



SYDNEY CENTRAL CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	PPS-2018SWC103
DA Number	DA/684/2018
LGA	City of Parramatta Council
Proposed Development	<p>Concept Proposal for 14 storey mixed use (retail, office, student housing, group home and boarding house) building envelope at 99-113 Macquarie Street [Epworth House], 13 storey mixed use (church administration, community facility, student housing, group home and boarding house) building envelope at 119A Macquarie Street [Fellowship Centre], 2-6 storey basement envelope (retail, church administration and 142 parking spaces), retention and restoration of Leigh Memorial Church Building including new spire; and Stage 1 demolition of existing commercial buildings to ground level.</p> <p>The application is identified as Nominated Integrated Development for the purposes of the Water Management Act 2000.</p>
Street Address	99-119A Macquarie Street Parramatta (Lot 9 DP 702736, Lot 1 DP 626765, Lot 1 DP 628809)
Applicant	The Uniting Church in Australia Property Trust (NSW)
Owner	The Uniting Church in Australia Property Trust (NSW)
Date of DA lodgement	17 September 2018
Number of Submissions	None (0)
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of SEPP SRD 2011)	Pursuant to Clause 2 of Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011, the development has a capital investment value of more than \$30 million.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none">• Environmental Planning and Assessment Act 1979• Water Management Act 2000• SEPP (Building Sustainability Index: BASIX) 2004• SEPP (Infrastructure) 2007• SEPP (State and Regional Development) 2011• SEPP (Sydney Harbour Catchment) 2005• SEPP No. 55 (Remediation)• SEPP No. 65 (Design Quality of Residential Apartment Development) & Apartment Design Guide• Parramatta Local Environmental Plan 2011• Parramatta Development Control Plan 2011• Draft Consolidated City Of Parramatta Local Environmental Plan 2020• Draft CBD City of Parramatta Local Environmental Plan 2020
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none">• Attachment 1 – Architectural Design Report and Drawings• Attachment 2 – Landscape Drawings
Clause 4.6 requests	None

Summary of key submissions	N/A
Report prepared by	Planning Ingenuity (Independent Assessment on behalf of City of Parramatta Council)
Report date	19 November 2020

Summary of s4.15 matters

Yes

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

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

Clause 4.6 Exceptions to development standards

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

N/A

Special Infrastructure Contributions

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

No

Conditions

Have draft conditions been provided to the applicant for comment?

N/A

1. Executive Summary

This report considers a concept development application for a staged development as described in Section 4.22 to the *Environmental Planning and Assessment Act, 1979* (EP&A Act 1979). The concept plan outlines the following:

- Retention of No. 119 Macquarie Street (Leigh Memorial Church) and heritage works including the reinstatement of the Church Spire and creation of a new church entry on the eastern elevation;
- A building envelope for a 13 storey mixed use building at No.99-113 Macquarie Street (Epworth House). Height to 54m (RL 64.00) and potential GFA 8,359m² with one level of basement (Basement Level 1) containing retail uses and five (5) levels of basement (Basement Levels 2 - 6) car parking for a maximum of 142 vehicles, accessed from Macquarie Street. Conceptual use for a mix of commercial land uses, including retail, offices, and a range of accommodation uses; and
- A building envelope for a 12 storey mixed use building at No.119A Macquarie Street (Fellowship Centre) over two levels of basement. Height to 53m (RL 63.00) and potential GFA of 5,855m². Conceptual use sought for Church administration at basement levels, and commercial premises, community facility, and a variety of accommodation above.

The application also seeks approval for the following Stage 1 works:

- Demolition of No. 99-113 Macquarie Street (Epworth House) and No. 119A Macquarie Street (Fellowship Centre);

Planning Ingenuity Pty Limited has been engaged by City of Parramatta Council to provide the Sydney Central City Planning Panel (SCCPP) with an independent town planning assessment of this application.

The development application has been referred to Transport for NSW, NSW Heritage Council and the (former) Office of Environment and Heritage. Transport for NSW have determined insufficient information has been provided with the application in relation to the impacts on the Parramatta Light Rail – Stage 1 project and have not provided concurrence.

Assessment of heritage, urban design, traffic, stormwater and flood management, geotechnical engineering, waste management and environmental health, public works, accessibility, landscaping, public art, social and cultural impact and economic impacts has determined that the proposal cannot be supported.

From a town planning point of view the application is considered unsatisfactory for the following primary reasons:

- **Unsatisfactory Built Form and Heritage Impacts** – The site is an important location on the northern edge of Parramatta Square and at the nexus of the Civic Link. The proposed building envelope for Fellowship House is not supported due to intrusions on the heritage curtilage of Leigh Memorial Uniting

Church, excessive bulk and scale, and encroachment over the planned Civic Link and southern two-way shared zone;

- **Design Excellence** – In light of the adverse impacts highlighted above, the proposed development fails to demonstrate that it exhibits design excellence pursuant to Clause 7.10 of Parramatta LEP 2011.

Other deficiencies in information and unsatisfactory aspects of the proposal are summarised as follows:

- Adverse impacts to the curtilage and setting of the heritage item Leigh Memorial Uniting Church;
- Failure to demonstrate acceptable floodwater management;
- Unsatisfactory arrangements for pedestrian and vehicle movements including accessible paths of travel, pedestrian entries and exits, and publicly accessible spaces;
- Location of above ground OSD tanks and potential adverse impacts on the activation of the through site link and southern shareway;
- Insufficient information provided with regard to publicly accessible through links and spaces, geotechnical issues, structural integrity of the Leigh Memorial Uniting Church, landscaping, public domain works, public art plan, social impacts, and Acid Sulfate Soils management;
- The potential for an unacceptable precedent to be set by the potential encroachment over the Civic Link and the southern shared zone at Level 3 and above; and
- Insufficient information has been provided to demonstrate that vehicles can access/egress the site without adversely affecting the safe and efficiency of the Parramatta Light Rail – Stage 1.

The primary reasons for refusal related to 'design excellence', 'unsatisfactory built form' and heritage are considered to be paramount and these are discussed in detail in this assessment report. Other deficiencies in information and unsatisfactory aspects of the proposal are discussed in brief only in this report because the primary reasons prevail and provide sufficient grounds for refusal of the application in the circumstances.

No written submissions were received by Council in response to the notification process.

It is considered that the development application be refused for the reasons listed in the Recommendation section of this report.

2. Key Issues

Parramatta Local Environmental Plan 2011

- **Design Excellence** – Failure to exhibit design excellence (Clause 7.10).
- **Heritage** – Impact on heritage items and archaeological elements on the site (Clause 5.10).
- **Flooding** – Location of commercial/retail/office floor space below flood planning level and subsequent risk to loss of life and property (Clause 6.3).

Parramatta Development Control Plan 2011

- **Parramatta Square** (Part 4.3.3.7(b)) – Non-compliances with various controls applicable to the Parramatta Square precinct.
- **Civic Link** (Part 4.3.3.7(m)) – Non-compliances with various controls applicable to the Civic Link Precinct adopted on 12 October 2020.

Insufficient Information

- **Land Use** – Insufficient information has been provided with regards to the quantum and type of proposed uses on the site.
- **Pedestrian and Vehicular Safety** – Insufficient information has been provided with regards to public domain works, particularly a lack of detail regarding pedestrian and vehicular safety during construction and the on-going use of the site in light of the Parramatta Light Rail link traversing Macquarie Street.

3. Site Description, Location and Context

3.1 Site

The site is located on the southern side of Macquarie Street between the intersections with Smith Street and Church Street. The site contains three (3) allotments being legally described as Lot 9 DP 702736, Part Lot 1 DP 626765 Stratum lot - lease of 58sqm part of ground floor lease and Lot 1 DP 628809. The site is an irregular shape with a total area of 2,613m². An aerial photograph of the site and immediate surrounds is included in Figure 1 with the site outlined in red.



Figure 1: Aerial photo of site and surrounds (site outlined in red) (Source: Near Maps image 2020)

The site is relatively flat. The site is affected by flooding and overland flows. There is no vegetation within the site. A photograph of the site as viewed from Macquarie Street to the north east of the site is included in Figure 2.



Figure 2: Photo of the site as viewed from Macquarie Street (looking south west)

No.99-113 Macquarie Street is the western portion of the site and contains two storey brick buildings with ground floor commercial and upper level offices with at-grade parking at the rear (see the right hand side of Figure 2).

The Leigh Memorial Uniting church occupies the centre of the site as shown in Figure 2 and has parking to the rear. The church is Heritage Item I719 in Schedule 5 to Parramatta Local Environmental Plan 2011 (PLEP 2011) and is of local significance.

No. 119A Macquarie Street contains a three storey commercial building used by Parramatta Mission and is shown on the left side of Figure 2.

The Parramatta Convict Drain is an item of local heritage significance (Item I647) and runs diagonally through the eastern part of the site.

Vehicular access to the site is via an entry/exit driveway adjacent to the western side of the church and controlled by a boom gate as shown in Figure 3. The at-grade parking area at the rear of the site is shown in Figure 4.



Figure 3: Vehicle access as viewed from Macquarie Street (looking south)



Figure 4: Car parking at the rear of the site (looking west)

Adjoining and Nearby Properties, Context and Setting

The site is part of Parramatta Square which is a strategic precinct and subject to a site-specific section in the Parramatta Development Control Plan 2011 (PDCP 2011). The desired future character for Parramatta Square is described in the DCP as follows:

“Parramatta Square, formerly Civic Place, is at the heart of the Parramatta City Centre located adjacent to the Parramatta Transport Interchange, its redevelopment will strengthen Parramatta as Sydney’s Central City, and as a centre for business, tourism, entertainment, culture and heritage.

The development of Parramatta Square is vital to showcasing design excellence and environmental sustainability excellence for the city and region as well as achieving the targets for future employment growth by providing direct opportunities and generating flow on effects. The eastern part of Parramatta Square will contain employment in premium office space. The

remainder of Parramatta Square will accommodate a mix of commercial, residential, retail, cultural and entertainment uses, that are compatible with the city centre location and contribute to enlivening the city centre at all times.

Building on the renewed transport interchange, Parramatta Square will provide an easily accessible civic focus for the city. The built form of Parramatta Square will be defined by a row of the tallest buildings in Parramatta immediately north of the railway station, and a large central public open space. The space will be enclosed by a series of buildings fronting Macquarie and Smith Streets. All of the buildings will demonstrate design excellence, commensurate with their important civic location.

Parramatta Square will be a public gathering place. The public open space at the centre of Parramatta Square will form the pre-eminent ceremonial centre of Parramatta, the site for both significant formal civic events and recurrent cultural and community celebrations and festivals.

Local residents will grow accustomed to attending a variety of gatherings in Parramatta Square. The design of the public open space will reflect the nature of its use and be of high quality.

Given this character, vehicle movements will be restricted and pedestrian and cycle movements will dominate.”

It is clear from the ‘desired future character’ description in the PDCP 2011 that all buildings are to demonstrate design excellence and that the quality and functionality of the publicly accessible spaces within Parramatta Square is of regional importance.

A layout plan for Parramatta Square is included in Figure 5 and shows the subject site outlined in red.

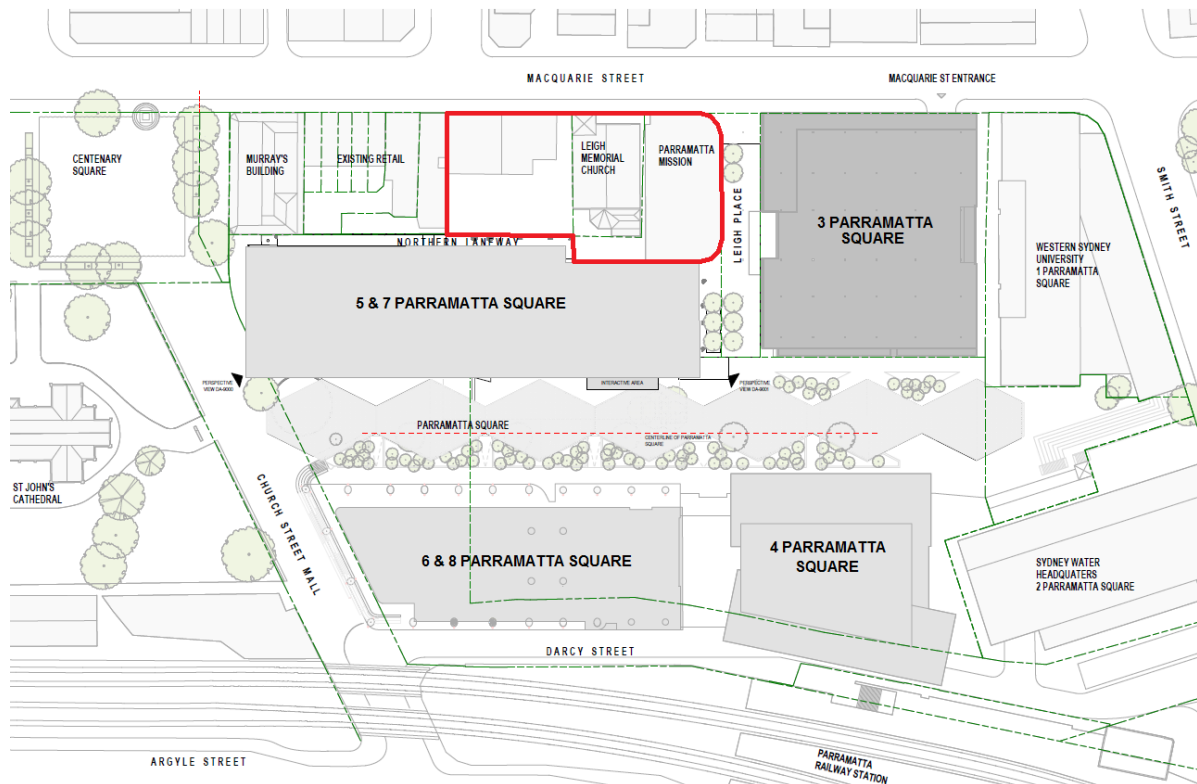


Figure 5: Extract of Parramatta Square Staging Plan (site outlined in red) (Source: DA/476/2019)

East of the site is Leigh Place which is the southern end of the future Civic Link extending between Parramatta Square and Parramatta River (for more details on the Civic Link see below).

