 2016

#### 4. Site context

The subject site is located approximately 500m east of Parramatta City Centre between Harris Street and Purchase Street, bounded by Parramatta River and reserve to the north, public recreation areas to the west, and low to medium density residential developments to the south-east. The site provides a transition between commercial and mixed-use developments to the west, and residential developments to the east.

The site is well serviced by public transport, located 1km from Parramatta railway station and bus interchange, and 800m from the ferry wharf. The northern boundary of the site (George Street) is on the approved corridor of the Parramatta Light Rail (PLR).



Figure 1. Locality map, subject site in Parramatta outlined in red and shaded yellow (SixMaps)

As seen in Figure 2, the site is zoned SP1 - *Special Activities (Educational Establishment & Place of Public Worship)*. Place of public worship is permitted with consent within the SP1 zone.

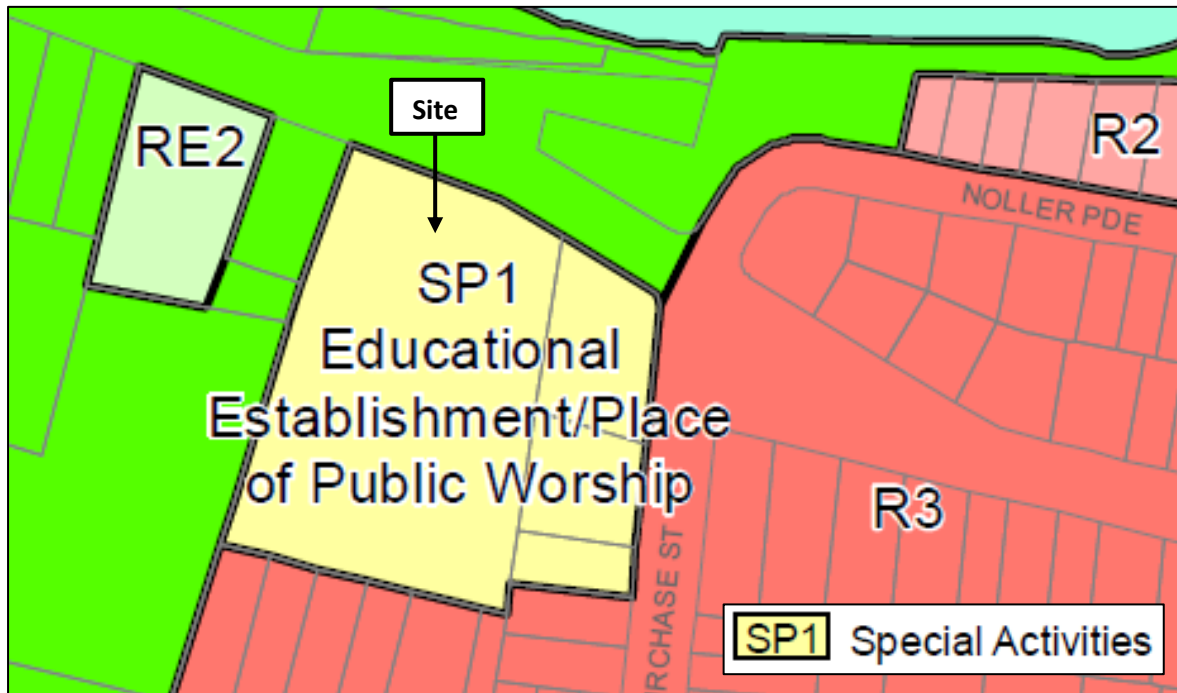


Figure 2. Land Zoning Map – Sheet LZN\_010 (Parramatta LEP 2011)

The following images provide an illustrative overview of the existing surrounding built form and environment.



Figure 3. Side view of the heritage item 'Tara' (also known as 'Ellengowan') at 153 George Street on the west side of the site



Figure 4. Side view of 1A Noller Parade opposite the site along George Street





Figure 5. Front view of 167 George Street opposite the site along Purchase Street



Figure 6. North view of Parramatta River and reserve across George Street



Figure 7. West view of George Street



Figure 8. North view of Purchase Street

## 5. Site description and location

The subject site is known as Nos. 163-165 George Street, Parramatta. The current property description includes Lot 1 DP 78716, Lot 1 DP 113513, Lot 1 DP 650704 and Lot 3 DP 10735. The site currently contains a building that was built as a registered club, which covers 3,400m<sup>2</sup> of the total site area of 13,425m<sup>2</sup>. This building is currently used as a place of public worship and is known as the St Ioannis Greek Church. An approved 83 place childcare centre is currently under construction (refer to consent DA/87/2018 in Section 3 above) which utilises the existing building. The topography of the site is generally flat with an elevation of approximately 8m Australian Height Datum (AHD). The nearest surface water receptor is Parramatta River located approximately 80m north of the site.

The subject site has the following approximate area and dimensions:

- Area – 13,425m<sup>2</sup>
- Frontage – 110m
- Rear – 130m
- East – 100m
- West – 130m

The site is zoned SP1 Special Activities (Educational Establishment and Place of Public Worship). The surrounding areas are zoned as follows:

- North: RE1 Public Recreation and W2 Environment Protection;
- South: R3 Medium Density Residential, SP2 Classified Road, RE1 Public Recreation and IN1 General Industrial;
- East: R3 Medium Density Residential, R2 Low Density Residential, B4 Mixed Use and IN1 General Industrial; and
- West: RE1 Public Recreation, RE2 Private Recreation, B4 Mixed Use and B3 Commercial Core.

The subject site is located within an established residential area characterised by low to medium density residential developments. The site adjoins public open areas (Robin Thomas Reserve and Queen's Wharf Reserve) and is surrounded by a number of heritage items of local significance, including 153 George St (Item 483) adjacent to the west. The site is not an identified heritage item or within a conservation area. However, it is within the Harris Park Precinct, which is an area of National Significance.

The site was inspected on 23 May 2019.

The site currently comprises a large two-storey building known as St Ioannis Greek Church, located at the south-western side of the subject site. The north-western portion of the site is occupied by an open at-grade car parking area, while the north-western side comprises a lawn area.

The following images illustrate the site's existing development.



Figure 9. Front view of the existing building on site to be retained (St Ioannis Greek Orthodox Church)



Figure 10. South-western view of the site from George Street (where the proposed Cathedral would be located)



Figure 11. Eastern view of the existing car park on site and heritage item fronting George Street



Figure 12. Eastern view of the existing building and the development site (area of separation between developments)



Figure 13. West view of the sidewalk adjacent the site along George Street (subject to PLR re-alignment)



Figure 14. North view of the sidewalk and trees adjacent the site along Purchase Street (subject to PLR re-alignment)

## 6. The proposal

A chronology of the proposal is outlined as follows:

DA Lodged	8 February 2018
First request for information (RFI)	31 August 2018
Application amended in response to first RFI	14 December 2018
Referred to SCCPP (Briefing Meeting)	6 March 2019
Second request for information (RFI)	14 March 2019
Application amended in response to second RFI	9 April 2019

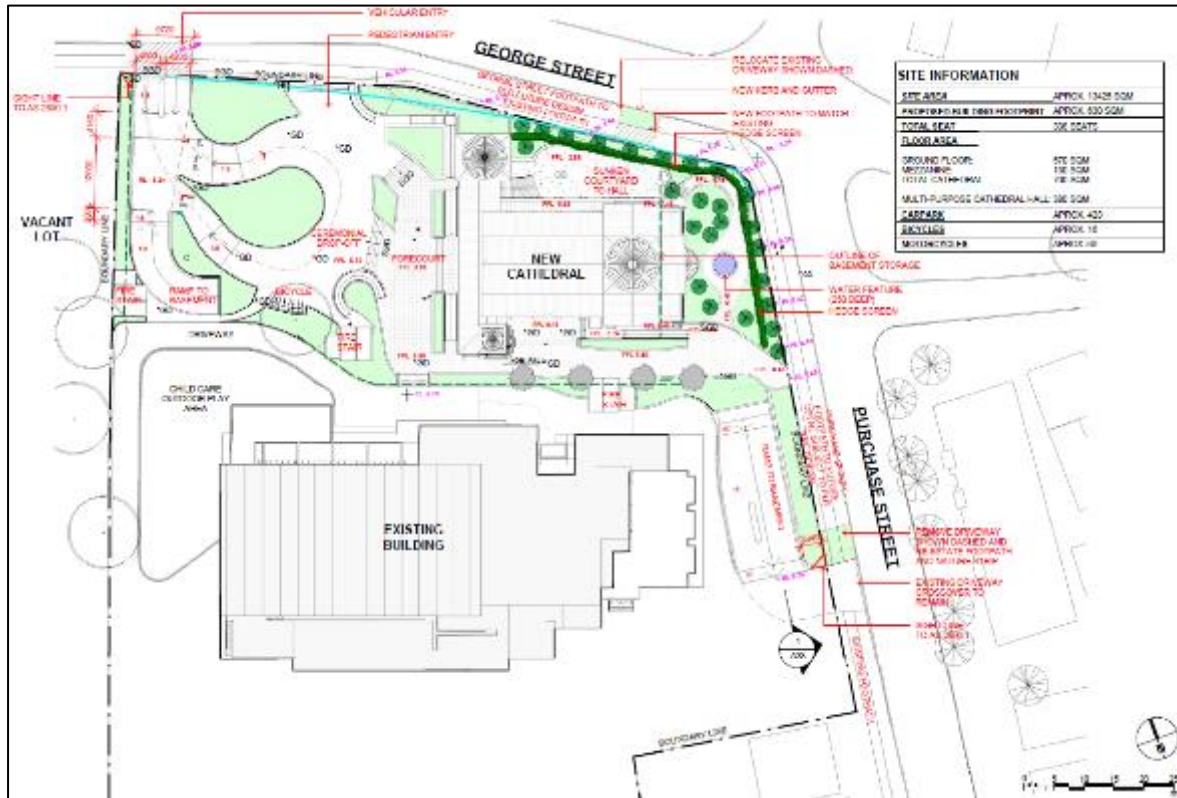
The current proposal (as amended in the second RFI) comprises the following primary elements:

- A two-storey grand cathedral with a seating capacity of 338, including narthex, nave, sanctuary (with vestry), chapel, mothers' room, confessional room, priest's office, and seating within the mezzanine level;
- Ancillary hall and kitchen facilities;
- Extensive paved forecourt;
- New landscaping;
- Toilets; and
- A six-level underground carpark with 428 car parking spaces.



Vehicular access is to be provided from a relocated driveway crossing on George Street and a separate at-grade entry to the existing at grade car parking area, utilising the existing driveway cross-over from Purchase Street.

Extracts of the site plan (Figure 15) and elevations (Figures 16-19) are shown on the following pages.