Further east of the site is No.3 Parramatta Square for which Development Consent DA/76/2017 was granted on 9 August 2017 for a building containing ground level retail plus 16 levels of commercial office space over 4 levels of basement parking. The maximum building height is 83.5m (RL 93.00) and the total gross floor area (GFA) is 46,188m² being a floor space ratio (FSR) of 10.19:1). A photomontage of the approved building as viewed from Macquarie Street looking south east is included in Figure 6 and an extract of the approved ground floor plan is included in Figure 7.



Figure 6: Photomontage of approved commercial and retail development DA/76/2017

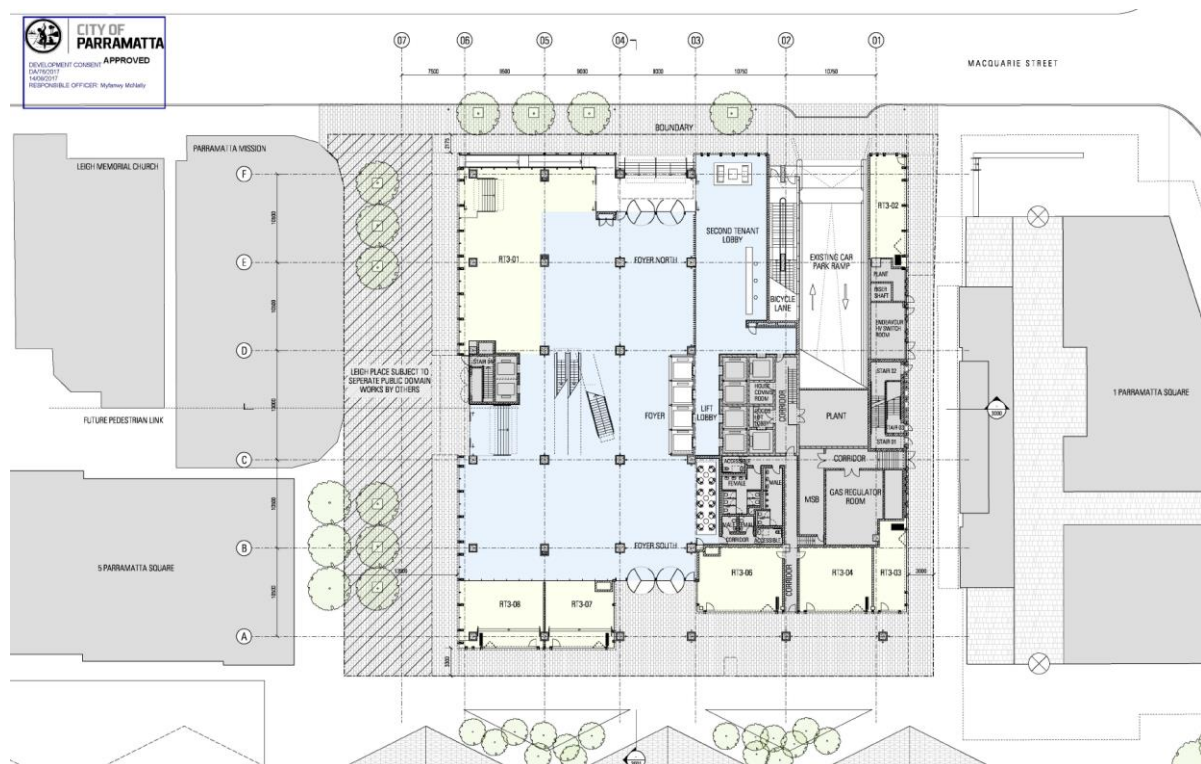


Figure 7: Extract of approved ground floor plan for DA/76/2017

The photomontage shows the western façade of the approved building which is to be oriented to the subject site. Figure 7 shows the location of Leigh Place (shown with diagonal hatching) which is to become part of the Civic Link. The 3 Parramatta Square building was recently completed (as shown in Figure 8 which includes the eastern edge of the subject site on the far right of the photograph).



Figure 8: Construction site for DA/76/2017 as viewed from Macquarie Street

Basement car parking beneath No.3 Parramatta Square is part of the Parramatta Square 'super basement' separately approved with Development Consent DA/358/2015. This basement has capacity for 214 cars and 230 bicycles and is to be shared with surrounding properties. A layout of the upper level of the 'super basement' is shown in Figure 9 which is an extract from the approved plans. The basement levels extend below that shown in Figure 9.

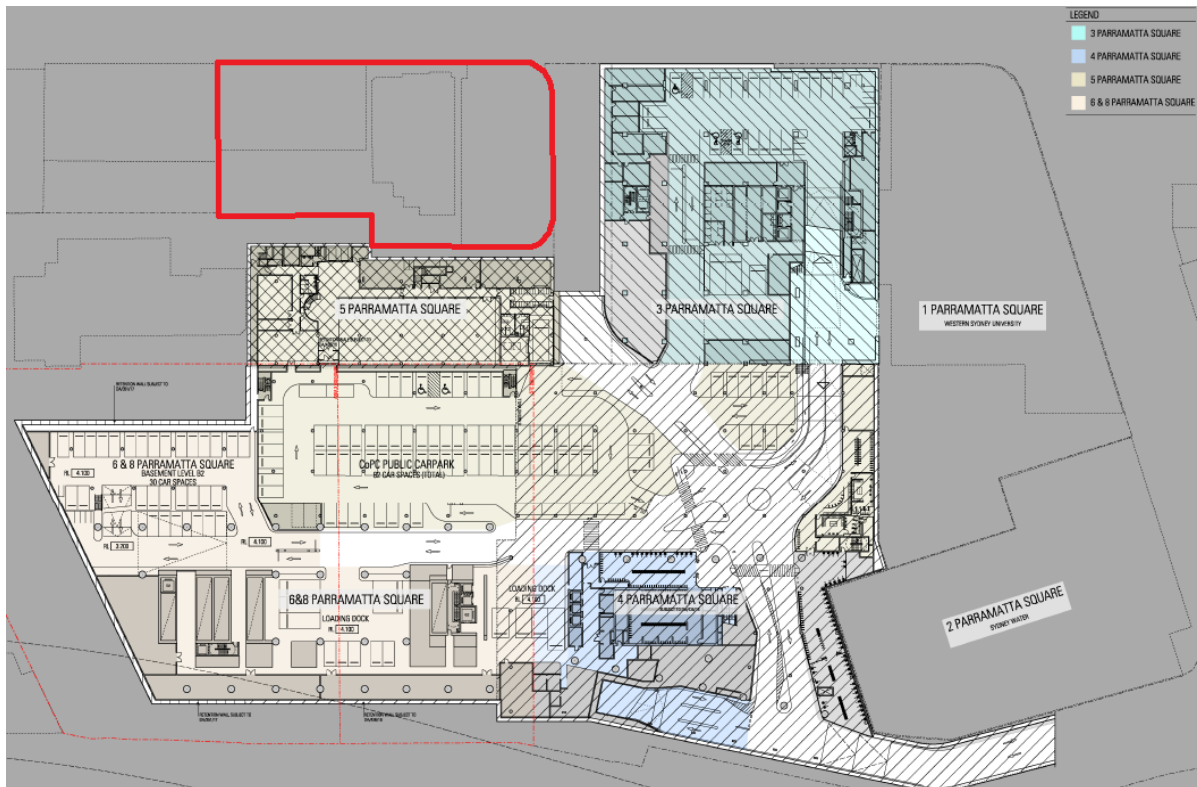


Figure 9: Approved layout of the upper level of the 'super basement' (the subject site is outlined dashed red)

The building at No. 1 Parramatta Square has been completed and is operational. The building is part of the University of Western Sydney and is shown in Figure 10.



Figure 10: University of Western Sydney building at No. 1 Parramatta Square as viewed from Macquarie Street prior to construction of 3 Parramatta Square.

Nos. 4, 6 & 8 Parramatta Square are commercial towers with lower level retail south of the site on the opposite side of the Parramatta Square plaza area. 4 Parramatta Square is completed and occupied and includes a new pedestrian link through to the Parramatta train station (DA/436/2016). The commercial towers of 6 & 8 Parramatta Square are currently under construction (DA/46/2018 and DA/47/2018). The consents for these towers also allow for the creation of areas of public domain with the principal component of which is the Parramatta Square central plaza. An extract of the approved elevation submitted with DA/47/2018 is included in Figure 11 to show the potential general built form of the approved development.

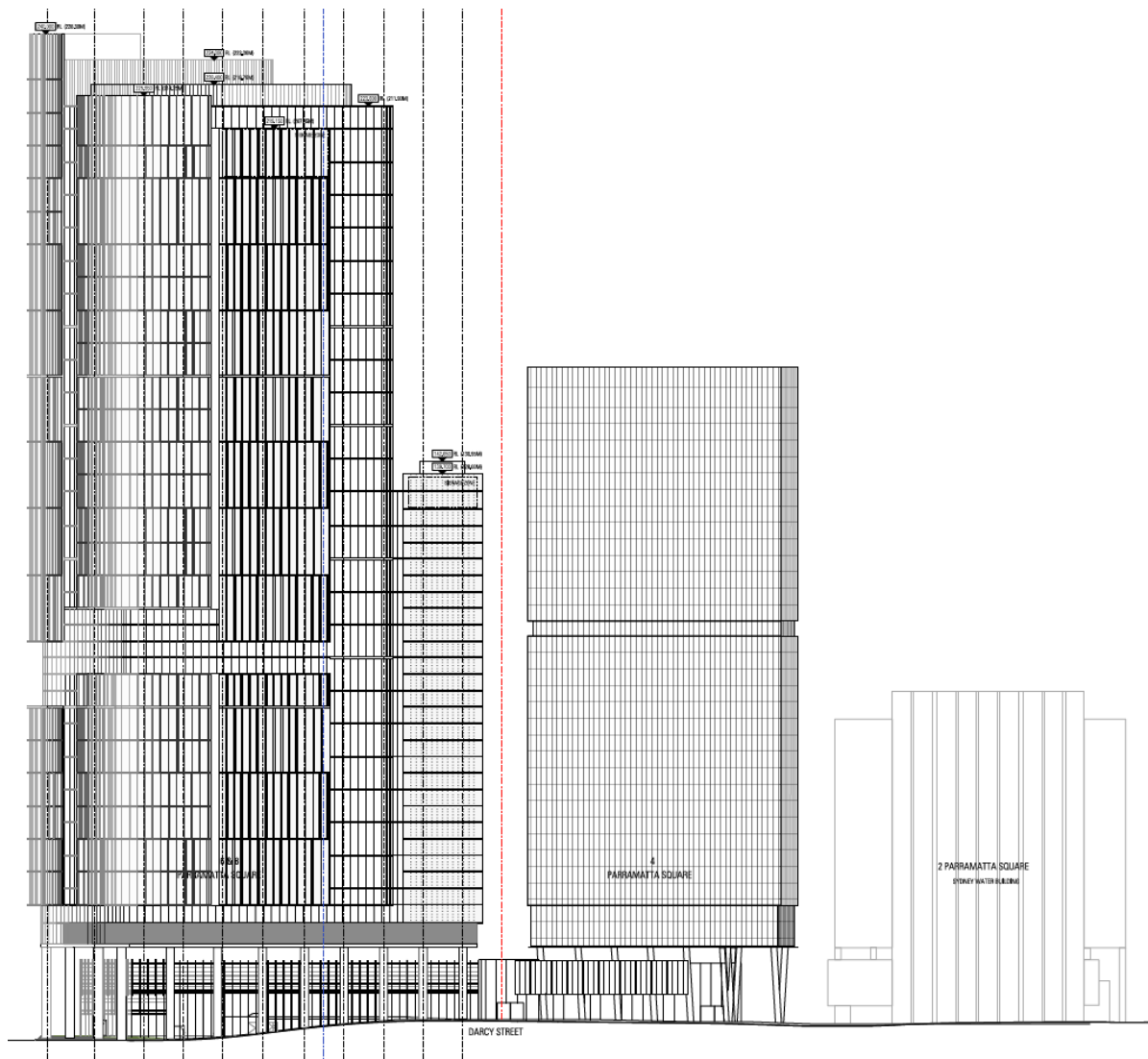


Figure 11: Extract of southern elevation of 2, 4 & 6/8 Parramatta Square (right to left)

Development Consent DA/476/2019 was approved on 15 August 2019. This consent applies to No. 5 & 7 Parramatta Square which shares the southern boundary of the subject site. The applicant for the development is the City of Parramatta Council. The development consent approved a six (6) storey community facility extension to Parramatta Town Hall which is the outcome of a design excellence competition. The development consent included construction and use of two basement levels and connection to the adjoining Parramatta Square basement. An extract of the photomontage of the approved building as viewed from the south west is included in Figure 12.