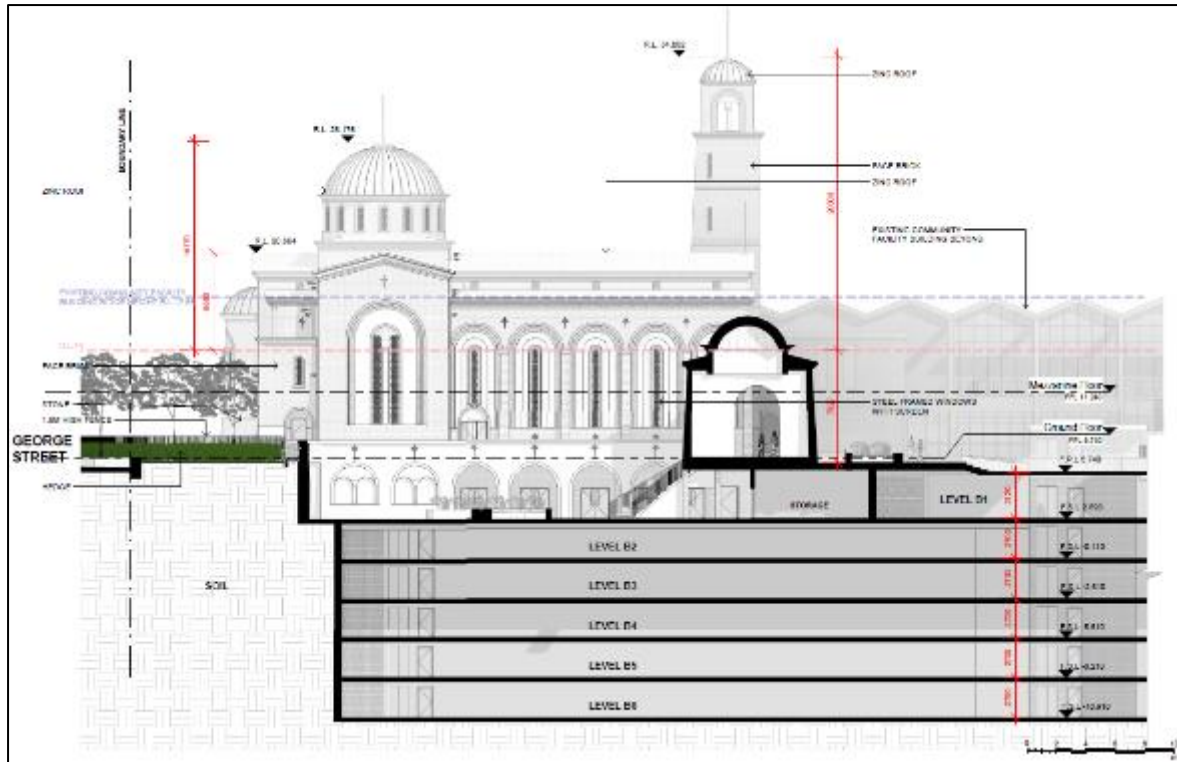


Figure 16. Northern Elevation (Source: Design Delta Architects)

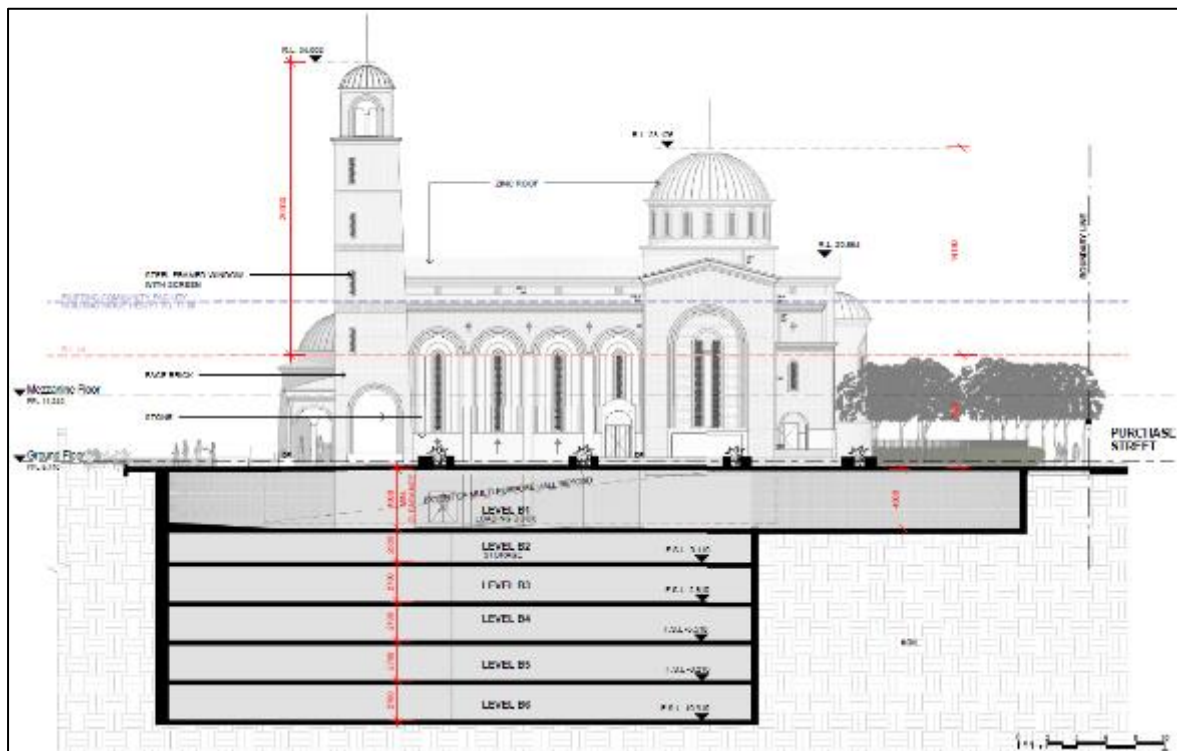


Figure 17. Southern Elevation (Source: Design Delta Architects)

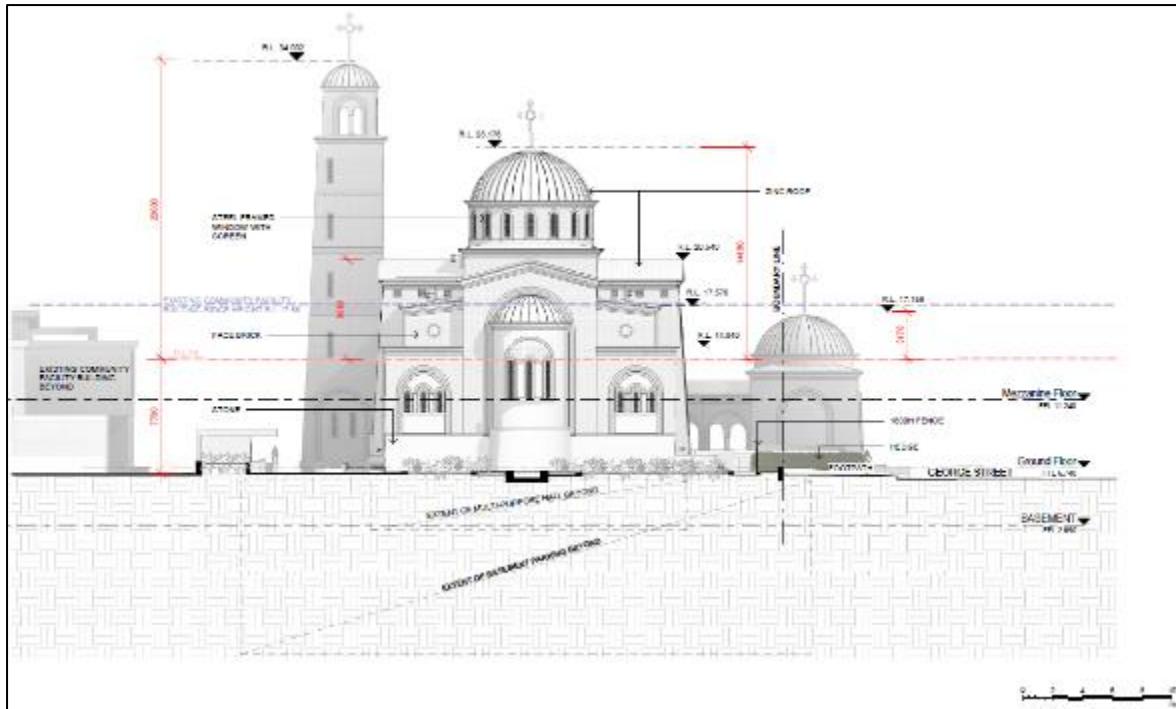


Figure 18. Eastern Elevation (Source: Design Delta Architects)

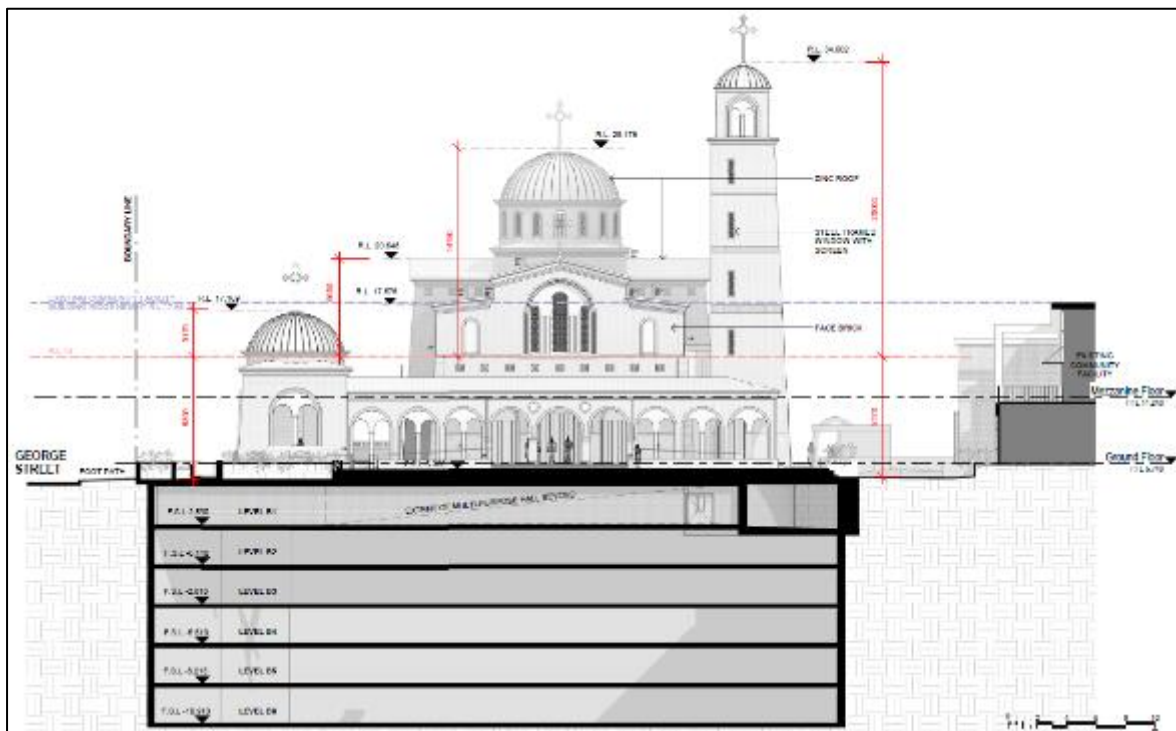


Figure 19. Western Elevation (Source: Design Delta Architects)

## 7. Public notification

The application was advertised and notified for a period of 21 days between 26 July to 20 August 2018.

Two (2) submissions were received which raised the following concerns:

- Intensification of the use of the site; and
- Increased traffic impacts.

A map indicating the location of the objectors is shown in Figure 20.



Figure 20. Map of Submitters. Yellow Highlight = Subject Site; Blue Circles = Objectors.

## 8. Referrals

Any matters arising from internal/external referrals not dealt with by conditions

N/A

The following internal and external referrals were undertaken:

### Internal Referrals

- Landscape
- Catchment Engineer (Flooding)
- Traffic and Parking
- Environmental Health (Contamination)
- Urban Design (Public Domain)
- Heritage

### External Referrals

- Transport for NSW
- Water NSW



## 9. Environmental Planning and Assessment Act 1979

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

## 10. Consideration of SEPPs

Relevant SEPPs	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy No. 55;</li> <li>• State Environmental Planning Policy (Sydney Harbour Catchment) 2005;</li> <li>• State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011; and</li> <li>• State Environmental Planning Policy (Infrastructure) 2007.</li> </ul>
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Key issues arising from evaluation against SEPPs      A detailed assessment is provided at **Attachment A**.

## 11. Parramatta Local Environmental Plan 2011

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

Table 2: LEP Compliance

	<i>Comment or non-compliances</i>
Zones	<ul style="list-style-type: none"> <li>• SP1 Special Activities (Educational Establishment and Place of Public Worship).</li> </ul>
Definition	<ul style="list-style-type: none"> <li>• Place of Public Worship as defined under the LEP.</li> </ul>
Part 2 Permitted or prohibited development	<ul style="list-style-type: none"> <li>• Permissible in the zone.</li> <li>• Consistent with two (2) of the three (3) zone objectives.</li> </ul>
Part 4 Principal development standards	<ul style="list-style-type: none"> <li>• Non-compliance - Building height: The application seeks to vary the height standards applicable to the site under Clause 4.3 of the Parramatta Local Environmental Plan 2011, from RL 14m to RL 34m (143% variation). A request under clause 4.6 has been provided. The variation is not supported.</li> </ul>
Part 5 Miscellaneous provisions	<ul style="list-style-type: none"> <li>• Non-compliance - Architectural roof features (Clause 5.6); The applicant's request for the domes and tower to be considered as "Architectural Roof Features" is not agreed with.</li> </ul>

Part 6  
Additional local provisions

- Non-compliance with the following clauses:
  - Clause 6.1 Acid Sulfate Soils; and
  - Clause 6.3 Flood Planning.

## 12. Parramatta Development Control Plan 2011

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

Table 3: DCP Compliance

	<i>Comment or non-compliance</i>
Part 2 – Site Planning	Generally inconsistent
Part 3 – Development Principles	Generally inconsistent
Part 5 – Special Precincts	Generally inconsistent

## 13. Response to Sydney Central City Planning Panel briefing minutes

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

Matter Raised by the SCCPP:	Comment:
<b>Planning Proposal / Master Plan</b>	The SCCPP informed Council that they would not be able to support the height variation, given the extent of the variation sought, under a Development Application. The advice was that if a higher height limit was required for the development, the height limit for the site should be amended under the Parramatta Local Environmental Plan 2011, via a planning proposal.
<b>Flooding</b>	There are fundamental problems and deficiencies with this proposal in its present form, particularly regarding flooding and the below ground function room and other rooms.
<b>Scale and Building Height</b>	The scale of the proposal is recognised by the SCCPP as a fundamental issue. The SCCPP considered that there is no contextual argument for the proposed height variation and the objectives of Clause 4.3 of the Parramatta LEP 2011 are not met. Therefore, the variation proposed under Clause 4.6 will not be supported.
<b>Car Parking Numbers</b>	Provision of car park should respond to the DCP provisions for a Place of Public Worship. Additionally, the demand and allocation of the proposed car park needs to be clarified.
<b>Parramatta Light Rail (PLR)</b>	There are a number of unresolved PLR alignment issues, including vehicular access to the site via George Street.
<b>Alignment Issues</b>	The proposed driveway crossover and pedestrian access will have to align to the extent of the PLR works.

<b>Vehicle Access Point off George Street</b>	Uncertainty around potential site access.
<b>Depth of Basement</b>	The design of the proposed underground basement cannot be supported in its current form until fundamental flooding issues are resolved.
<b>Landscape and Deep Soil of the Site</b>	Concerns about the impact on the trees located on the site's boundaries, particularly on the western boundary.
<b>Heritage – Objective of Height</b>	<p>The proposed height variation cannot be supported as it does not respond to the objectives under Clause 4.3. In particular, the proposal detracts from the objectives (c) and (e):</p> <p><i>(c) to require the height of future buildings to have regard to heritage sites and their settings,</i></p> <p><i>(e) to reinforce and respect the existing character and scale of low density residential areas.</i></p>

## Conclusion

The Sydney Central City Planning Panel have identified a number of concerns with the proposal and advised that they will not support the proposed development in its current form.

The amended proposal has failed to address critical issues such as height variation, parking, flooding and impacts on PLR works.

## RECOMMENDATION

- A. That the Sydney Central City Planning Panel not support the Clause 4.6 request to vary the building height control in Clause 4.3 of Parramatta LEP 2011; and
- B. That pursuant to Section 4.17 of the *Environmental Planning and Assessment Act 1979* the Sydney Central City Planning Panel refuse consent to Development Application DA/469/2018 for the reasons in **Attachment A**.
- C. That the objectors be advised of the Sydney Central City Planning Panel's decision.



**CITY OF  
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## ATTACHMENT A- PLANNING ASSESSMENT

<b>SWCCP reference</b>	2018SWC081 DA
<b>DA No.</b>	DA/469/2018

### 1. Overview

This Attachment assesses the relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, 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 below.

The following internal and external referrals were undertaken:



Table 2: Referrals

Internal Referrals	
Landscape	Refer to Section 6.2 below.
Catchment Engineer (Flooding)	Refer to Section 6.9 below.
Traffic & Parking	Refer to Section 6.4 and Section 6.8 below.
Environmental Health (Contamination)	Refer to Section 2.1 below.
Urban Design (Public domain)	Refer to Section 6.1 below.
Heritage	Refer to Section 2.8 below.
External Referrals	
Transport for NSW	Refer to Section 6.4 below.
Water NSW	Refer to Section 6.2 and Section 6.9 below. General Terms of Approval (GTA) issued.

## 2. Environmental planning instruments

Compliance with these instruments is addressed below.

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

Subclause 7(3) under this Policy specifies the need for a detailed investigation when the findings of the preliminary site investigation have identified potential contamination on site. The Phase 1 Environmental Site Assessment Report submitted with the application states that there may be a moderate risk of contamination present on site and a Detailed Site Investigation (DSI) is to be completed. This DSI has not been provided and therefore, the Panel cannot be satisfied that compliance with SEPP 55 is achieved.

### 2.3 State Environmental Planning Policy (Infrastructure) SEPP

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

Table 3: ISEPP Compliance

CONSIDERATION	COMPLIANCE
Clause 45 – electricity infrastructure	<b>N/A</b> The subject site is not within close proximity to any electricity infrastructure.
Clause 85(2) – Development adjacent to rail corridors	<b>No</b> Before determination the consent authority must consider any response received from the rail authority. In this instance, the Rail Authority has raised concerns regarding vehicular access from George Street. This is still unresolved.
Clause 86 – Excavation in, above, below or adjacent to rail corridors	<b>No</b> If excavation is proposed to a depth of at least 2m below ground level (existing) on land that is within 25m (measured horizontally) of a rail corridor, the consent authority must not grant consent to development to which this clause applies without the concurrence of the rail authority for the rail corridor to which the development application relates.

	This has not been granted at the time of writing this report, and there are unresolved issues outstanding.
<b>Clause 87 – Impact of rail noise or vibration on non-rail development</b>	This clause applies to a place of public worship and requires the consent authority to take into account any guidelines issues by the Secretary in relation to this clause. An acoustic report was submitted as part of the Development Application and concludes Compliance with the NSW EPA RING Criterion for airborne noise of 40 dB(A) and ground-borne noise of 40-45 dB(A) is achieved.
<b>Clause 101 – frontage to a classified road</b>	<b>N/A</b> The subject site does not have a frontage to a classified road.
<b>Clause 102 – average daily traffic volume</b>	<b>N/A</b> The subject site is not situated on land in or adjacent to the road corridor of a road within an annual average daily traffic volume of more than 20,000 vehicles.
<b>Clause 104 – traffic-generating development</b>	<b>N/A</b> The proposed development relates to a place of public worship and is not of a size or capacity identified under Schedule 3 of the SEPP (Any other purpose with size or capacity of 200 or more motor vehicles per hour). The traffic generation (AM/PM peak hour) assessed in the submitted Traffic and Parking Impact Assessment is outlined as follows: - AM peak hour: 182 vph; and - PM peak hour: 162 vph. Therefore, both AM and PM periods are expected to remain under the 200 vph threshold.

## 2.4 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 adjacent to heritage significant land identified under the Wetlands Protection Area Map and the Foreshores and Waterways Area Map; so the proposal must have regard to this Deemed SEPP.