Figure 12: Extract of photomontage of 5 & 7 Parramatta Square submitted with Development Application DA/476/2019

The transformation of the public domain in and around Parramatta Square into a pedestrian and cycling dominated environment is demonstrated in Figure 4.3.3.7.5 to PDCP 2011 an extract of which is included in Figure 13.



Figure 13: Extract of diagram of Access Principles for Parramatta Square as contained in Figure 4.3.3.7.5 to PDCP 2011

Adjoining the site to the west, is 85-97 Macquarie Street which was approved on 6 August 2020 (DA/638/2019) for a 13 storey commercial building with ground floor retail, basement parking and associated landscaping. The approved development includes interim vehicular access to and from Macquarie Street but notes a 3.25m wide future shared accessway on the subject site Refer to Figure 14 below.

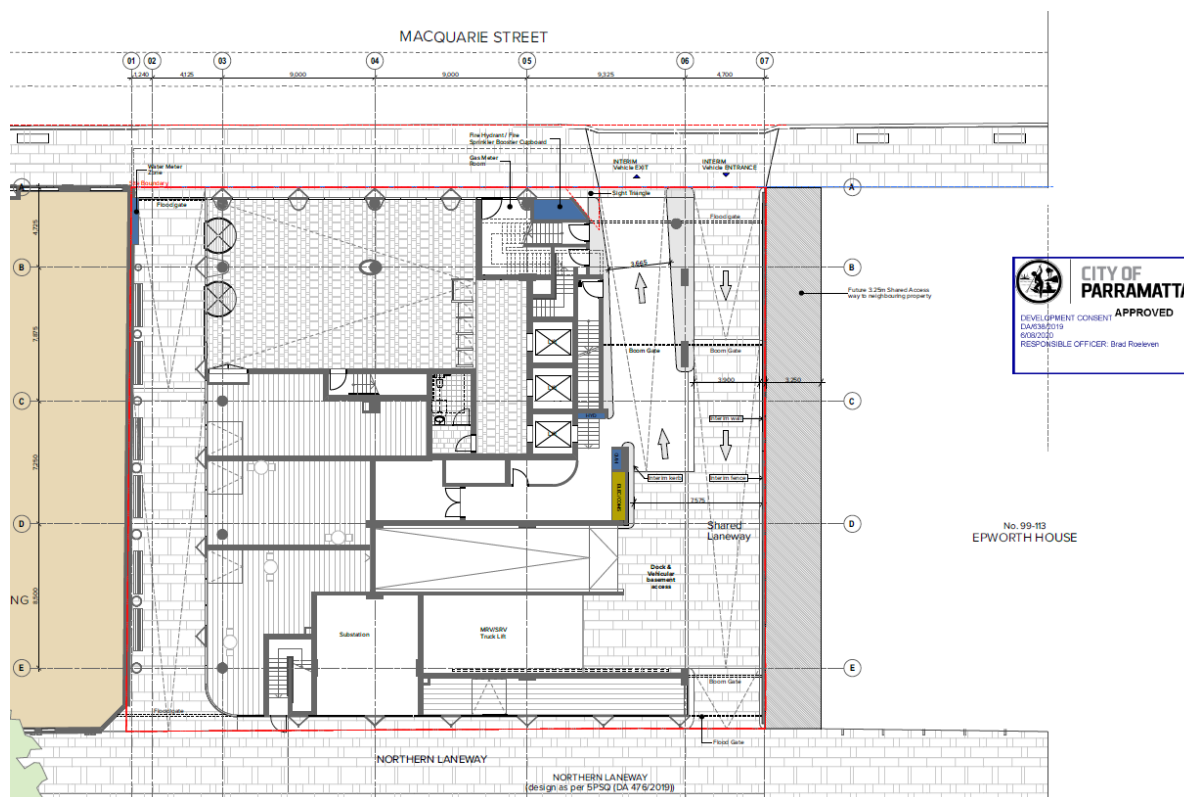


Figure 14: Extract of approved plans for 85-97 Macquarie Street (subject site adjacent to the east)

Civic Link Framework Plan 2017

The Civic Link Framework Plan (CLFP) was endorsed by Council on 25 February 2019. The CLFP builds on the place making opportunities identified in the Parramatta Lanes Strategy 2010. The CLFP is a Policy framework to guide Council in the acquisition and creation of a publicly accessible through link between the foreshore of the Parramatta River and Parramatta Square. The CLFP intends to extend over approximately 490 metres x 20 metres wide area connecting major destinations within the CBD to the transport interchange with a pedestrian and cycle-friendly open green corridor. The link is intended to deliver environmental and infrastructure improvements, arts and cultural opportunities and active spaces to enhance local activities and land uses.

An extract from the Draft CLFP showing the overall proposed route is included in Figure 15.

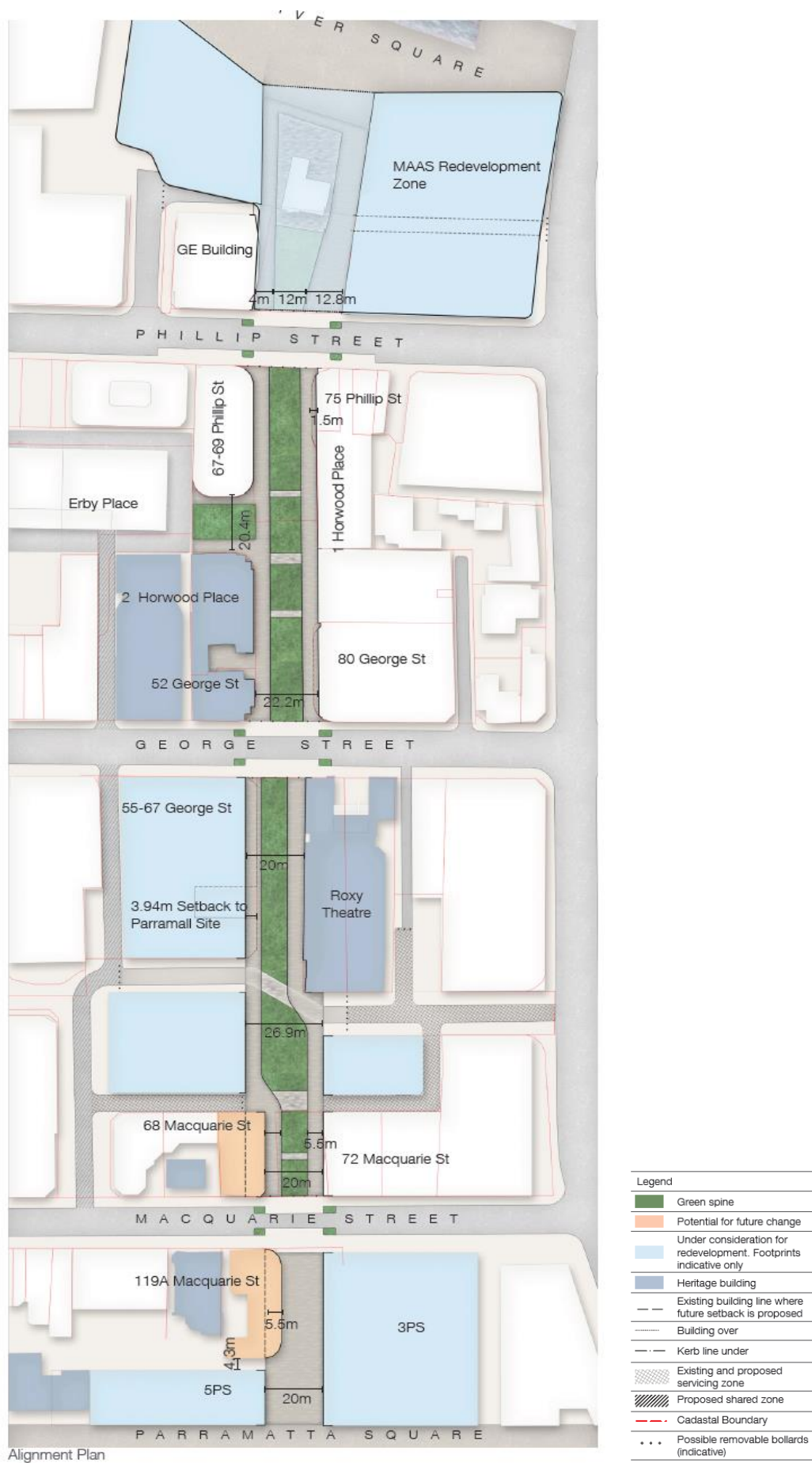


Figure 15: Originally proposed route of the Civic Link within Parramatta CBD

The Civic Link chapter (4.3.3.7(m)) of PDCP was developed out of the CLFP and was placed on public exhibition from 3 April to 16 May 2019. After consideration and input from various stakeholders which included changes to accommodate the proposed Parramatta Light Rail and proposed Metro Station, Council resolved to adopt the draft Civic Link Chapter of PDCP on 12 October 2020 but deferred considerations on Blocks 2 & 3. This had no bearing on the subject site which is located in Block 1 and, given no savings provisions apply, the Civic Link DCP chapter is an applicable planning document requiring consideration under s4.15 of EPA Act 1979.

In terms of the subject site, the Civic Link Precinct chapter (4.3.3.7(m)) differs from the requirements under the Parramatta Square Chapter (4.3.3.7(b)) as the Civic Link Precinct chapter contains detailed setbacks for No. 119A Macquarie Street, namely 7.5m to the north (Macquarie Street), 6.5m to the east (Civic Link) and 6m to the south (share way with 5PS). These setbacks on No. 119A Macquarie Street are required for the Civic Link, the share way and maintenance of view corridors to and from the Leigh Memorial Uniting Church.

Parramatta Light Rail

Stage 1 of the Parramatta Light Rail Project was approved by the Minister for Planning on 29 May 2018. Construction on the project has commenced and it is expected to be operational in 2023. The approved route of the light rail as shown in Figure 16 includes a stop in Macquarie Street in close proximity to the frontage of the subject site. Figures 17 and 18 show the indicative layouts for the stop in Macquarie Street. Figure 18 is an indicative section through the proposed stop and shows that there will be no space within this section of Macquarie Street road reserve for the exclusive use of vehicles. As a result of the changes, Macquarie Street is now a transit way, whereby referrals to TfNSW as a classified road and a rail corridor are required.