The proposed development is inconsistent with the planning principles and matters for consideration under Part 2 of the SEPP which are outlined as follows:

Table 4: Sydney Harbour SEPP Compliance

CONSIDERATION	COMPLIANCE
<b>Clause 14 – Foreshores and Waterways Area</b> <b>The planning principles for land within the Foreshores and Waterways Area are as follows:</b> <b>(d) development along the foreshore and waterways should maintain, protect and enhance the unique visual</b>	<b>NO-</b> The proposed development does not take into consideration the matters outlined under this clause for the maintenance, protection and enhancement of the scenic quality of foreshores and waterways. Since the adjoining wetlands along Parramatta River are a local heritage item within the Parramatta LEP, and it includes the Queen's Wharf Reserve and stone wall at 198 George street, Parramatta; the analysis of the maintenance, protection and

<p><b>qualities of Sydney Harbour and its islands and foreshores.</b></p>	<p>enhancement of the scenic quality of that waterway in relation to this development is essential, before any determination can be made.</p>
<p><b>Clause 15(d) – Heritage Conservation</b>  <b>The natural, scenic, environmental and cultural qualities of the Foreshores and Waterways Area should be protected</b></p>	<p><b>NO-</b>  Insufficient information has been submitted to determine whether the design of the development adequately responds to the heritage conservation planning principles related to the protection of scenic and cultural qualities within the catchment of Parramatta River. The Wetlands along Parramatta River are a local heritage item within the Parramatta LEP. As is the Queen's Wharf Reserve and stone wall at 198 George street, Parramatta; which is across the road from the subject site.</p>
<p><b>Clause 25 – Foreshore and waterways scenic quality</b>  <b>The matters to be taken into consideration in relation to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways are as follows:</b>  <b>(a) The scale, form, design and siting of any building should be based on an analysis of: (ii) the adjoining land, and (iii) the likely future character of the locality,</b>  <b>(b) Development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries,</b>  <b>(c) The cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores.</b></p>	<p><b>NO-</b>  The proposed development does not take into consideration the matters outlined under this clause for the maintenance, protection and enhancement of the scenic quality of foreshores and waterways.  Since the adjoining wetlands along Parramatta River are a local heritage item within the Parramatta LEP, and it includes the Queen's Wharf Reserve and stone wall at 198 George street, Parramatta; the analysis of the maintenance, protection and enhancement of the scenic quality of that waterway in relation to this development is essential, before any determination can be made.</p>
<p><b>Clause 26 – Maintenance, protection and enhancement of views</b>  <b>The matters to be taken into consideration in relation to the maintenance, protection and enhancement of views are as follows:</b>  <b>(b) development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items,</b></p>	<p><b>NO-</b>  Same comment as above, the proposal does not take into consideration the matters under this clause in relation to the maintenance, protection and enhancement of views.</p>
<p><b>Clause 59 – Development in the vicinity of heritage items</b></p>	<p><b>NO-</b>  Subclause (4) requires: <i>"The heritage impact statement should include details of the size, shape and scale of, setbacks for, and the materials to be used in, any proposed buildings or works and details of any modification that would reduce the impact of the proposed development on the heritage significance of the heritage item."</i>  The proposal does not provide the necessary information to assess the impact of the proposed development on the surrounding heritage items as required under this clause.</p>

The proposal has failed to incorporate the planning principles established under the above clauses, and has not provided sufficient information to determine any impacts from the proposal on the visual and cultural qualities of the foreshore and surrounding heritage items.

## **2.5 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

Trees on the adjoining properties are sought to be retained however may be affected by the proposed development. An arborist report has been submitted with the application. However, insufficient information has been provided for Council's Landscape Officer to assess the impact on trees that may be affected by the development.

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

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

## **2.7 Parramatta Local Environmental Plan 2011**

### **Zoning and permissibility**

The site is zoned *SP1 Special Activities (Educational Establishment and Place of Public Worship)* under the provisions of Parramatta Local Environmental Plan 2011 (PLEP 2011). The proposed use meets the definitions of 'place of public worship' and is permissible with consent in the SP1 zone.

Under the PLEP 2011, a 'place of public worship' is defined as follows:

***Place of public worship*** means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

### **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 SP1 zone are as follows:

1. To provide for special land uses that are not provided for in other zones.
2. To provide for sites with special natural characteristics that are not provided for in other zones.
3. To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.

The proposed development is inconsistent with the third objective of the zone applying to the land as follows:

- Insufficient information has been provided to adequately address the flooding of the site and the relationship to the Parramatta Light Rail corridor and how the site will effectively operate with these two constraints.
- The design of the development does not respond to the characteristics of the site and the surrounding locality as the proposal lacks a contextual analysis showing the relationship of the proposed church to the adjacent and broader urban context. This includes how it relates to:



- the existing heritage and foreshore area along the river,
- the extent of green canopy providing trees that adjoin the site,
- the adjoining residential zoned land to the east,
- how the site will function with the existing building to the rear remaining, and
- the extent of excavation proposed and whether this will impact on the adjoining lands.
- The applicant has failed to demonstrate how the proposal is in keeping with the special characteristics of the site and how it will minimise adverse impacts on the surrounding land. This would set an undesirable precedent for the desired future character of the area.

### Remaining provisions

Consideration of other relevant provisions of the Plan are addressed in the following table:

Table 5: PLEP 2011 compliance table

<i>Clause</i>	<i>Comment</i>	<i>Complies</i>
<b>Clause 2.7 Demolition</b>	The application seeks approval for the demolition of ancillary structures on the existing bowling greens.	<b>Yes</b>
<b>Clause 4.3 Building height</b>	The application seeks to vary the height standards applicable to the site. The proposed variations are not supported.	<b>No, refer to clause 4.6 assessment</b>
<b>Clause 4.4 Floor space ratio</b>	There is no FSR control applicable to the site.	<b>N/A</b>
<b>Clause 4.6 Exceptions to standard</b>	The application relies upon this clause to allow the exceedance of the height standard as noted above. See assessment following at the end of this table.	<b>No</b>
<b>Clause 5.1 Relevant acquisition authority</b>	Not applicable.	<b>N/A</b>
<b>Clause 5.6 Architectural Roof Features</b>	<ul style="list-style-type: none"> <li>• The applicant proposes that the domes and a bell tower on the uppermost portion of the proposed cathedral are to be considered as architectural roof features. These features variate in scale, form and location. This is not supported and the exceedance in height of these features is not supported, as outlined in Clause 4.6 above.</li> </ul>	<b>No</b>
<b>Clause 5.10 Heritage</b>	<ul style="list-style-type: none"> <li>• The site is not a listed heritage item, nor is it within a heritage conservation area. Nevertheless, the site is located in the vicinity of several heritage items and is within the Harris Park Precinct, which is an area of National Significance.</li> <li>• The site is in the vicinity of significant view no. 1, identified in the DCP as follows: "Views from Elizabeth Farm and Harris Park colonial precinct north to the ridgeline of hills, river basin (etc)".</li> <li>• Council's Heritage advisor has stated that "given the nature of the proposal, the separation between sites, and the nature of significance of the items, it is assessed that impact on heritage values will be within acceptable limits."</li> <li>• Given the nature of the view no. 1 (distant view of the hills), the view will not be impacted by the tall single spire of the bell tower."</li> </ul>	<b>No</b>

- The application is accompanied by a view corridor analysis as part of the Statement of Environmental Effects. However, no Heritage Impact Statement has been prepared for this proposal, in accordance with Subclause 5.10(4). Thereby a full assessment of any impacts on the nearby heritage listed items cannot be undertaken.

<b>Clause 6.1 Acid sulfate soils</b>	<ul style="list-style-type: none"> <li>• The site is identified a “Class 4” acid sulfate soils.</li> <li>• The proposal triggers the need for an acid sulfate soils management plan which has not been submitted with the application.</li> </ul>	<b>No</b>
<b>Clause 6.2 Earthworks</b>	The proposal will involve extensive excavation works. A Geotechnical Report has been provided assessing the ground conditions on site. However, insufficient information has been provided in order to complete the geotechnical assessment associated with the excavation works required for the six-level basement car park. It is noted that a temporary dewatering licence from NSW DPI Water will be required.	<b>No</b>
<b>Clause 6.3 Flood Planning</b>	The site is identified on the flood planning map. The proposal is not supported on flooding risk grounds. Refer to Section 6.9 below.	<b>No</b>
<b>Clause 6.4 Biodiversity</b>	The site is not identified on the biodiversity map.	<b>N/A</b>
<b>Clause 6.5 Water protection</b>	The site is not identified on water protection map.	<b>N/A</b>
<b>Clause 6.6 Landslide Risk</b>	The site is not identified on the landslide risk map.	<b>N/A</b>
<b>Clause 6.7 Foreshore Building Line</b>	The site is not identified on the foreshore building line map.	<b>N/A</b>

### **Non-compliance with building height and FSR**

#### **Overview:**

The standard/s      Clause 4.3 of PLEP 2011 - Height of buildings – RL 14m (see Figure 21).

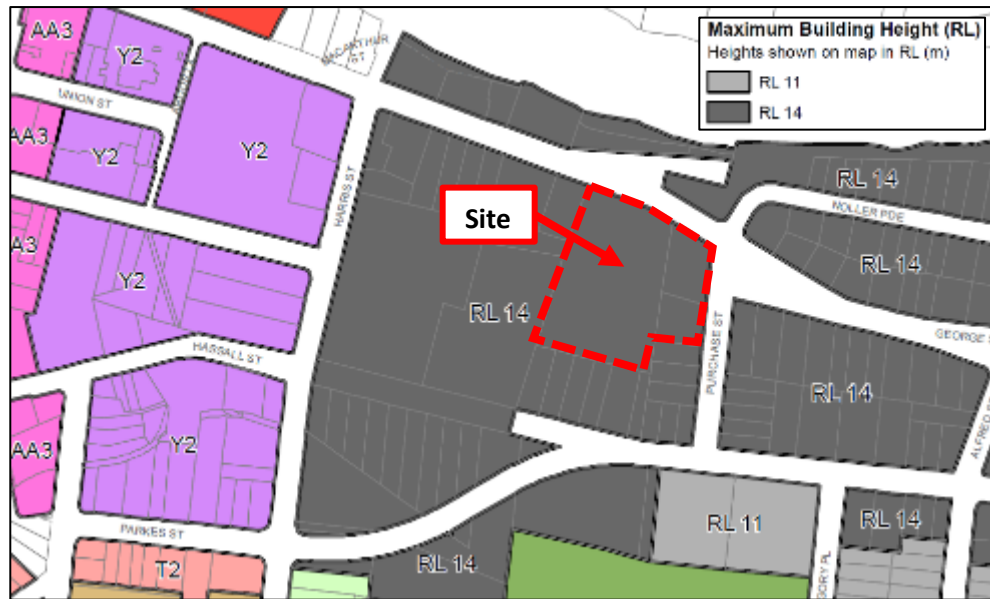


Figure 21: Height of Buildings Map – Sheet HOB\_010 (Parramatta LEP 2011)

Objectives  
of the  
standard/s

As per clause 4.3(1) of the LEP:

- (a) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,
- (c) to require the height of future buildings to have regard to heritage sites and their settings,
- (d) to ensure the preservation of historic views,
- (e) to reinforce and respect the existing character and scale of low density residential areas,
- (f) to maintain satisfactory sky exposure and daylight to existing buildings within commercial centres, to the sides and rear of tower forms and to key areas of the public domain, including parks, streets and lanes.

The maximum defined heights and the % variations are:

Extent of  
the  
variations

a) Cathedral Lower Roof:

- Allowable = RL 14m
- Proposed = RL 20.664m
- Variation = 6.664m / 47%

b) Bell tower, uppermost part of the proposal:

- Allowable = RL 14m
- Proposed = RL 34.002m
- Variation = 20.002m / 143%

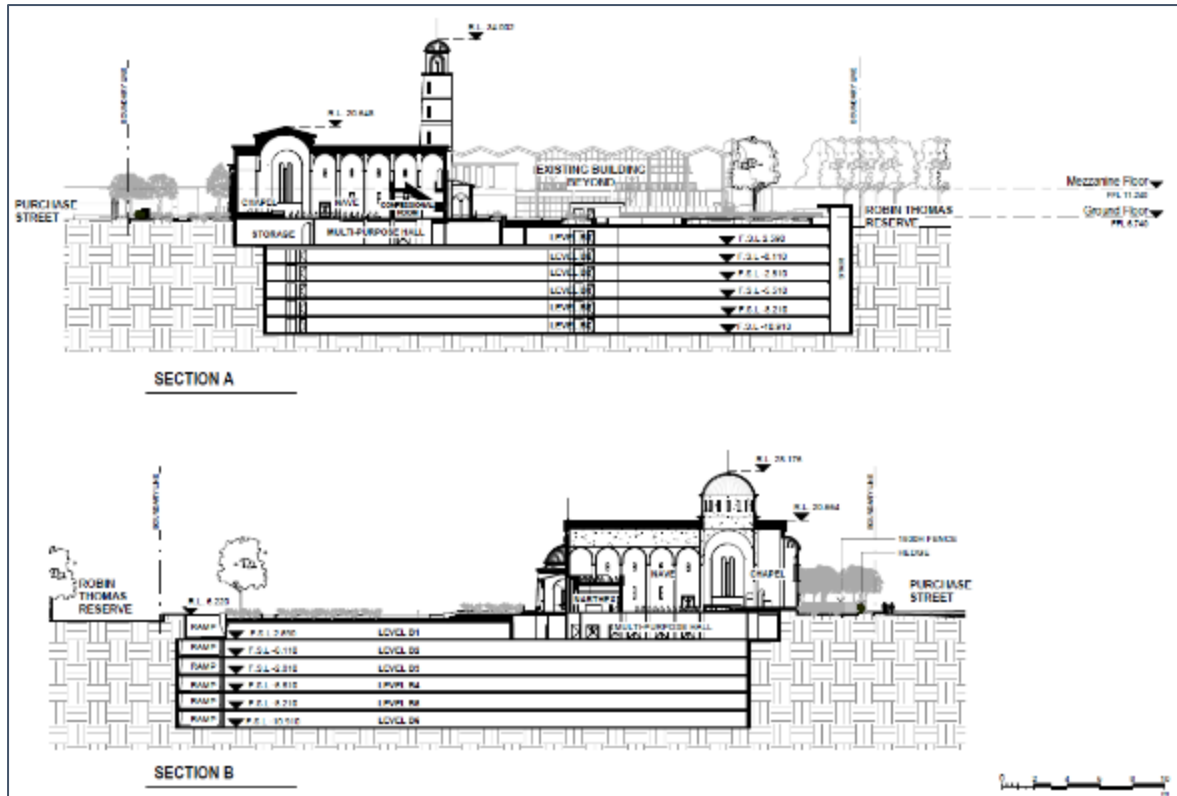


Figure 22. Extract of sectional drawing when viewed from the north and south elevations (longitudinal sections).

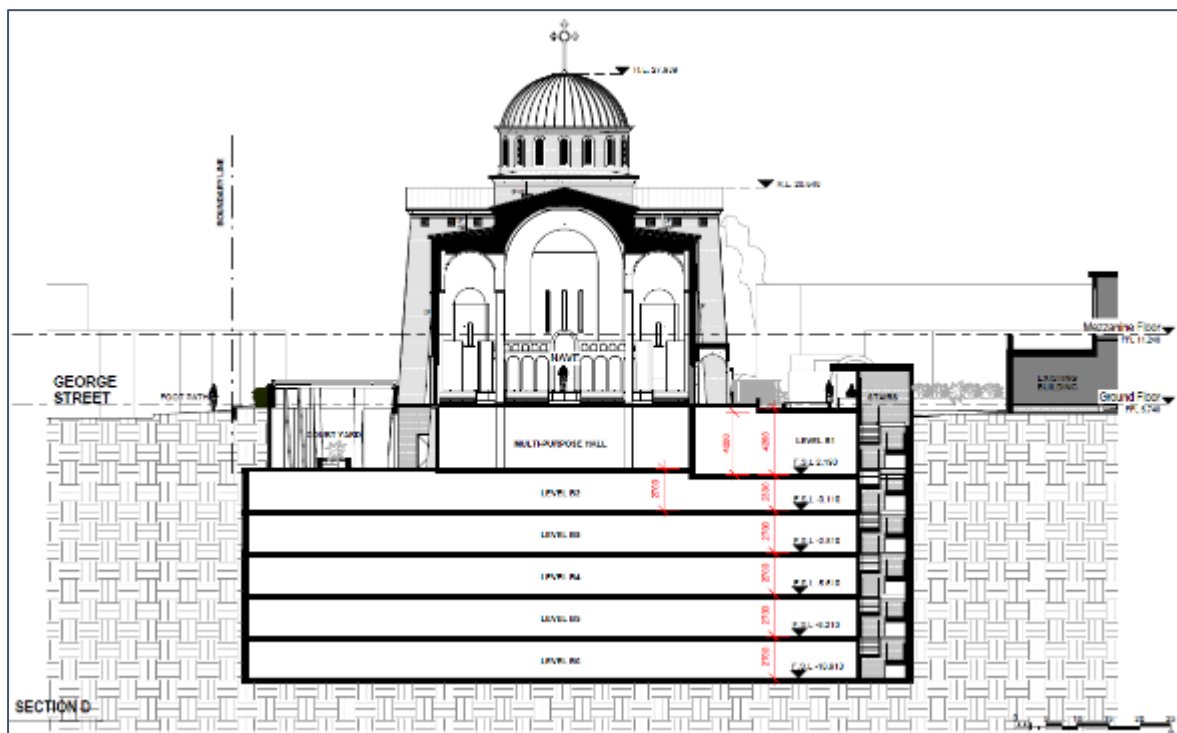


Figure 23. Extract of sectional drawing when viewed from the western elevation (short section).

## **Evaluation**

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

The objectives of this clause are:

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

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

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

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

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

In summary, the proponent contends concerning the **height**:

- The proposal is for a Cathedral of grand proportions, that is purpose built and is a unique development proposal, not generally anticipated in the standardised planning controls.*
- The variation is not based on, nor seeking, an uplift that would lead to additional development yield on the site. It is a variation founded on the unique nature of the built form, the unique sites location, and the unique design of the proposed Cathedral.*
- For this site, the RL14 height limit is in place to protect heritage views between items of heritage in the vicinity of the site. A heritage view corridor is nominated across a small portion of the site (the north east corner of the site). The proposed Cathedral sits outside of the view corridor and there is no intrusion into the view corridor. Accordingly, the intent of the RL14 height limit is met as the proposal does not interrupt or otherwise impact on the heritage view corridor.*
- Strict compliance with the prescriptive building height requirement is unreasonable and unnecessary in the context of the proposal and its unique circumstances.*

*Clause 4.6 (3)(b) - Sufficient environmental planning grounds to justify contravening the development standard.*

The applicant contends that this consideration is met, as summarised below:

- The site's location, function and proposed use, warrants a unique design and a unique planning and urban design outcome.*
- The Cathedral building is to occupy a small part of the site considering that the extent of variation footprint is 570m<sup>2</sup> and the entire site is 13,425m<sup>2</sup>, thus the area subject to the variation represents a minor 4% of the site itself.*
- Given the size of the site, there are no overshadowing impacts from the proposal that harm the amenity of any adjoining properties or public spaces.*
- The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts.*

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

The applicant's written request is provided at **Attachment C**. It is considered that this request has not adequately addressed the matters required to be demonstrated by subclause (3).

The applicant has failed to address why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. How the proposal complies with the objectives of the relevant zone and the relevant standard within the Parramatta LEP (ie Clause 4.3 – Height of Buildings) has not been addressed.

The submitted Clause 4.6 Variation Request fails to discuss how the sections which breach the Clause 4.3 still comply with the objectives of that height clause, particularly:

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

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

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

The Clause 4.6 Variation Request focuses on the development as a whole and that it is a unique development but does not adequately address the objectives of the height standard.

There are three objectives of the SP1 – Special Activities Zone:

- "To provide for special land uses that are not provided for in other zones
- To provide for sites with special natural characteristics that are not provided for in other zones
- To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land."

With regards to addressing the objectives of the zone – SP1; the applicant states "The development fulfils the zoning requirements by providing a Place of Worship. The proposal provides a special land use that is not provided for in other zones, and therefore fulfils the requirements of the SP1 zone".

This acknowledges the first objective of the zone, however the applicant has failed to address how the development "minimises any adverse impacts on surrounding land". The applicant states that the "height is outside of a view corridor" and "there are no overshadowing impacts from the proposal that harm the amenity of any adjoining properties or public spaces"; however, has had no regard to the surrounding land, the existing and future character of the area and any impacts the proposal may have on the surrounding land. This includes things such as (but not limited to):

- What surrounding development already exists and what may be built in the future, and any impacts this proposal may have on the amenity of the adjoining users,
- what impacts the proposal may have on the heritage foreshore and heritage item across the road and other nearby heritage items. A heritage impact statement or report was not submitted,
- no regard has been given to the existing leafy/green canopy-tree surrounds and how this development fits in with this existing character.

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

The variation to the building height standard is not in the public interest because the resulting built form will be inconsistent with:

- *The objectives for height standards as prescribed by clause 4.3(1) as noted above;*
- *The zone objectives, as provided at section 2.5 above; and*
- *The applicant has not justifiably demonstrated reasons for the variation.*

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

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

Clause 5.6 – Architectural Roof Features

The objective of this clause is:

*(a) to allow roof features that integrate with the building composition and form, where the height of the building also satisfies the objectives of clause 4.3 of this Plan.*

The applicant proposes that the domes and bell tower are ‘architectural roof features’. It is not agreed that these fall within the intent of ‘architectural roof features’.

The intent of this Clause is to allow features on the roof to provide articulation and interest to the roof without dominating the roof. These features are to ‘integrate’ with the building composition and form.

This proposal has 2 x domes and 1 x bell tower that are not ‘integrated’ within the roof. Rather they act as dominant features of the building. They accentuate the place of public worship and provide a sense of identification for the congregation. They certainly do not ‘integrate with the building composition and form’. Their very nature is to do the opposite. They are intended to be seen from a distance so that people can recognise this building. Their scale and size are not contributory to a roof feature. Instead they are stand-alone elements of the building and need to be considered as part of the overall height of the building.