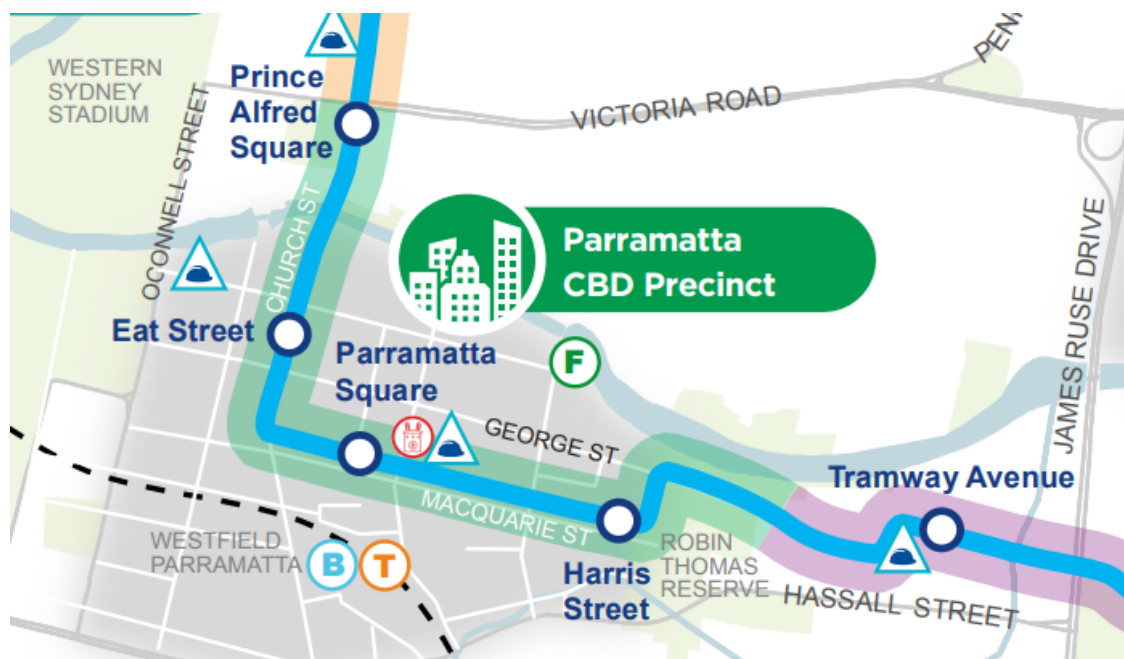


Figure 16: Extract from Parramatta Light Rail EIS Overview document showing proposed light rail route

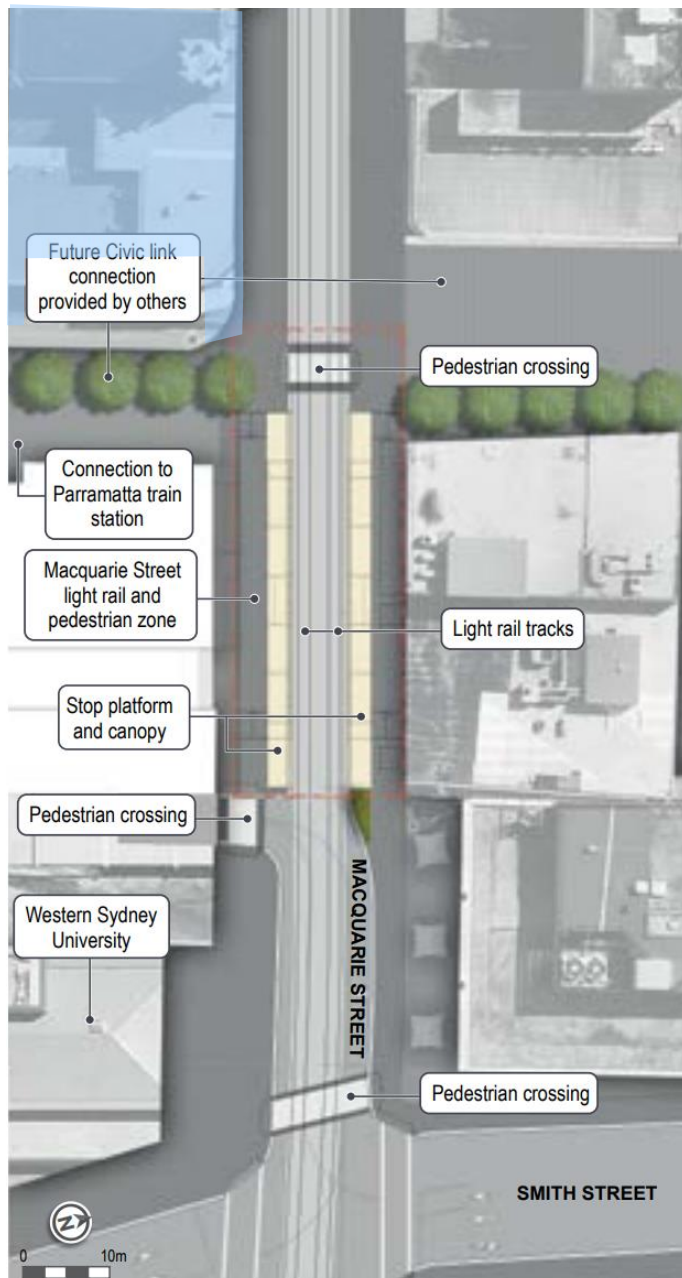
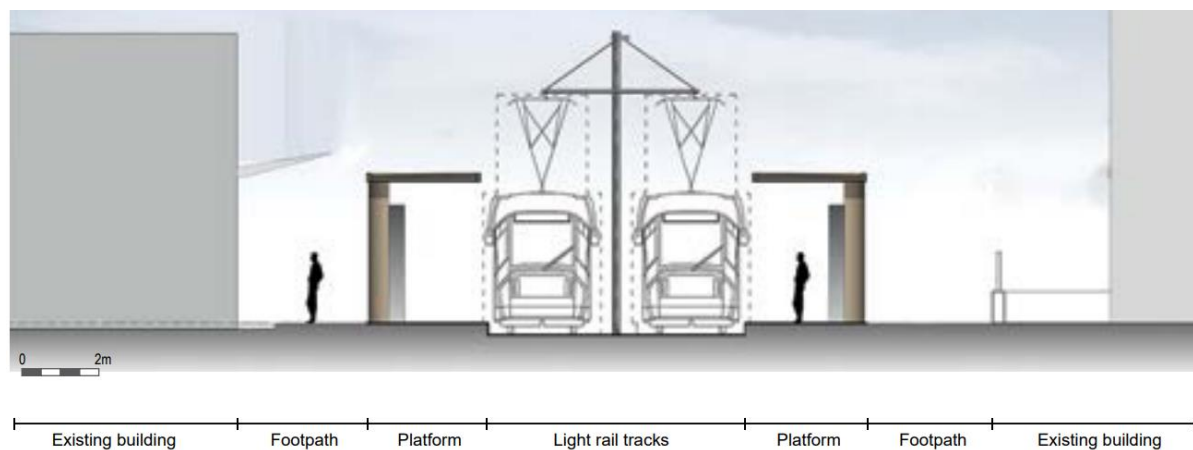


Figure 17: Extract from Indicative Plan for Parramatta Square Stop from the Parramatta Light Rail Fact Sheet – Parramatta CBD



Indicative section - Parramatta Square stop

Figure 18: Extract from Indicative Section for Parramatta Square Stop from the Parramatta Light Rail Fact Sheet – Parramatta CBD

The following text is from the Parramatta Light Rail EIS documentation and relates to the proposed changes to traffic conditions in Macquarie Street directly fronting and adjacent to the subject site:

“Traffic changes will be implemented on Macquarie Street and George Street. On Macquarie Street this will include:

- Eastbound only traffic (currently westbound) between Marsden Street and Church Street.*
- One eastbound traffic lane (currently westbound) along the northern side of Macquarie Street between Church Street and Horwood Place, and Smith Street and Harris Street.”*

3.2 Site History

A Concept Proposal relating to the site (Council Ref: DA/310/2017) was lodged on 13 April 2017 for a Stage 1 development described as:

“Staged Development.

Stage 1 seeks development consent for:

- Demolition of 99 Macquarie St (Epworth House) and 119A Macquarie Street (Fellowship House);*
- Building envelope for a 13 storey mixed use building at No.99 Macquarie Street (Epworth House). Height to 54m (RL64) and potential GFA 9,034m² with 4 levels of basement (containing 3 levels of car parking and one level of retail/habitable uses). Building to contain retail, commercial offices, group home (transitional) and community facilities;*
- Building envelope for a 19 storey mixed use building at No.119A Macquarie Street (Fellowship house). Height to 62.1m (RL71) subject to Design Excellence and potential GFA of 10,227m². Building to contain a Place of Public Worship and meeting rooms at basement level, food and drink premises, community facility, offices and residential apartments;*
- Concept proposal for reinstatement of the Leigh Memorial Church Spire, creation of a new building entrance and adaptation of the existing place of public worship with ancillary community facilities and activities; and*
- Building envelope component wrapping around the southern side of the Leigh Memorial Church and connection to each of the tower envelopes.*

The application is Nominated Integrated development under the Water Management Act 2000, the Heritage Act 1977 and the National Parks and Wildlife Act 1974.”

The applicant filled an appeal with the Land and Environment Court (The Uniting Church in Australia Property Trust (NSW) v Parramatta City Council (2018) NSWLEC 1129) for the deemed refusal of the application on 19 June 2017. The matter was not reported to the Sydney West Central Planning Panel and considered in the above appeal.

The appeal was eventually dismissed and the application refused by Orders of the Land and Environment Court issued on 13 March 2018. Commissioner O’Neill concluded that:

85. *"The fundamental issue in this matter is the overshadowing, and the duration of overshadowing, of a portion of the protected area of Parramatta Square during the lunch period on the winter solstice. The overshadowing of the protected area of Parramatta Square by the Fellowship House building envelope is excessive and contrary to the objective of cl 7.4 of LEP 2011 to protect public open space in Parramatta Square from overshadowing, because the volume of the Fellowship House building envelope fails to minimise overshadowing of the protected area.*

86. *I am not satisfied that the form of the Fellowship House building envelope exhibits design excellence because it detrimentally impacts on the amenity of the public domain in Parramatta Square."*

The applicant appealed the decision under s56A of the Land and Environment Court Act (The Uniting Church in Australia Property Trust (NSW) v Parramatta City Council (2018) NSWLEC 158) where Preston CJ considered the five (5) ways the applicant contends the Commissioner erred in her decision. Whilst it is unnecessary to detail the applicants contentions in this assessment report Preston CJ concluded:

159 The applicant has not established any of the grounds of appeal. The appeal should be dismissed. The applicant should pay the Council's costs of the appeal.

160 The Court orders:

(1) The appeal is dismissed.

(2) The applicant is to pay the respondent's costs of the appeal.

Subsequently the applicant sought pre-lodgement advice (Council Ref: PL/107/2018). Council officers provided a list of issues to be resolved prior to submission of the application.

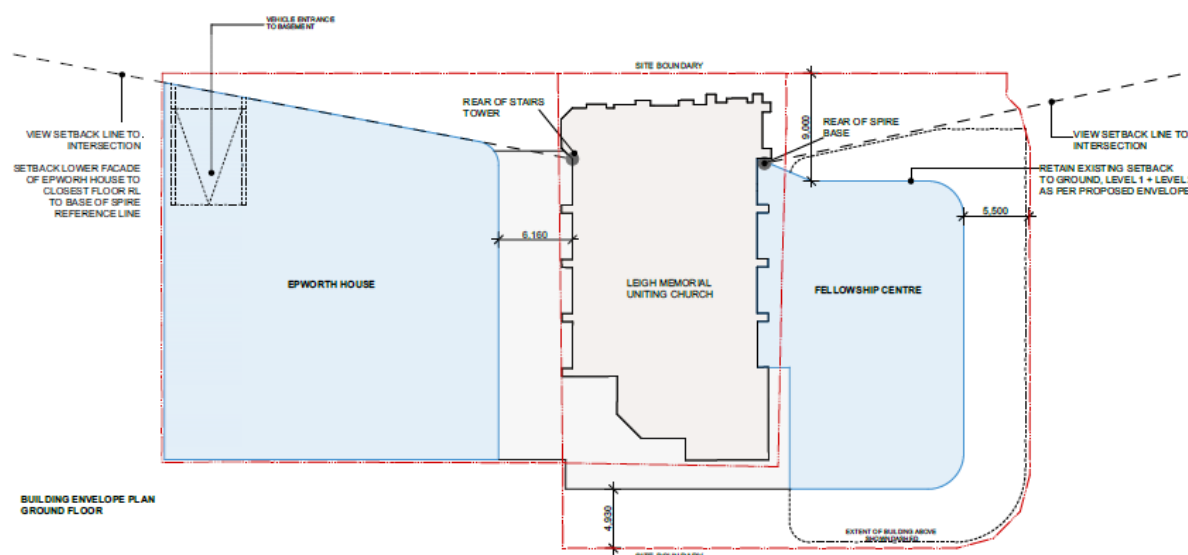
4. The Proposal

Development Application DA/684/2018 was lodged with City of Parramatta Council on 17 September 2018. The application is a concept development application for a staged development as described in Section 4.22 (formerly 83A) to the Environmental Planning and Assessment Act, 1979 (EP&A Act 1979). The concept plan outlines the following:

- Retention of No. 119 Macquarie Street (Leigh Memorial Church) and heritage works including the reinstatement of the Church Spire and creation of a new church entry on the eastern elevation;
- A building envelope for a 13 storey mixed use building at No.99-113 Macquarie Street (Epworth House). Height to 54m (RL 64.00) and potential GFA 8,359m² with one level of basement (Basement Level 1) containing retail uses and five (5) levels of basement (Basement Levels 2 - 6) car parking for a maximum of 142 vehicles, accessed from Macquarie Street. Conceptual use for a mix of commercial land uses, including retail, offices, and a range of accommodation uses; and
- A building envelope for a 12 storey mixed use building at No.119A Macquarie Street (Fellowship Centre) over two levels of basement. Height to 53m (RL 63.00) and potential GFA of 5,855m². Conceptual use sought for Church administration at basement levels, and commercial premises, community facility, and a variety of accommodation above.

The application also seeks approval for the following Stage 1 works:

- Demolition of No. 99-113 Macquarie Street (Epworth House) and No. 119A Macquarie Street (Fellowship Centre);



The concept envelope for the Epworth House building includes a splayed design for the front elevation to promote views to and from the Leigh Memorial Uniting Church with a 0.6m front setback at the western extent of the building, increasing to a 5.9m front setback at the eastern extent.

The concept envelope for the Fellowship Centre building includes a cantilevered design with a 5.5m setback to the eastern site boundary (reducing to 0m from Level 3), a 4.93m setback to the southern site boundary (reducing to 0m from Level 3), and a 9m setback from the northern site boundary (reducing to a splayed boundary of 3.1-6.7m from Level 3). Concept landscape plans indicate that the ground level setbacks would form part of the Civic Link (east), publicly accessible share way (south) and a new “Market Place Plaza” (north).

A 6.16m setback is also proposed between the building envelope of Epworth House and the western elevation of Leigh Memorial Uniting Church, which creates a north-south pedestrian link through the site. A landscaped area (“Fellowship Garden”) is indicated at the southern end of that link, where it adjoins the southern share way.

Vehicular access to the site is proposed from Macquarie Street, via an access on the western end of Epworth House.

The proposed development details are summarised in the following table extracted from the Statement of Environmental Effects submitted with the development application.

Component	Proposal
Site area	2,618m ²
Total GFA	14,803m ²
Total maximum height	54m (RL 64.00)
Car spaces	Indicative maximum 142 (subject to final GFA and design at Stage 2)
FSR (overall)	5.67:1
99-113 Macquarie Street (Epworth House)	
Maximum envelope height	54m (RL 64.00)
GFA	8,359m ²
FSR	6.3:1
Boundary Setbacks	<ul style="list-style-type: none"> North: Variable setback 0.4m-6m South: 0m East: 6.1m West: 0m
119-119A Macquarie Street (Fellowship Centre)	
Maximum envelope height	53m (RL 63.00)
GFA	5,855m ²
FSR	7.7:1
Boundary Setbacks <ul style="list-style-type: none"> North South East West 	<ul style="list-style-type: none"> North: 9m (podium), variable setback 2.95-6.74m (tower) South: 4.9m (podium) 0m (tower) East: 5.5m (podium) 0m (tower) West: 0m

5. Referrals and Briefing Notes

Integrated Development

The application is identified as Nominated Integrated Development pursuant to the provisions of Section 91 of the Environmental Planning and Assessment Act 1979 as an approval is required from:

- NSW DoPIE in accordance with the requirements of the *Water Management Act 2000*.

No referral was sent to the DoPIE. As the application is recommended for refusal nothing turns on this fact.

A referral was issued to the Office of Environment and Heritage (OEH) who provided a response to note that the proposal is not Nominated Integrated Development in relation to European or Aboriginal heritage, in accordance with the requirements of the *Heritage Act 1977* and the *National Parks and Wildlife Act 1974*.

Other Referrals and Briefing Notes

5.1 Sydney Central City Planning Panel

Issues Raised	Comment
<i>Briefing 1 – 5 December 2018</i>	
Panel note that urban design and heritage experts prefer Macquarie Street front facades be parallel with the street frontage.	The issues raised by the SCCPP were provided to the applicant as part of email correspondence dated 13 December 2018. No formal amended plans or documentation have been provided to Council since.
Panel note that heritage expert recommends Macquarie Street setbacks to both towers be provided to allow views of the church spire from the east and west. The nature of the setbacks requires further design resolution.	

Panel are unlikely to support any cantilever or overhang of the Civic Link.	
Panel consider that any overhang of the southern share-way would need to be justified in a similar manner to that for Parramatta Square 5.	
Panel commend that the proposal does not overshadow the protected area of Parramatta Square.	
Panel raises concern that the level of parking is excessive.	

5.2 Design Excellence Advisory Panel

Issues Raised	Officer Comment
8 November 2018	
Having regard to the matters for consideration under clause 7.10 of Parramatta LEP 2010, the Panel is not satisfied that design excellence has been achieved in this instance.	The issues raised by the DEAP were provided to the applicant as part of email correspondence dated 13 December 2018. No formal amended plans or documentation have been provided to Council since.
A detailed urban design study is required incorporating the matters raised above to address built form and streetscape, sightlines, open space and pedestrian links as well as ground floor entries and uses.	
The Panel unanimously agrees that the scheme should be amended to achieve Design Excellence by demonstrating that;	
a. The building envelopes will improve the quality and amenity of the public domain. For example, the setbacks to the Civic Link.	
b. The building envelope will not impact on important views. For example, by demonstrating that public views to the church will improve.	
c. The proposal identifies heritage opportunities to repair and restore significant components of the church for example, reinstatement of the church spire.	
d. Consideration of the proposed use and use mix. For example, the level of social services provided to the community.	
e. The site is in a highly active location in the heart of Parramatta. To that end, the applicant will need to demonstrate the extent of street activation and opportunities to provide active street edges.	
f. Demonstrating that the building envelopes would have an acceptable relationship to other towers.	
g. Compliance with the relevant DCP envelope controls.	
h. Demonstrating the building will not result in loss of privacy.	
i. A preliminary wind report demonstrating the envelopes will not result in unacceptable wind impact on pedestrians.	
j. The building will achieve best practice in sustainability. For example, by committing to NABERS 5-star, external solar shading on northern elevations, dual plumbing, etc.	
k. The vehicular access and servicing can work in the context of light rail. For example, by engaging with Transport for NSW.	
l. A well-integrated public domain and landscape design. For example, with a concept public domain landscape and public art plan.	

5.3 External Referrals

Authority	Comment
Office of Environment and Heritage – Archaeology Division	<p>The site may include archaeological remains of local and State significance and as such the Heritage – Archaeology Division recommends remains be protected in-situ. Conditions are recommended for:</p> <ul style="list-style-type: none"> - The protection of that part of Parramatta Convict Drain and any archaeological information identified as potentially State heritage significant. - No excavation or ground disturbance works should occur until a s140 permit is obtained from the Heritage Council of NSW. - Excavation and ground disturbance will be coordinated with Aboriginal archaeology and the National Parks and Wildlife Act 1979 approval process. - All conditions of consent issued under a S140 approval will be completed prior to the issuing of an Occupation Certificate for the building. - An overarching heritage interpretation strategy to be prepared for the site. Heritage interpretation should be included in the design of the building. <p>Planning Comment: The retention of the Parramatta Convict Drain will require significant design amendments which need to be considered at the current concept design stage. While the OEH has provided general conditions, it is not anticipated that these conditions could be imposed as reconsideration of the concept design will be required.</p>
Roads and Maritime Services (now part of Transport for NSW)	<p>No objection. Comments provided in respect of:</p> <ul style="list-style-type: none"> - The applicant should continue to coordinate with Parramatta Light Rail team and Council to ensure that access to the site does not affect pedestrian safety or the operation of the light rail. - A Construction Pedestrian Traffic Management Plan is required prior to CC and should include details of construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control. - Car parking design requirements and parking restrictions. - Consideration of pedestrian safety. <p>Planning Comment: The vehicular and pedestrian safety aspects of the construction and on-going use of the redeveloped site need to be considered in greater detail. Specifically, the location of the car parking access point.</p> <p>It is noted that the adjoining approval to the west, DA/638/2019, has provided the opportunity for shared vehicular access with the subject site which may minimise impacts on light rail.</p>
Transport for NSW (Parramatta Light Rail)	<p>Provided the following recommendations and considerations:</p> <p><u>Construction Pedestrian and Traffic Management Plan</u></p> <ul style="list-style-type: none"> - Submitted Traffic and Parking Assessment does not include detail or information on how construction of the public domain works will be managed.

	<p><u>Recommendation</u></p> <ul style="list-style-type: none"> - A Construction Pedestrian and Traffic Management Plan is required to be coordinated with Sydney Coordination Office and Parramatta Light Rail. <p><u>General</u></p> <ul style="list-style-type: none"> - No access will be provided from Macquarie and Church Streets during construction of the light rail. - Safety concerns raised regarding the use of Church Street due to interaction between bus services, construction vehicles and pedestrians. - Construction vehicles for Parramatta Square are currently permitted to egress from Church Street under Traffic Control. - Construction traffic must be separated from pedestrians with gate access. <p><u>Parramatta Mission Site</u></p> <ul style="list-style-type: none"> - Increase from 28 car spaces to 142 spaces is not supported. <p>A further referral response was received on 31 July 2020 to guide any future Transport Impact Assessment and design competition for the site. The referral included the following comments (summarised):</p> <ul style="list-style-type: none"> ▪ Access arrangements (for ceremonial vehicles, freight and servicing vehicles and private vehicles) will interface with PLR and options should be considered to reduce conflicts. This could include providing access via existing Parramatta Square basement car park; ▪ If connection to Parramatta Square basement is not feasible, consider establishing a shared access with development at 85-97 Macquarie Street; ▪ Any future development application would require TfNSW to provide concurrence under Section 138 of the <i>Roads Act 1993</i> and Clause 86 of <i>State Environmental Planning Policy (Infrastructure) 2007</i>. <p>Planning Comment: These comments are concurred with and reconsideration of the concept design will be required.</p> <p>A further letter was sent by TfNSW dated 31 July 2020 raising a number of issues with the vehicular and pedestrian circulation arrangements which is detailed in Part 7.3 of this Report.</p>
Endeavour Energy	No objection subject to conditions.
Sydney Water	Conditions recommended.

5.4 Internal Referrals

Authority	Comment
Urban Design (External Consultant)	<p><u>Contextual Relationships</u></p> <ul style="list-style-type: none"> - Nil setback to western boundary may compromise the development potential of neighbouring No. 97 Macquarie Street and lead to continuous wall. - A through site link is supported on the eastern side of Epworth House but not considered necessary on the western side. - ADG separation should be provided above podium.

Authority	Comment
	<p><u>Overall Bulk and Scale</u></p> <ul style="list-style-type: none"> - Overall proximity to the church curtilage is problematic and the site is not capable of supporting the footprints proposed. - Whilst reductions have been made to the height, the general proximity to the heritage item, lack of separation and over sailing of Fellowship House above the Civic Link continue to be significant issues. <p><u>Cantilevered Eastern Tower Over the Civic and Rear Links</u></p> <ul style="list-style-type: none"> - Cantilevered elements of Fellowship House above Level 2 do not lead to a better urban design outcome or enhanced pedestrian experience. This will result in the link being affected by funnelling and a sense of enclosure. - This is partly caused by the approval of No. 5 [Parramatta Square]. - The proposal will erode the quality of the Civic Link. <p><u>Views and Vistas</u></p> <ul style="list-style-type: none"> - The splayed frontage of the proposal will alter the traditional alignment of the street, however it will preserve and potentially enhance views and vistas to the Leigh Memorial Church. - Enhancing the Church presence on the street is a positive urban design outcome. <p><u>Landscape Setting and Archaeological Items</u></p> <ul style="list-style-type: none"> - No effort to integrate the Convict Drain. - The new plaza created by the angled setback of Epworth House needs to be given civic treatment or character. <p><u>Parking Arrangement</u></p> <ul style="list-style-type: none"> - Proposed parking arrangement leads to a number of undesirable outcomes due to parking concentrated under the western tower and subsequent access arrangements between the two towers. <p>Planning Comment: These comments are concurred with and reconsideration of the concept design will be required.</p> <p>It is noted that DA/638/2019 for No. 85-97 Macquarie Street was approved by Council which provided access to Macquarie Street and noted a 3.25m future shared accessway. Similarly, the Civic Link Precinct chapter of PDCP was adopted on 12 October 2020. Given the application is recommended for refusal, the matter was not re-referred back to Council's external Urban Design Consultants.</p>
Urban Design	<p><u>Building Envelope Setbacks</u></p> <ul style="list-style-type: none"> - The development should achieve a 5.5m (below ground and clear to sky) eastern setback and a 6m clear to sky setback to the south for the Fellowship Centre. <p><u>Leigh Memorial Church Interface</u></p> <ul style="list-style-type: none"> - Clear to sky separation between the church and new development must be achieved. <p><u>PLR Interface</u></p> <ul style="list-style-type: none"> - Suitable access arrangements should be negotiated with TfNSW. Shared access with the adjoining site to the west should be explored.