**Conclusion**

The request for a variation of the height control is not supported for the following reasons:

- The request for variation has failed to respond to the objectives of Clause 4.3 Height of Buildings of the Parramatta LEP 2011 and the objectives of the SP1 zone;
- The request for variation does not demonstrate how the proposal minimises any adverse impacts on surrounding land, apart from overshadowing and views across the corner of the site. Consequently, the proposal in its current form is unable to achieve a suitable transition with the



surrounding low-medium density development, public recreation areas and Parramatta River and reserve;

- The request for variation does not demonstrate why the variation is unreasonable or unnecessary;
- The 'architectural roof features', being the proposed main roof dome, bell tower and smaller dome at the front of the building do not comply with Clause 5.6(1)(a) of the Parramatta LEP 2011;
- The proposed height variation will exceed the height of the current building on site, which also exceeds the maximum building height applicable to the site; and
- The extent of variation cannot be supported under Clause 4.6 in this instance.

In reaching this conclusion regard has been had to the relevant Judgements of the LEC, including:

- *Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46;*
- *Wehbe v Pittwater Council [2007] NSWLEC 827;*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 ('Four2Five No 1');*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90;*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 ('Four2Five No 3');* and
- *Moskovich v Waverley Council [2016] NSWLEC 1015.*

### 3. Parramatta Development Control Plan 2011

#### Compliance

The DCP is comprised of the following sections:

- Part 2 – Site Planning;
- Part 3 – Development Principles;
- Part 4 – Special Precincts (Harris Park); and
- Part 5 – Other Provisions (Places of Public Worship).

Compliance tables are provided below:

Table 6: DCP 2011 compliance table

Part 2 – Site Planning		Complies
2.4.1 Views and Vistas	A view corridor analysis and a discussion related to heritage views have been included as part of the Statement of Environmental Effects. It is noted, however, that no Heritage Impacts Statement was submitted with the application. Additionally, the proposal must be accompanied by a detailed contextual analysis prepared by an experienced and trained urban designer.	No
2.4.2.1 Flooding	Flooding impacts are addressed under Section 6.9 of this report. The proposal has failed to respond to fundamental flood risk matters.	No

2.4.2.2 Protection of Waterway	The proposed development is located 80m south of the Parramatta River. Given the extent of excavation related to the six-level basement car park, the application is identified as Integrated Development for the purposes of the Water Management Act 2000. The potential risk to groundwater is high when construction involving excavation is below the water table and is within alluvial areas and sandstone environments. In response, Water NSW provided their General Terms of Approval. For further details see Section 2.4.3.1 below.	<b>Yes</b>
2.4.3.1 Soil Management	The proposed six level basement car park will require extensive excavation to a depth of 16.6m below NGL. A Geotechnical Report and an Erosion and Sedimentation Plan have been submitted with the application. However, insufficient information has been provided on potential inflow and consequent groundwater drawdown, considering any potential settling of adjoining sites. Additionally, NSW DPI should be consulted for a temporary dewatering license to manage construction phase dewatering.	<b>No</b>
2.4.3.2 Acid Sulfate Soils	The subject site is identified as being affected by Class 4 Acid Sulfate Soils under Clause 6.1 of the Parramatta LEP 2011. Therefore, the proposal triggers the need for an acid sulfate soils management plan which has not been submitted with the application.	<b>No</b>
2.4.4 Land Contamination	Refer to assessment under SEPP 55.	<b>No</b>
2.4.7 Biodiversity	The site does not adjoin bushland, nor does it adjoin land zoned E2 Environmental Protection zone or W1 Natural Waterways zone.	<b>N/A</b>
2.4.8 Public Domain	The proposal must consider the Parramatta Public Domain Guidelines (PDG) for the proposed alignment, street trees and footway. In addition, the proposal is to demonstrate coordination of the public domain with the Parramatta Light Rail. This has not been demonstrated.	<b>No</b>

Part 3 – Development Principles	Complies
---------------------------------	----------

3.1.1 Height	See LEP assessment under 'height'.	<b>No</b>
3.2.1 Building Form and Massing	The form, proportions and massing of the proposal do not reflect the spatial volumes of the dual street frontage. See urban design assessment.	<b>No</b>
3.2.2 Building Façade and Articulation	See urban design assessment.	<b>No</b>
3.2.3 Roof Design	See LEP assessment under 'architectural roof features'.	<b>No</b>
3.2.4 Energy Efficient Design	The proposal does not implement water saving devices or energy efficiency measures as addressed under this clause.	<b>No</b>

3.2.5 Streetscape	See urban design assessment.	No
3.3.1 Landscaping	See landscaping assessment.	No
3.3.3 Visual Privacy	See Section 6.7 below.	Partially
3.3.4 Acoustic Amenity	The Acoustic Report demonstrates compliance with the established noise levels. However, the report does not include mitigation measures as part of the assessment. Therefore, acoustic certification will need to address potential noise impacts.	Partially
3.3.5 Solar Access & Cross Ventilation	Shadow Diagrams for winter solstice have been submitted with the architectural plans. The extent of the proposed shadows will mostly impact on the cathedral's rear foyer and the existing building on site. Shadow diagrams for 2:30-3pm show that a portion of the shadow related to the architectural roof features of the proposed cathedral will impact on the adjacent building at 167 George Street.  No details have been provided in relation to cross-ventilation matters.	Partially
3.3.6 Water Sensitive Urban Design	A stormwater management plan has been submitted with the application.	Yes
3.3.7 Waste Management	A waste management plan has been submitted with the application.	Yes
3.4.1 Public Art	Development on sites over 5,000m <sup>2</sup> in area is required to provide and implement an Arts Plan as part of the overall development. This requirement has not been submitted.	No
3.4.2 Access for People with disabilities	An Access Report and revised architectural plans have been provided in response to the accessibility requirements, demonstrating that the proposal complies, or is 'capable of complying'.	Yes
3.4.4 Safety and Security	CPTED principles have been briefly addressed in the SEE. However, no details have been provided for the space management principle. No formal crime risk assessment (Safer by Design Evaluation) has been submitted with the application as required under this clause.	No
3.5 Heritage and Archaeology	See LEP assessment under 'heritage'.  In relation to archaeology and as consulted with the Office of Environment and Heritage, it is noted that the site has no archaeological potential.	Partially
3.6 Parking Provisions	The proposal is inconsistent with Section 5.3 - Place of Public Worship. See assessment under Part 5 below.	No

**Part 4 – Special Precincts (Harris Park)****Complies**

4.3.2

The site is located within the Harris Park Precinct, which is an area of National Significance. Therefore, the protection and enhancement of the Precinct's historic fabric is essential, including significant views and vistas.

**No**

It is noted that Harris Park is only referred to as "nationally significant" in the Parramatta DCP and is not listed on the National Heritage list. Nevertheless, the height and bulk of the proposed development must ensure significant views and vistas are protected.

However, as noted in Section 2.4.1 above, no Heritage Impact Statement or detailed contextual analysis was submitted with the application to facilitate the assessment.

Part 5	Places of Public Worship (POPW)
Locational Requirements	
Larger POPW (seating capacity above 250) are to be located within lands zoned for business or industrial purposes	The proposal includes a 338 seat cathedral, which exceeds the seating capacity of 250 people as required by the DCP. Places of public worship with capacity for over 250 people would normally require to be located within lands zoned for business or industrial purposes. Nonetheless, the site was rezoned in 2016 to allow a place of public worship. Therefore, the site can potentially accommodate such use.
Bulk and Scale	
Compliance with the LEP height and FSR controls and DCP envelope controls.	The proposal provides for excessive height which is not supported. See LEP 2011 and Part 3 controls assessment above.
Consideration will be given to variation of the applicable height or envelope controls to accommodate the unique architectural requirements of places of public worship establishments as long as the objectives of the controls and this clause are maintained.	The proposal provides for excessive height which is not supported. See LEP 2011 and Part 3 controls assessment above.
Site planning must be sensitive to the streetscape character and views.	The proposal does not achieve this. See Part 3 controls assessment above and Section 6 below.
Places of public worship and educational establishments are to be designed and landscaped in a manner that enhances the quality and visual amenity of the streetscape	The proposal does not achieve this. See Part 3 controls assessment above and Section 6 below.
Development for the purpose of a place of public worship within a residential zone is to have a maximum seating capacity of 250.	N/A
Acoustic Privacy	
The design of the proposed place of public worship or educational establishment should minimise the projection of noise from the various activities anticipated to occur within the site. Adjoining and nearby residents should not be exposed to unreasonable levels of noise arising from the proposed use.	See Part 3 controls assessment above.
A noise impact assessment statement, prepared by a suitably qualified acoustic engineer, is to be submitted with all applications for development within residential zones or which adjoin residential zones.	
Traffic, Parking and Access	
A traffic impact statement is to be included with the development application.	See access, transport and parking under Sections 6.4 and 6.8 of this report.
On-site parking shall be provided at the rate determined by the traffic impact statement having regard to the objectives of this clause. As a general guide for places of	

public worship, **new development shall provide 1 car parking space per 5m<sup>2</sup> of usable floor space for the first 100m<sup>2</sup> and 1 car parking space per 3m<sup>2</sup> of usable floor space thereafter.** (Usable floor space not being corridor space, stairways, storage areas, toilets and other floor space that will not increase the capacity of the development.)

All vehicles shall enter and leave the site in a forward direction

Clear distinctions should be made for vehicular traffic and pedestrian movements, both onsite and off-site. Measures should be taken to separate these and reduce potential conflict through design and management practices

Car parking spaces are to be designed to ensure ease of access, egress and manoeuvring on-site. The standards of AS 2890 are to be complied with.

Basement or at-grade parking must be provided for all new developments

To ensure adequate traffic flow, worship services are not to commence until thirty minutes have elapsed following the completion of any preceding service.

#### Operational Plan of Management

A development application for the purposes of establishing a new place of public worship or educational establishment must include an Operational Plan of Management.

Details of the proposed hours of operation, a schedule of regular services held and recurring events and special events throughout the year. Where special events attracting greater than 250 people will occur, details including the expected numbers of people are to be provided.

A list of the types of community purposes (i.e. community colleges, senior citizens groups, youth groups etc) the building may be used for outside the regular services. How often and how many people it will attract.

A list of the type of organisations that may let or use the building and for what purposes. How often and how many people it will attract.

An explanation of the measures that will be in place to manage parking and local traffic when a special event is scheduled.

The estimated number of people to be in attendance at regular services, main events and those other times where it is described that the place of public worship will be in use. Contact persons who will be responsible for complaints handling. This is to be updated periodically.

Anticipated growth of the congregation and how these long term projections will be factored into the development and managed in the future.

An amended operational plan of management has been submitted as part of the application and is considered acceptable.

## 4. Planning agreements

The proposed development is not subject to a planning agreement entered into under Section 7.4 of the Environmental Planning and Assessment Act 1979, or any draft planning agreement that a developer has offered to enter into under Section 7.4.