Authority	Comment
	<p><u>Overshadowing of Parramatta Square</u></p> <ul style="list-style-type: none"> - Solar impacts on Parramatta Square have been reduced and are supported. <p><u>Public Domain</u></p> <ul style="list-style-type: none"> - Public Domain Alignment Drawings including a co-ordinated civil and landscape architectural drawings resolving all levels and showing proposed indicative public domain treatments are required. Tree planting beneath the building overhang is not supported. <p>Planning Comment: These comments are concurred with and reconsideration of the concept design will be required.</p> <p>The Civic Link Precinct chapter of PDCP was adopted on 12 October 2020. Given the application is recommended for refusal, the matter was not re-referred back to Council's Urban Design officers.</p>
Catchment and Development Engineering - Flooding	<p>Not supported for the following reasons:</p> <ul style="list-style-type: none"> - Placing habitable rooms (office and retail uses) in the basement below the Flood Planning Level (RL 10.9m AHD) - Proposed use would result in substantial numbers of people in Basement Levels 1 and 2, increasing risk of exposure to flood hazards. - Basement is only permitted to be used for car, motorcycle and bicycle parking and associated services, as well as plant and equipment (if non-critical), storage of non-valuable items, loading and waste facilities. - Floodgates cannot be relied upon to mitigate flood risk. <p>Planning Comment: These comments are concurred with and reconsideration of the concept design will be required.</p>
Catchment and Development Engineering – Stormwater Management	<p>OSD system, WSUD system, and stormwater drainage are satisfactory, subject to conditions of consent.</p>
Environmental Health - Contamination	<p>Not supported for the following reasons:</p> <ul style="list-style-type: none"> - The site is likely to have contaminated soil present. - A Detailed Site Investigation (DSI) is required to be undertaken in accordance with NSW EPA (1995) <i>Sampling Design Guidelines</i> and a risk based assessment; - Given their expected age, the buildings proposed for demolition should undergo a hazardous material assessment prior to demolition. <p>Planning Comment: These comments are concurred with and additional information is required for a detailed assessment.</p>
Environmental Health - Acoustics	<p>Supported, subject to recommended conditions of consent.</p>
Environmental Health – Waste Management	<p>Supported, subject to recommended conditions of consent.</p>
Landscaping	<p>Note that landscaped concept is indicative. Defer to Urban Design for comments to ensure sufficient integration with the public domain is achieved.</p>

Authority	Comment
Heritage Consultant) (External	<p>Council's External Heritage consultant provided comments which are summarised as follows::</p> <ul style="list-style-type: none"> - Positive impact by opening up views to the Leigh Memorial Church and reconstruction of the church spire. - Negative impact from the scale and shape of the building envelopes on either side of the church, and angled front setbacks. - Impacts can be ameliorated by having envelopes parallel to the street, with the eastern bloc (No. 119A) setback to preserve views of the steeple, and a portion of No. 99 setback to allow views to the front façade of the church. - The creation of the additional forecourt to the church building on its eastern side is vague on details of entrance and equitable access. <p>The external Heritage Consultant recommended the following conditions:</p> <p>(a) That the plan of the envelopes be modified to be parallel to Macquarie Street.</p> <p>(b) That the alignment of the envelope at 99 Macquarie Street be brought to the current alignment, but with part of it adjacent to the church building set back as shown to allow views of the church façade from Church Street.</p> <p>(c) That the alignment of the envelope at 199A Macquarie Street be set back from Macquarie Street to the line of the back of the steeple.</p> <p>(d) That a conservation management plan be developed for the site, and approved by City of Parramatta prior to the formulation of Design Competition rules for the site.</p> <p>Planning Comment: Whilst there are some difference between the Urban Design (see above) and Heritage Comments, the difference in position can be explained by competing constraints from different experts. Despite this, there is a clear position that the current concept design is not satisfactory and requires significant reconsideration.</p>
Social Outcomes	<p>Council's position is summarised as follows:</p> <ul style="list-style-type: none"> - Inclusion of student accommodation is supported, however details of dwellings and entry/exit points are required. - The number of beds proposed in the emergency accommodation and how it is going to be managed needs to be provided. - The proposal should ensure that noise impacts to both the student and emergency accommodation are considered and building measures incorporated to minimise acoustic impacts. <p>Planning Comment: The social benefits provided by the anticipated uses are not in question. However, Council has insufficient details to consider the quantum of uses for student or emergency accommodation and therefore cannot adequately assess the amenity impacts that arise from the anticipated uses.</p>

Authority	Comment
Traffic	<p>Council's position is summarised as follows:</p> <ul style="list-style-type: none"> - Applicant is required to provide details of how the proposal will be constructed when Parramatta Light Rail (Stage 1) is in place. - Ground floor plans showing the driveway need to be amended to be capable of accommodating trucks. - Additional information relating to special vehicles for weddings and funerals and where such vehicles will stay during events is to be provided. - Parking numbers should be in accordance with the Draft Parramatta CBD Planning Proposal. <p>Planning Comment: These comments are concurred with and additional information is required for a detailed assessment.</p>
Wind (External Consultant)	<p>No issues with the Analysis Approach, Site Exposure, Regional Wind Climate, and description of the development used in the preparation of the assessment. Development should be wind tunnel tested to quantify the environmental wind conditions and the recommended wind mitigation strategies be optimised during the wind tunnel study. The wind tunnel study can be undertaken as part of the Stage 2 DA.</p>
ESD (External Consultant)	<p>Outlined a number of aspects to be included for Stage 2 DA.</p>
Property Assets and Services	<ul style="list-style-type: none"> - An increased setback to Leigh Memorial Church should be achieved. - The development should drain directly to Macquarie Street to avoid the need for an easement over the Civic Link. <p>Planning Comment: These comments are concurred with and additional information is required for a detailed assessment.</p>

6. Environmental Planning and Assessment Act 1979

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

6.1 Section 1.7: Application of Part 7 of Biodiversity Conservation Act 2016

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

6.2 Section 2.15: Function of Sydney District and Regional Planning Panels

The Sydney Central City Planning Panel is the consent authority for this application as the proposal has a Capital Investment Value of more than \$30 million.

6.3 Section 4.15: Evaluation

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

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

6.4 Section 4.46: Integrated Development

The application is Nominated Integrated Development under the Water Management Act 2000. Department of Planning, Infrastructure and Environment have not provided General Terms of Approval as the application is recommended for refusal, nothing turns on this aspect.

7. Environmental Planning Instruments

7.1 Overview

The instruments applicable to this application comprise:

- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (Infrastructure) 2007
- SEPP (State and Regional Development) 2011
- SEPP (Sydney Harbour Catchment) 2005
- SEPP No.55 - Remediation of Contaminated Land
- SEPP (Affordable Rental Housing) 2009
- SEPP No. 65 (Design Quality of Residential Apartment Development)
- Parramatta Local Environmental Plan 2011

Compliance with these instruments is addressed below.

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

This Policy seeks to ensure that new development is designed to use less water and be responsible for fewer greenhouse gas emissions by setting energy and water consumption reduction targets which are based on a NSW average benchmark. The Policy sets out minimum performance levels for the thermal comfort of a dwelling.

BASIX Certificates would be required as part of a detailed development application forthcoming on the site.

7.3 State Environmental Planning Policy (Infrastructure) 2007

The proposal has a frontage to Macquarie Street, which is a transit way and thus considered as a classified road. Therefore, the provisions of Clauses 100-103 of ISEPP are relevant to any future development. There is insufficient information to determine the impacts of the proposal on Clauses 101-103 of ISEPP.

The provisions of Clause 104 of ISEPP, relating to traffic generating developments (detailed in Schedule 3) may be applicable to the proposed development given there is the potential for more than 10,000sqm of commercial floor space. Given there is insufficient information to determine the quantum of commercial floor space, it follows that there is insufficient

information to determine if Clause 104 of ISEPP is applicable.

The proposal was referred to Roads and Maritime Services (RMS), who did not raise any objection, subject to conditions of consent including consultation with Transport for NSW on Parramatta Light Rail and a Construction Pedestrian Traffic Management Plan. However, following lodgement, Macquarie Street was formalised as a transitway and therefore classified road. RMS were also consolidated into TfNSW and thus further consideration was provided by TfNSW on 31 July 2020 which advised as follows:

- The subject site's access arrangements (for ceremonial vehicles, freight and servicing vehicles and private vehicles) will interface with the operation of the Parramatta Light Rail (PLR), potentially impacting the safety and efficiency of PLR. As such, TfNSW recommends that options are considered by the proponent to reduce conflict with PLR, which includes consideration of providing access to the proposed development's basement car park via an underground vehicle connection from the existing Parramatta Square basement car park;
- If an underground vehicle connection from Parramatta Square is not feasible, the proponent should consider options for establishing a shared vehicle access with the development at 85-97 Macquarie Street, Parramatta, to minimise the number of vehicular crossovers along the PLR alignment, subject to the results of simulation modelling and a Road Safety Audit (RSA) demonstrating that neither the operation of PLR or road safety are compromised. This would align with Clause 101 of *State Environmental Planning Policy (Infrastructure) 2007* and Section 6.2.1 of the TfNSW current publication of the Guide to Traffic Generating Developments; and
- TfNSW has provided detailed comments in **Appendix A** of the key issues that what will require consideration for any future development application for 99-119A Macquarie Street, Parramatta, noting that any future development application would require TfNSW to provide concurrence under Section 138 of the *Roads Act 1993* and Clause 86 of *State Environmental Planning Policy (Infrastructure) 2007*. It is recommended that before undertaking any TIA and engineering assessment in relation to the light rail corridor, the proponent consults with TfNSW to understand specific requirements.

No further details have been provided with regards to traffic and safety issues discussed above. As such, TfNSW do not support the application in its current form.

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

As this proposal has a Capital Investment Value of more than \$30 million, Schedule 7 of this Policy provides that the Sydney Central City Planning Panel is the consent authority for this application.

Schedule 5(Part 7A) of SEPP SRD designates the Parramatta Light Rail as being critical state significant infrastructure. The subject site is adjacent to the Parramatta Light Rail – Stage 1 (PLR) route which runs along Macquarie Street to the front of the site. The proposal was referred to Transport for NSW prior to the approval of the PLR route who provided comments (dated 29 November 2018) on the impacts of the future route. TfNSW do not support the proposal in its current form due to the proposed increase of parking on site from 28 to 142 spaces and subsequent impacts on the Light Rail in terms of safety and delays.

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

This Policy, which applies to the whole of the Parramatta local government area, aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy

and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole. The nature of this project and the location of the site are such that there are no specific controls which directly apply, with the exception of the objective of improved water quality.

Council's Catchment & Development Engineer – Stormwater Management has raised no objection to the application in terms of stormwater management, subject to recommended conditions. As such, the objective of the deemed SEPP will be achieved subject to detailed design of the stormwater management system being provided as part of any future detailed development application for the site.

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

A Preliminary Site Investigation (Phase 1) has been prepared by Martens Consulting Engineers and concludes that, due to a number of historical and current activities in and around the site, further detailed site investigation is required to determine the extent of possible land contamination on the site.

Council's Environmental Health Officer has reviewed the information and considers that a Detailed Site Investigation (Phase 2) is required but has not been undertaken as part of the concept application and therefore, the level of contamination present and remediation required is not known at this stage. As such, the application fails to adequately demonstrate that site can be made suitable for the proposed use in accordance with the requirements of SEPP No. 55.

7.7 State Environmental Planning Policy (Affordable Rental Housing) 2009

The ARH SEPP provides planning controls and objectives for affordable rental housing throughout NSW for the delivery of new housing and protection of existing housing for housing close to employment, housing for low income households and housing for homeless and other disadvantaged people who may require group homes and supportive accommodation.

The Statement of Environmental Effects submitted with the concept application indicates that the proposed development may include a mixture of land uses, including student accommodation and dwellings to *"accommodate socially disadvantaged people overnight from time to time"*.

Student accommodation is to be considered against the boarding house provisions in Division 3 of the ARH SEPP. Boarding houses are permissible in Zone B4. However, the concept application documentation does not include any indicative details of the quantum of student accommodation proposed or where it will be located within the development. As such, insufficient information has been provided to undertake a proper assessment against the relevant provisions of Division 3 of the ARH SEPP in this instance.

Whilst the application is not clear in terms of land use, dwellings to *"accommodate socially disadvantaged people overnight from time to time"* may possibly be defined as transitional group homes, as defined in the ARH SEPP as follows:

"transitional group home means a dwelling:

(a) that is occupied by persons as single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and

(b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people,

but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.

A transitional group home is permitted with consent in Zone B4 Mixed Use in accordance with the provisions of the ARH SEPP.

The detailed design of the transitional group home within the development would be subject to assessment of future development applications. However, no indicative scale or location of the proposed use has been provided as part of the concept application. As such, due to insufficient information provided as part of the application a detailed assessment of the potential proposed transitional group home has not been undertaken for this application at this stage.

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

SEPP 65 applies to developments consisting of buildings that are at least 3 or more storeys in height and that contain at least 4 or more dwellings. SEPP 65 requires that residential flat buildings satisfactorily address 9 design quality principles, be reviewed by a Design Review Panel, and consider the recommendations in the Apartment Design Guide.