## 5. Environmental Planning and Assessment Regulation 2000

This application satisfies relevant clauses of the Regulation as follows:

**Table 7: Relevant EPA Regulations**

Clause 50(1)(a)	The nominated documentation is provided being: <ul style="list-style-type: none"> <li>○ A statement of environmental effects; and</li> <li>○ Relevant drawings and montages.</li> </ul>
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?*

#### Urban Design comment:

As advised by Council’s Urban Design Section, the proposal lacks contextual analysis and does not provide the level of detail required to establish the relationship of the proposed church to the adjacent and broader urban context. This is further discussed in Section 6.4 below.

Development along the western boundary of the subject site should not hinder future opportunities for improved connectivity through the block. The opportunity to create a future pedestrian link between George Street and Hassall Street along the eastern edge of Robin Thomas reserve remains unaddressed and is compromised by a fire stair located hard up along the property’s western boundary. Refer to Sections 6.4 and 6.6 for further details.

Additionally, the proposed development should not constrain the approved Parramatta Light Rail corridor. In this regard, a pedestrian and vehicle circulation plan must demonstrate the impacts to any light rail stop in the vicinity, including access points to the proposed church. Refer to Section 6.8 for further details.

#### Planner’s comment:

The proposed development should not preclude future accessibility and integration of the site within its context.

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

#### Urban Design comment:

The proposed church is located on a prominent site near the Parramatta River along George Street, within the Harris Park Precinct. The proposed church needs to relate to its context as an institutional

building – not other churches located kilometres away in Parramatta. Places of public worship are also considered part of the urban fabric and need to relate to the surrounding context. Therefore, the proponent must assess the contextual relationship of the proposal in terms of bulk, scale, grain, rhythm, materiality, planting and ground plane, irrespective of whether a traditional or contemporary design is pursued. An adequate contextual analysis should also include a figure grain study of the broader context, building footprints/profiles and longitudinal sections, as advised by Council's Urban Design Unit. These requirements have not been provided.

**Planner's comment:**

Insufficient information has been provided to undertake a comprehensive analysis/assessment.

## **6.2 Site Works**

### Excavation

**Senior Catchment and Development Engineer comment:**

A six level basement car park is proposed to a depth of 16.6m below NGL. A maximum dig depth of 18m below NGL was considered in the Geotechnical Report submitted with the application.

Long-term groundwater monitoring to establish the existing groundwater level has not been carried out, but groundwater was encountered whilst boring at ~4m below natural ground level. Contiguous/secant pile wall shoring is proposed, which is not impervious and may still allow significant groundwater inflow during construction. Tanked basement construction would be required.

The proponent has not determined the rate of inflow of groundwater into the excavation cavity as permeability tests were not run for soil samples and because the shoring method has not been finalised. A full investigation of potential inflow and consequent groundwater drawdown should be carried out, considering any potential settling of adjoining sites as a result of drawdown.

A temporary dewatering license from NSW DPI Water will be required, regardless of shoring/construction method, to manage construction phase dewatering of groundwater up flow from the base of the excavation. NSW DPI Water should be consulted on the above matter.

**Planner's comment:**

Insufficient information has been provided to undertake a comprehensive analysis/assessment.

### Tree Removal

**Tree and Landscape Officer comment:**

The Arborist Report submitted with the application did not identify all trees proposed to be retained or removed as a result of the proposed works. The Report did not include essential information for Council's Tree and Landscape Officer to complete an assessment. A summary of outstanding matters includes:

- a. The Arborist Report does not quantify all the potential impacts incurred as part of the proposed works, including impacts to neighbouring trees;



- b. The proposal failed to address potential impacts of the development together with the stormwater drainage plan;
- c. A detail methodology was not implemented as part of the arborist assessment. Generic tree protection information that is not site specific is not acceptable; and
- d. The Landscape Plan must be amended to reflect the revised architectural plans, including all the above specifications.

**Planner's comment:**

Insufficient information has been provided to undertake a comprehensive analysis/assessment.

Utility Services

Appropriate conditions would be imposed for any consent granted relating to service connections required for the proposed development.

All installations should be capable of meeting the requirements under the Australian Standards and the Building Code of Australia.

**Planner's comment:**

No concerns identified.

### 6.3 Natural and Technological Hazards

As noted in Section 2.1 of this report, the proposal has failed to comply with the aims of SEPP 55 – Remediation of Land and Clause 2.4.4 'Land Contamination' of the Parramatta Development Control Plan 2011, to ensure that the proposed changes of land use will not increase the risk of human health or any other aspect of the environment.

**Planner's comment:**

Insufficient information has been provided to undertake a comprehensive analysis/assessment.

### 6.4 Site design

Setbacks

The proposal incorporates the following approximate setbacks:

Boundary	Setbacks
<b>North Setback (George St)</b>	Setbacks from the proposed cathedral to the George St frontage range from 8m to 3m. Setbacks from the proposed courtyard and pathway to the sidewalk boundary range from 6m to 1.5m.
<b>South Setback (St Ioannis Church)</b>	The separation from the proposed cathedral to the existing building on site ranges from 6 to 8m approximately. Garden beds are proposed between buildings.

<b>East Setback (Purchase St)</b>	Setbacks from the proposed cathedral to the Purchase St frontage range from 16m to 12m. Setbacks from the proposed pathway to the sidewalk boundary range from 4m to 2m.
<b>West Setback (155 George St)</b>	The setback from the proposed cathedral to the western boundary is 55m approximately. There is a 2m setback from the proposed entry driveway off George St and the western boundary.

**\*Note:** No specific numerical setbacks apply to the site under the Parramatta DCP 2011.

#### **Urban Design comment:**

Council's Urban Design Section recommends a 2m setback for a pedestrian link along the western boundary of the site, clear of any structures, basement and obstruction. A further 3m of planting of large to medium canopy trees would also be beneficial at this edge. The design of the site's wide landscape at all boundaries must provide deep soil and large canopy trees planted to form connected tree crowns at the boundaries of the site.

#### **Planner's comment:**

The proposed cathedral sits on the north-eastern portion of the site allowing dual street exposure and establishing visual dominance over the streetscape. The western portion of the site encompasses the forecourt, the drop-off area, and the ramp to the basement. These features implement minimum setbacks, which limit opportunities for appropriate landscaped boundaries, and do not facilitate a transition between the adjoining lower scale buildings and the subject site. The surrounding area is characterised by a mature green canopy corridor with extensive mature trees surrounding the site. The provision of greater setbacks could achieve more appropriate mature sized canopy trees which would be more in keeping with the surrounding area.

#### Height, Bulk and Scale

#### **Service Manager Urban Design comment:**

It is important that the design responds appropriately to its context and demonstrates this with a contextual analysis of the broader context. The proposal needs to address the surrounding context which is defined by:

- **Existing character:** broad canopy, tree lined street, residential character; surrounded by Queens Wharf Reserve, Robin Thomas Reserve and tree filled traffic island, plus deep setbacks with established canopy and street trees in front of single-three storey residential development; and
- **Future development:** scale, density, building heights and use, and how the proposed development fits in the desired future character.

#### **Planner's comment:**

The application should provide a contextual analysis outlining the relationship of the proposed church to the adjacent and broader urban context in accordance with advice from the Service Manager Urban

Design, particularly given the Parramatta River and reserve across George Street and the surrounding lower density developments.

#### External Materials

Refer to Section 6.1 above.

#### Accessibility

##### **Traffic and Transport Engineer & Transport for NSW comments:**

Council's Traffic and Transport Engineer advised that the proposed access driveway arrangement at the development's George Street frontage is not acceptable due to the conflict with the approved route for the Parramatta Light Rail (PLR). As Transport for NSW indicated in their letter to Council (dated 19 October 2018), the location and configuration of the access to the development's basement carpark and the proposed Council carpark should be coordinated and agreed between Council and the proponent.

In this regard, the proponent is required to liaise with Council's City Transformation Section on an agreed access configuration and provide the details of the agreed configuration of the proposed access to Transport for NSW for designing a signalised intersection (i.e. a single point of crossing of the PLR alignment) for entry to both carparks.

Additionally, Transport for NSW indicated on their referral (dated 24 May 2019) that they remain concerned with the proximity of the proposal (with the intended excavation for basement car parking) to the approved corridor of the PLR. The proponent and their structural engineer met with PLR on 17 October 2018 to understand the information required to satisfy concurrence. However, no additional information has since been received.

##### **Planner's comment:**

Council's Traffic and Transport Engineer and Transport for NSW are unable to complete their assessments of the proposed development as the above requested has not been addressed through the amended proposal and/or supporting documentation.

#### Landscaping

##### **Planner's comment:**

As noted in Section 6.2 above, the Landscape Plan needs to be amended to reflect the appropriate tree management strategy and the revised architectural plans.

## **6.5 Amenity Considerations**

Refer to Section 6.7 below.

## **6.6 Public Domain**

Refer to Section 6.1 above.

## **6.7 Relationship to Adjacent Sites**

### Overlooking

**Planner's comment:**

The proposal is sited on the north-eastern corner of the site, adjacent to two streets. It is considered to have adequate setback to adjoining sites and will not cause detrimental impacts on overlooking.

### Overshadowing

**Planner's comment:**

The shadow diagrams submitted to Council demonstrate the proposed overshadowing impacts on 167 George St will be negligible during the winter solstice. The extent of the proposed shadows will mostly impact on the cathedral's rear foyer and the existing church on site.

The submitted shadow diagrams do not distinguish the extent of the shadows related to the portions of the building that will breach the height control.

### Operational Noise

**Planner's comment:**

As noted in the DCP assessment of this report, additional information is required to complete the acoustic assessment.

### Visual Impact

**Planner's comment:**

Concern is raised as to the limited extent of deep soil landscaping surrounding the building and how the building will fit in with the existing character of the immediate area. The surrounding area is made up of residential to the east and south and foreshore and open space to the north and west. The immediate area contains established canopy trees which aid to break up the building mass.

The proposed building with its excessive height and location on the corner of two streets, will definitely be a focal building. Also, the existing building on the site is to be retained and extensive paved driveway/forecourt area is proposed within the front portion of the site. In this regard the proposal has failed to adequately address the visual impact on the surrounding area.

## **6.8 Access, Transport and Parking**

### Access

**Planner's comment:**

As noted in the accessibility assessment at Section 6.4, Council's Traffic and Transport Engineer and Transport for NSW determined that there was insufficient information to adequately assess the impact of the proposed development adjacent to the approved PLR corridor, including the proposed access via George Street.

#### Parking

##### **Traffic and Transport Engineer comments:**

The proponent states that the proposed carpark will be reserved for occupants of the development and, consequently, the carpark is entirely exclusive to the development's occupants, therefore, there will be no boom gate proposed in this carpark.