Given the lack of clarity provided as part of the application in relation to the proposed uses and their location within the development, it is not possible to determine whether or not SEPP 65 and the ADG are applicable to the proposed development. Whilst a full assessment of certain aspects of the ADG would not be applicable to a concept development application, there are a number of elements that should be considered as part of a concept application as they will affect the proposed building envelope (for example, building separation under Part 3F Visual privacy). Therefore an assessment against the Design Quality Principles of SEPP 65 and the design criteria of the ADG have not been undertaken and the proposal is recommended for refusal.

Design Review Panels

As set out in Section 5.4 of this report, the proposal was reviewed by Council's Design Excellence Advisory Panel (DEAP), who have raised a number of issues relating to the proposal. These issues have not been addressed by the applicant.

7.9 Parramatta Local Environmental Plan 2011

Zoning and permissibility

The site is within Zone B4 Mixed Use in accordance with the provisions of PLEP 2011. Commercial premises, boarding houses, shop top housing and community facilities are permitted with consent in Zone B4. Places of public worship are a permissible innominate use in Zone B4. Transitional (group) homes are also permitted with consent in accordance with the ARH SEPP.

Zone objectives

Clause 2.3(2) of PLEP 2011 requires the consent authority to have regard to the zone objectives when determining a development application. The objectives for development in Zone B4 are as follows:

- *To provide a mixture of compatible land uses;*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and*

- encourage walking and cycling;*
- To encourage development that contributes to an active vibrant and sustainable neighbourhood;*
- To create opportunities to improve the public domain and pedestrian links;*
- To support the higher order Zone B3 Commercial Core while providing for the daily commercial needs of the locality.*
- To protect and enhance the unique qualities and character of special areas within the Parramatta City Centre*

Aspects of the proposal such as the overhang of the development over the Civic Link and shareway to the south of the site result in a development that is considered to be incompatible with the adjoining public domain. Insufficient information has been submitted with the application to determine whether the mix of proposed land uses are compatible. More information regarding social impacts, accessibility and public access are required to determine whether the proposal is consistent with Objective (a).

Insufficient information has been submitted with regard to the potential integration of the mix of land uses with each other within the site and with the surrounding land uses and public spaces to determine whether the application is consistent with Objective (b). Furthermore, above ground OSD tanks are proposed adjacent to the shareway to the south of the site, which will reduce activation of this key frontages at ground level.

The substantial overhang of the development and subsequent sense of enclosure of the future Civic Link and insufficient setback from the southern boundary of the site indicate that the proposal is not consistent with the Objectives (c), (d), and (e).

Accordingly, it is considered that the proposed development fails to satisfy the Objectives of Zone B4.

Remaining LEP provisions

Consideration of the remaining provisions of the PLEP 2011 relevant to this application are addressed in the following table:

Development standard	Proposal	Compliance
2.7 Demolition requires development consent	The application seeks consent for demolition of the existing Epworth House and Fellowship Place buildings.	Yes
4.3 Height of Buildings N/A – refer to Clause 7.4 (“Area 3”)	Refer to Clause 7.4 below.	N/A
4.4 Floor Space Ratio Map: 8:1	Total GFA (as described in submitted SEE): 14,803m ² (5.65:1)	Yes
4.6 Exceptions to Development Standards		N/A
5.10 Heritage conservation	The development site includes the Leigh Memorial Uniting Church (“1719”) and part of the Parramatta Convict Drain (“1647”) which are listed heritage items. There are also a number of other heritage items in the vicinity of the site and likely to be archaeological relics on the site.	No

Development standard	Proposal	Compliance
	<p>In terms of above ground development, Council's Heritage Consultant has reviewed the concept proposal and raised concerns with regards to the proposed building envelope's impact on the curtilage and setting of the Leigh Memorial Uniting Church. This is discussed in further detail in the Issues section below.</p> <p>In terms of below ground development, the submitted Historical Archaeology Assessment & Impact Statement states that the <i>"proposed development is expected to remove all archaeological remains, relics and works within the study area and therefore all archaeological significance within the site."</i> The development also proposed the removal of part of the Convict Drain that is located on the site.</p> <p>The above has been considered by the Office of Environment & Heritage (Archaeology) who have raised concerns with the proposed removal of the Convict Drain and potentially state significant archaeological relics. Whilst OEH have provided conditions of consent, one of the conditions includes the retention of the Parramatta Convict Drain which will require significant design amendments which needs to be considered at the current concept design stage. As such, the proposal is unsatisfactory in this regard.</p>	
<p>6.1 Acid Sulfate Soils</p> <p>Class 4/5</p>	<p>The site comprises both Class 4 and Class 5 Acid Sulfate Soils (ASS). The proposal includes excavation which exceeds 2m depth and requires the submission of an ASS Management Plan.</p> <p>The Geotechnical Investigation submitted with the development application identifies the potential presence of ASS within the site but does not contain an ASS Management Plan. As such insufficient information is provided to undertake an assessment of Clause 6.1.</p>	No
<p>6.2 Earthworks</p>	<p>The proposal includes excavation for six (6) levels of basement.</p> <p>The Geotechnical Investigation submitted with the development application includes recommendations for engineering works associated with excavation and construction. However, it does not satisfactorily address the potential impacts and management of the structural integrity of the Leigh Memorial Uniting Church. As such, insufficient information has been submitted with this application.</p>	No

Development standard	Proposal	Compliance
6.3 Flood Planning	The site is subject to a 1:100 year flood risk, both from overland flow and from Parramatta River. Council's Catchment and Development Engineer – Flooding has determined that the application is unsatisfactory as it proposes extensive habitable uses within Basement Levels (including Basement 1 and 2 of Fellowship House and Basement 1 of Epworth House). These habitable uses are approximately 5m below the flood planning level of RL 10.9m AHD. Flood mitigation measures proposed are considered to be unsatisfactory and the development would subsequently give rise to an unacceptably high risk of loss of life and property.	No
Part 7 Additional local provisions—Parramatta City Centre		
7.2 Floor Space Ratio Control: 8:1	Total GFA (as described in submitted SEE): 14,803m ² (5.65:1)	Yes
7.3 Car Parking Control (Maximums): Commercial – 1/100m ² Residential flat buildings – 1/unit residents + 0.2/unit for visitors Shops – 1/30m ²	<p>The submitted documentation indicates that 142 car parking spaces will be provided on site, to be confirmed as part of a detailed DA. However, the proposed development does not include sufficient information to indicate how much floor space is proposed to be dedicated to the various different land uses proposed as part of the development. As such, it is not possible to determine whether the proposed quantum of car parking spaces will be compliant with the maximums outlined in Clause 7.3.</p> <p>It is further noted that TfNSW do not support the amount of car parking proposed due to impacts on operation of the PLR and have requested a reduction in car parking on site unless access can be provided from the Parramatta Square “Super basement”.</p> <p>Further, Council resolved, at its meeting 10 April 2017, that all CBD applications the subject of a design competition must comply with the car parking rates under the draft Parramatta CBD Planning Proposal, which is currently on exhibition. The proposal would likely not comply with such rates.</p>	No
7.4 Sun Access	The concept building envelopes indicate that the proposal will not overshadow Jubilee Park, Parramatta Square or Lancer Barracks during the solar protection window (i.e. 12pm – 2pm).	Yes
7.10 Design Excellence	The proposal is not considered to exhibit ‘design excellence’ and as such development consent cannot be granted. Refer to discussion below.	No

Heritage

Pursuant to Clause 5.10 of the LEP *“The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.”*

Leigh Memorial Uniting Church is located on the site and is a local heritage item, no. 1719 as listed under PLEP 2011. Council’s Heritage Consultant has assessed the concept application and has acknowledged the positive outcome of rebuilding the church spire. However, they have raised concerns with the detrimental impact of the subject development on the curtilage and setting of the Church, as outlined below:

“A negative impact on the setting is the change in its character proposed in the formation of the envelopes on either side of the church building. A classical composition is made, wherein the church building is bookended by a pair of enormous matched forms, the faces of which are angled back to frame the church as its centrepiece.

The creation of such a formal symmetrical composition, focused on the church building redefines the setting of church building unnecessarily. This major edifice is historically a building in a line of buildings in a street and should remain so. The triptych composition also serves to exaggerate the contrast in scale between the church building and the new towers. To make this historic building the centre of a formal composition of two much larger buildings is a serious imposition on the character of its historic urban setting.

... Key heritage issue 2 is the creation of an additional forecourt to the church building on its eastern side. No specific design principle is in place in the Stage 1 Development Application, the very stage in which primary spatial relationships are prescribed. The proposal is vague about entrance and equitable access.”

Therefore, in light of the above, it is considered that the scale and form of the proposed tower building envelopes will have a detrimental impact on the heritage significance of the Leigh Memorial Uniting Church. The proposed Fellowship Centre abuts the Church at Ground to Level 2, which will have a prejudicial impact on the curtilage of the Church, removing its free standing character. The glazed connection proposed does not mitigate the adverse impacts on the Church and accordingly, the proposed building envelopes are not supported on heritage grounds. These adverse impacts are not outweighed by the positive impact of rebuilding the Church spire.

Furthermore, the site contains part of the Parramatta Convict Drain (“1647”). The application was referred to OEH who have raised concerns with the proposed removal of the Convict Drain. Whilst OEH have provided conditions of consent, one of the conditions includes the retention of the Parramatta Convict Drain which would require significant design amendments which need to be considered at the current concept design stage. As such, the proposal is unsatisfactory in this regard.

Design Excellence

As per Clause 7.10(5) of the LEP the proposed building is required to undertake a design competition process as it has a Capital Investment Value of over \$10,000,000 on a Key Site. Preston CJ in *The Uniting Church in Australia Property Trust (NSW) v Parramatta City Council (2018) NSWLEC 158* confirmed the decision of O’Neil C that design excellence in accordance with CI7.10 of PLEP was applicable to the concept proposal and stated as follows:

58 The Commissioner, therefore, did not err in law in finding that cl 7.10 of PLEP applied to the applicant's concept proposals for the development of the site.

59 The applicant has not established that the Commissioner otherwise erred in her application of cl 7.10. Subclause 7.10(3) precluded the Commissioner from granting development consent to the applicant's concept proposals for the development of the site unless she formed the opinion that the concept proposals exhibited design excellence. Concept proposals for the development of a site can exhibit design excellence. The concept proposals for the development of the site, which were the subject of the concept development application in this case, were building envelopes for 13 storey and 19 storey mixed use buildings. The proposed building envelopes set the key planning parameters of the form of the buildings, including their height, setbacks, bulk and massing. The form of each of the building envelopes could be evaluated in terms of its design excellence, as the Commissioner explained in [48]-[50] of her reasons for judgment.

The objective of clause 7.10 is to deliver the highest standard of architectural, urban and landscape design. Clause 7.10(3) states that development consent must not be granted to development to which the clause applies unless the consent authority is of the opinion that the development exhibits design excellence. Having consideration to the matters listed in Clause 7.10(4) it is considered that the proposed development does not exhibit design excellence for the following reasons:

- insufficient information has been submitted regarding use, materials and detailing;
- the form and external appearance will not improve the quality and amenity of the public domain because:
 - the building envelope of the proposed Fellowship Centre does not provide sufficient setbacks at Level 3 and above from the eastern boundary. This will create an unacceptable level of visual prominence and sense of enclosure on the Civic Link which will be inconsistent with the character and dimensions envisaged for the Civic Link between Parramatta River and Parramatta Square;
 - the building envelope of the proposed Fellowship Centre will have a detrimental impact on view corridors sought to be created as part of the Civic Link. An inadequate upper level setback has been provided to the eastern side boundary to achieve a satisfactory open corridor which is intended to form part of the Civic Link between the Parramatta River and Parramatta Square. Essential to the effectiveness of the Civic Link in providing high quality navigable space through the CBD is a link of suitable dimensions to accommodate the anticipated movement of pedestrians, cyclists and vehicles, incorporation of high quality landscaping and public domain treatments and a consistent corridor width which allows clear lines of sight and ease of way-finding along the full length of the Civic Link;
 - the building envelope of the proposed Fellowship Centre does not provide a satisfactory setbacks at Level 3 and above to the southern boundary to ensure a 6m wide publically accessible link between the southern edge of the site and No. 5 Parramatta Square can be provided. This will subsequently result in funnelling and a marked sense of enclosure due to the failure to open the southern laneway link to the sky. This does not lead to a better urban design outcome or an enhanced pedestrian experience;

- the scale and form of the proposed building envelopes results in unsatisfactory intrusions into the curtilage of Leigh Memorial Uniting Church and detracts from the setting of the subject heritage item;
- it has not been adequately demonstrated that the proposed civic spaces and public domain works will suitably integrate with existing and emerging public domain areas on Macquarie Street (including Parramatta Light Rail) and the Civic Link;
- the proposal includes habitable rooms (including commercial and retail spaces) at basement level, below the flood planning level and thus gives rise to an unacceptable risk to loss of life and property.