However, concerns remain in relation to the use of the proposed carpark by drivers other than occupants of the development during business days. As a result, the proponent has been advised to provide security measures such as boom gates to illustrate that the proposed carpark will be used exclusively by the development's occupants. Details of the suggested security measures are also to be shown on the floor plans.

##### **Planner's comments:**

Further to the matters raised by Council's Traffic and Transport Engineer, the proposal is inconsistent with Section 5.3.3.5 of the Parramatta Development Control Plan 2011 'Traffic, Parking and Access - Place of Public Worship'. Under this clause, the proposal requires a total of 347 parking spaces. However, the amended proposal is for 428 spaces, which accounts for an excess of 81 spaces. This results in an additional level of basement car park which aggregates other issues such as flooding. It is noted the proposed carpark will be reserved for occupants of the proposal and therefore, the excess of car parking will need to be justified, particularly considering the constraints associated with excavation works and dewatering procedures. It is noted that the excess parking (81 spaces) is considered to be extra gross floor area under the definition of the Parramatta Local Environmental Plan 2011.

#### Construction Traffic

##### **Planner's comment:**

No objection raised in relation to construction traffic. Appropriate conditions of consent would be imposed if the proposal was to be supported.

## **6.9 Water Management**

#### Flooding

##### **Senior Catchment and Development Engineer comment:**

There are fundamental problems and deficiencies with this proposal in its present form, particularly regarding flooding and the below ground function and other rooms which are not permitted. As a result, the proposal is not supported.

The site is subject to flash flooding from Clay Cliff Creek and from the Parramatta River. The overland flow flooding regime generated by rainfall in the immediate catchment is not yet known. Extensive habitable floor levels (function room) are proposed below ground level and below the 100 year river flood level, which is contrary to Parramatta Development Control Plan 2011, which states that all such floor levels must be at or above the 100 year level plus 0.5m freeboard. This will be highly used by future occupants and represents an extreme risk.

A Flood Information Enquiry is required to be made to Council by the proponent to obtain the current Council-issued mainstream flood levels. It is accepted by all parties that flooding greater than the 1% AEP flood (100 year ARI) will inundate all of the site. In the PMF the water surface level will be about 3m above the ground at a predicted RL of approx. 9.5m AHD.

Overland flooding (from rainfall in the local catchment) has not been addressed. The Flood Report submitted with the application does not address overland flood risk. An overland flood study must be conducted. This must assume 100% pipe blockage. The 1% AEP flood level and the Flood Planning Level (1% AEP + 0.5m freeboard) FPL should then be set based on the dominant flooding mechanism for the site. This will be from mainstream flooding from either Clay Cliff Creek or Parramatta River, or from overland flow flooding.

Bunds/crests have been proposed to protect the basement car park area from flooding up to the 1% AEP (100 year) river flood level plus 0.5m freeboard, but no further. This area should be protected up to the PMF, therefore flood gates and flood doors are required. The staircase from the basement is not satisfactory as it exits the basement levels above the 1% AEP and FPL but below the PMF, separately to the main building and will therefore be difficult to protect to the PMF.

The proposal relies heavily on evacuation, however, the NSW Floodplain Development Manual clearly states that 'Flood Emergency Response Plans cannot be relied upon to be effective in all flood events and therefore cannot be considered to reduce the hydraulic hazard. Evacuation is proposed based on 'early warning' provided by ABC radio, BOM and SES. This does not work with flash flooding conditions within Clay Cliff Creek floodplain, where there will be little to no warning time.

Extension is proposed to an existing retaining wall along the western property side boundary, to push floodwaters onto the neighbouring reserve. This is not supported.

**Planner's comment:**

Insufficient information has been provided to fully assess the flooding implications of the proposal.

Stormwater Collection and Disposal

**Planner's comment:**

No objection raised in relation to stormwater management. Appropriate conditions of consent would be imposed if the proposal was to be supported.

Water Quality During Construction

**Planner's comment:**



Water NSW provided their General Terms of Approval which would be included if the application was to be approved.

#### **6.10 Waste Management**

**Planner's comment:**

No objection raised in relation to waste management. Appropriate conditions of consent would be imposed if the proposal was to be supported.

#### **6.11 Construction Management**

**Planner's comment:**

No objection raised in relation to construction management. Appropriate conditions of consent would be imposed if the proposal was to be supported.

#### **6.12 Safety, Security and Crime prevention**

**Planner's comment:**

A formal crime risk assessment (Safer by Design Evaluation) has not been submitted with the application.

#### **6.13 Social and Economic Impacts**

**Planner's comment:**

A Social Impact Assessment (SIA) prepared by Think Planners (dated 19 October 2018) was submitted with the amended application. However, the SIA did not include community consultation and the assessment relied on consultation undertaken as part of the previous rezoning process.

The consultation previously undertaken does not respond to the specific characteristics of the development nor the proposed design of the place of public worship. The provision of a SIA is a requirement of Council's Social Outcomes Unit.

The SIA submitted by the proponent states that no objections were received as part of the notification period of the DA. However, two (2) objections were received as noted under Part 8.

### **7. Site suitability**

The proponent has not demonstrated the suitability of the site for the proposed development.

The proponent has failed to provide adequate contextual analysis. Therefore, the proposal in its current form, cannot be supported and is not considered suitable for the site.

### **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 21 day period between 26 July 2018 - 20 August 2018. In response, two (2) submissions were received. The issues raised within those submissions are addressed below.

Issue	Response
<b>Intensification of site</b>	Refer to Section 6.1 above for further details.
<b>Traffic impacts</b>	Refer to Section 6.8 above for further details.

#### **Amended Plans**

Yes

Following Council's second Request for Information (14 March 2019), the proponent submitted revised plans (dated 8 April 2019).

A summary of amendments includes:

- Plans have been amended to show additional details relating to the internal circulation within the basements;
- The two-way car park entry via George Street has reduced to a single entry; and
- The proposed location of waste bins is shown in the revised Basement 1 floor plan.

In accordance with Clause 5.5.9 of Council's notification procedures entitled "*Notifications of Amended Development Applications Where The Development Is Substantially Unchanged*" the application did not require re-notification as the amended application is considered to be substantially the same development and does not result in a greater environmental impact.

#### **CONCILIATION CONFERENCE**

On 11 December 2017, Council resolved that:

*"If more than 7 unique submissions are received over the whole LGA in the form of an objection relating to a development application during a formal notification period, Council will host a conciliation conference at Council offices."*

#### **Conciliation Conference – Not Required**

The application received two (2) unique submissions during the formal notification period and as a result a Conciliation Conference was not required to be held.



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## **ATTACHMENT B – REASONS FOR REFUSAL**

- A. It is recommended that the Sydney Central City Planning Panel (SCCPP) not support the Clause 4.6 variation to 'Height of Buildings' within the Parramatta Local Environmental Plan 2011 as it failed to demonstrate that compliance is unreasonable or unnecessary and did not provide sufficient environmental grounds to justify the contravention.
- B. It is recommended that the SCCPP **refuse** this application for the following reasons:

### **1. Height**

In accordance with Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the Parramatta Local Environmental Plan 2011 as follows:

- a. The proposed development does not comply with Clause 4.3 development standard 'Height of Buildings' of Parramatta Local Environmental Plan 2011. A Clause 4.6 request to vary this development standard has been provided, however, the proposal is not supported as the development would be inconsistent with the objectives of Clause 4.3 'Height of Building', and one of the three objectives of Zone SP1 Special Activities of the Parramatta Local Environmental Plan 2011.
- b. The proposed development is inconsistent with Clause 5.6 of the Parramatta Local Environmental Plan 2011 in respect to 'architectural roof features'.

### **2. Character of the Area**

In accordance with Section 4.15(1)(a)(i) and Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the design of the development has not adequately considered the constraints of the site and adjoining development within the streetscape. As a result, the development is not consistent with all the objectives of the SP1 zone under the Parramatta Local Environmental Plan 2011, and the character of the local area in accordance with Clause 5.3 'Places of Public Worship and Educational Establishments' of the Parramatta Development Control Plan 2011.

### **3. Bulk and Scale**

In accordance with Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposal fails to comply with the with the aims and design principles under Subclause 5.3.3.2 'Bulk and Scale – Places of Public Worship' of the Parramatta Development Control Plan 2011.

#### 4. Flood Planning

In accordance with Section 4.15(1)(a)(i) and Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposal fails to comply with Clause 6.3 'Flood Planning' of the Parramatta Local Environmental Plan 2011, and Clause 2.4.2 'Water Management' of the Parramatta Development Control Plan 2011. The proposal is not supported on flooding risk grounds for the following reasons:

- a. The proposal is categorised as a 'Sensitive Use' by the 'Floodplain Matrix Planning and Development Controls' (Table 2.4.2.1.2) of the Parramatta Development Control Plan 2011. The site is subject to flooding by the Probable Maximum Flood (PMF) and potentially by the 1% Annual Exceedance Probability (100 year) flood. Therefore, the proposed use is unsuitable in accordance with the Parramatta Development Control Plan 2011;
- b. The proposed use is inconsistent with Objective 2 of Council's Floodplain Risk Management Policy (approved on 27 October 2014); and
- c. The proposal increases risks of substantial numbers of future occupants as a result of mainstream flooding and potentially overland flow flooding. The highest risks are presented by the proposed community facilities built below ground and the prevailing flood levels.

#### 5. Traffic and Parking

In accordance with Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposal fails to comply with the aims and design principles under Subclause 5.3.3.5 'Traffic, Parking and Access – Places of Public Worship' of the Parramatta Development Control Plan 2011.

#### 6. Insufficient Information

In accordance with Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been provided in order to:

- a. assess the flooding impacts associated with the proposed development, including risks associated with mainstream flooding and potentially overland flow flooding;
- b. complete the contamination assessment of the site and ensure changes of land use will not increase the risk of human health or any other aspect of the environment;
- c. complete the geotechnical assessment associated with the excavation works required for the proposed six level basement car park. A temporary dewatering license from NSW DPI Water will be required;
- d. demonstrate the effective operation of the basement car park, including the location and configuration of the access arrangements via George Street, which are subject to the approved corridor for the Parramatta Light Rail;
- e. complete the urban design and heritage assessments, which should include a detailed contextual analysis, and the assessment of historic view corridors with the associated heritage items; and

- f. assess the impacts on trees on the adjacent property at the western boundary of the site, including potential impacts on trees along Purchase Street which might subject to realignment due to the proposed works and the Parramatta Light Rail corridor.

## **7. Public Interest**

In accordance with Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the development is not considered to be in the public interest and would result in the setting of a detrimental precedent for the desired future character of the locality.

Report Prepared By:



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Date: June 2019

Report Reviewed by:



**Tina Christy**

Associate Director, City Plan Strategy & Development

Date: July 2019



## **ATTACHMENT C – Clause 4.6 Statement for Height Variation**