In light of the above, it is considered that the subject application does not provide sufficient information to demonstrate that it exhibits design excellence or complies with the requirements of Clause 7.10.

8. Draft Environmental Planning Instruments

The following draft environmental planning instruments are relevant to the subject application:

PLANNING PROPOSAL - DRAFT CONSOLIDATED CITY OF PARRAMATTA LOCAL ENVIRONMENTAL PLAN

The site is subject to a Planning Proposal to create a consolidated City of Parramatta Local Environmental Plan. It is noted that the Planning Proposal has received a Gateway determination and is currently being publically exhibited, and therefore is a formal matter for consideration for the purposes of section 4.15 of the Act. The primary focus of the Planning Proposal is harmonisation (or consolidation) of the existing planning controls that apply across the City of Parramatta. It does not propose major changes to zoning or increases to density controls. However, in order to create a single LEP, some changes are proposed to the planning controls applying to certain parts of the LGA.

This draft LEP does not propose any changes to the controls for this site and as such, further consideration of this document is not necessary.

PARRAMATTA CBD PLANNING PROPOSAL

This site is subject to the Parramatta CBD Planning Proposal. As the planning proposal has received a Gateway determination and is currently being publically exhibited, it is a formal matter for consideration for the purposes of section 4.15 of the Act.

The primary focus of the Planning Proposal is to strengthen the economic function of the Parramatta CBD and increase its capacity for new housing, employment, business, recreation and cultural opportunities. The amended planning controls will allow for the delivery of an extra 50,000 jobs and 14,000 homes in the CBD over the next 40 years.

The proposal is inconsistent with the draft parking controls which seek to further limit maximum parking levels in the CBD.

9. Development Control Plans

9.1 Parramatta Development Control Plan 2011

An assessment of the proposal against the relevant controls in the Parramatta Development Control Plan 2011 is provided below:

Development Control	Proposal	Comply
2.4 Site Considerations		
2.4.1 Views and Vistas	<p>There are no specific views and vistas identified in the DCP for protection within Parramatta Square. However, the consistent open view corridor intended to be created for the Civic Link is considered to be important to the character of the Civic Link and for way-finding and navigation within the CBD.</p> <p>The proposal does not provide a sufficient setback from the eastern boundary to contribute to the Civic Link but in fact includes a significant overhang of the Civic Link which will not align with the vision for this important civic space.</p> <p>The publicly accessible two-way through link along the southern boundary to be shared with the adjoining sites is intended to be open to the sky and create an open view skywards. The proposal does not achieve this requirement, providing insufficient setbacks for the proposed Fellowship Centre.</p>	No
2.4.2 Water Management	The proposal includes habitable space (including retail and community spaces) at basement levels below the flood planning level. This presents an unacceptable risk to loss of life and property and is not supported by Council's Flooding Engineer.	No
2.4.3 Soil Management	Sedimentation controls during demolition can be addressed by conditions.	Yes
	The site has an Acid Sulfate Soils classification of 4 and 5. Geotechnical investigations have not provided sufficient information regarding an Acid Sulfate Soils Management Plan. Insufficient information has been provided to determine if the proposal is satisfactory with regards to contamination and PASS.	No
	Salinity is not identified as a site constraint.	Yes
2.4.4 Land Contamination	As outlined under the SEPP 55 assessment above, no Detailed Site Investigation has been provided as part of the application. As such, it has not been satisfactorily demonstrated that the site can be made suitable for the proposed use. Council's Environmental Health Officer does not support the proposal.	No
2.4.5 Air Quality	Not applicable.	N/A
2.4.6 Development on Sloping Land	Not applicable.	N/A

Development Control	Proposal	Comply
2.4.7 Biodiversity	The proposal does not require the removal of any trees. Detailed landscaping design would be assessed as part of a detailed DA. As such the proposal is considered to result in no adverse impacts on biodiversity on the site.	Yes
2.4.8 Public Domain	A Public Domain Plan and an Alignment Plan is required and has not been submitted with the development application. Public Domain comments were included in the Urban Design Referral response. The proposal is not supported in its current form.	No
Part 3 Development Principles		
3.1 Preliminary Building Envelope	Not applicable. See Section 4.3.3 'Parramatta City Centre' below.	N/A
3.2. Building Elements	Form, massing and scale of the new building envelopes are unsatisfactory.	No
3.3 Environmental amenity	Insufficient information has been submitted with the application to assess and determine the potential environmental amenity and sustainability impacts of the proposal.	No
3.4 Social amenity	The development doesn't include an Arts Plan. Council's Social Outcomes Officer has outlined that additional information is required to enable a complete assessment of potential social impacts including how the emergency accommodation and student accommodation will be integrated with other proposed land uses on the site, including entry and exit points.	No
3.5 Heritage	The potential impacts on the setting of the heritage listed Leigh Memorial Uniting Church and the Parramatta Convict Drain are considered unsatisfactory by Council's Heritage Consultant. The OEH consider insufficient information has been provided to assess the impact on the heritage listed Convict Drain and potential archaeological aspects on the site. Whilst providing conditions of consent, the retention of the Convict Drain will require significant reconsideration of the design and could not be imposed.	No
3.6 Movement and Circulation	Insufficient information has been submitted with the development application to assess the potential transport, movement and circulation aspects of the proposal including: <ul style="list-style-type: none"> sustainable transport options and quantum of car and bicycle parking to be provided on site for each of the proposed uses; vehicle and pedestrian movements which are compatible with the adjoining future public domain and the Parramatta Light Rail stop and associated traffic and pedestrian management changes; management and evacuation measures in a flood event, particularly in light of the quantum of habitable 	No

Development Control	Proposal	Comply
	<p>floor space and proposed land uses at basement levels;</p> <ul style="list-style-type: none"> • safe and equitable access through the buildings and within the areas of the site intended to be publicly accessible; • appropriate links and accessibility between basement levels proposed under each tower; and • proper integration of the development with the surrounding public domain and future publically accessible links; • access and circulation through the approved “super basement” or adjoining development to the west has not been explored by the applicant. 	
4.3.3 Strategic Precinct - Parramatta City Centre		
Objectives	<p>The proposal is considered to be inconsistent with the objectives of the strategic precinct for the following reasons:</p> <ul style="list-style-type: none"> • The proposal does not exhibit design excellence, as set out under the LEP section of this report. • The proposal would be poorly integrated with existing and future public domain, including the Civic Link. • The proposal would have an unacceptable impact on the curtilage and setting of the Leigh Memorial Uniting Church and Parramatta Convict Drain. 	No
4.3.3.1 Building Form		
Street Frontage >20m	<p>Epworth House (Macquarie Street) – >20m</p> <p>Fellowship Centre (Civic Place) - >20m</p>	Yes
4.3.3.7 City Centre Special Areas		
<i>(b) Parramatta Square</i>		
Site Objectives		
C.1 Provide a total of 6,000sqm of public open space across the site (excluding Church Street Mall from calculation). At least 3,000sqm with a minimum width of 40m is to form one contiguous area in the centre of the site, as shown on Figures 4.3.3.7.3 and 4.3.3.7.4. Encroachments up to 6.5 metres into the 40 metre minimum width zone may be considered where justified by an agreed design excellence rationale.	The proposed building envelope of the Fellowship Centre encroaches into the future public open space identified as the Civic Link. This encroachment has not been justified through design excellence.	No
C.3 Overshadowing is to be minimised within the area outlined in red in Figure 4.3.3.7.3. Individual buildings shall	The development does not overshadow the part of Parramatta Square identified in Figure 4.3.3.7.3 between 12pm-2pm in midwinter.	Yes

Development Control	Proposal	Comply
be designed so that no single point of the area outlined in red is in shadow for a period greater than 45 minutes between 12pm-2pm mid-winter.		
<p>C.4 The public open space is to be formed by a progression of spaces or squares crossing the site from east to west, each with their own character, as shown in Figure 4.3.3.7.4 The squares are to comply with the Parramatta Public Domain Guidelines and are to have:</p> <ul style="list-style-type: none"> - Quality paving and urban elements - Public art that is appropriate to the site, and - Maximise soft landscaping while providing - Sufficiently sized hard paved event spaces 	<p>Insufficient information has been provided to demonstrate that the development will integrate with the planned public domain surrounding the site. The encroachment into the Civic Link is incompatible with the intended design and character of the public open space.</p> <p>Furthermore, the encroachment into the shareway adjacent to the southern boundary is also incompatible with the intended design and character of the public open space and would not assist with building separation and way finding.</p>	No
<p>C.5 In addition to streets and lanes, to enhance public circulation a number of pedestrian through site links as shown on Figures 4.3.3.7.3 and 4.3.3.7.4 are to be created which respond to the existing and proposed system of lanes and mid-block pedestrian connections. The through site links are to comply with Section 6.3 City Centre Lanes of the Parramatta Public Domain Guidelines and to have:</p> <ul style="list-style-type: none"> - A minimum width of 6m and clear sightlines - Minimum double storey height for 80% of the arcade - Natural light where possible 	<p>The development envelope of Fellowship Centre encroaches beyond the build to line of the eastern side of the site at Levels 3 and above. This encroachment is inconsistent with the design and character envisaged for the Civic Link and will give rise to a sense of enclosure and adverse impact on light and amenity to the Civic Link.</p>	No
Building form		
C.1 The pattern of buildings on the site is to create a central public open space generally at	The proposal encroaches upon land identified for future public open space in the form of the Civic Link.	No

Development Control	Proposal	Comply
existing ground level with a direct connection to the adjacent transport interchange		
C.2 New buildings are to have street frontages predominantly built to the street and public domain alignment.	The proposal encroaches on the public domain alignments intended for the land along the eastern site boundary. Furthermore, the provision of development that is not built to the grid street alignment on Macquarie Street, instead providing a non-orthogonal building line would have an adverse impact on the significance of the Leigh Memorial Uniting Church and is not supported by Council's Heritage Consultant.	No
C.4 Development on land fronting Macquarie Street must recognise the heights of the heritage buildings and reflect the predominant datums (5-6 storey podiums and 2-3 storey heritage buildings) within this part of the street, through a recessed podium, colonnade, strong shadow lines or similar.	Council's Heritage Consultant has determined that the proposed new building envelopes dominate and obscure the heritage curtilage of the Leigh Memorial Uniting Church and that the proposed setbacks of the new building envelopes to Macquarie Street are unsatisfactory.	No
C.5 Commercial towers on land fronting Macquarie Street may be built to the street frontage to limit overshadowing to the public space to the south.	As set out above, Council's Heritage Consultant has determined that the proposed new building envelopes and setbacks are unsatisfactory.	No
C.6 Residential towers on land fronting Macquarie Street require a podium and setback to the tower for amenity reasons.	Both towers include splayed setbacks from Macquarie Street which are not supported from Council's Urban Design or Heritage Consultants. The tower levels are not further setback from Macquarie Street above the podium levels, resulting in a sheer street wall.	No
C.7 Overshadowing is to be minimised within the area outlined in red in Figure 4.3.3.7.3. Individual buildings shall be designed so that no single point of the area outlined in red is in shadow for a period greater than 45 minutes between 12pm-2pm mid-winter.	The development complies with the overshadowing requirements to Parramatta Square.	Yes
C.8 All development is to implement: <ul style="list-style-type: none"> - Heritage conservation principles - Sustainable development principles particularly in regards to energy and water 	As set out throughout this report, the proposed development will have an unsatisfactory impact on heritage assets on site, including the Leigh Memorial Uniting Church and the Parramatta Convict Drain. Furthermore, insufficient information has been provided to demonstrate that the development will not give rise to an adverse impact on archaeological elements on the site.	No

Development Control	Proposal	Comply
<p>minimisation, waste minimisation and adapting to the impacts of climate change</p> <ul style="list-style-type: none"> - Safety by design principles, and - Equal access to all facilities as required by legislation 	<p>It has not been demonstrated that the proposal will enable safe and equitable access across the site, and that the development is consistent with CPTED principles. In addition, the proposal gives rise to unacceptable risk to loss of life and property through the inclusion of significant amounts of habitable space (including commercial and retail uses) at basement levels, below the flood planning level.</p>	
Sustainability	<p>Further information in respect of sustainability requirements would be required as part of any detailed DA on the site.</p>	-
Access, Parking and Servicing		
<p>C.1 New streets, lanes, public spaces and vehicles access points to buildings in Parramatta Square are to be consistent with the pedestrian and vehicle access principles</p>	<p>The proposal is not compatible with the intended design and character of future public open space. In particular, the proposal fails to provide sufficient setbacks to the southern and eastern boundaries to enable high quality future public open spaces.</p> <p>Furthermore, insufficient information has been submitted to assess access and mobility issues in detail, particularly in the context of the approved Parramatta Light Rail – Stage 1. No details were submitted with regard to potential shared access to the Parramatta Square “super basement” or adjoining development to the west.</p>	No
<p>C.3 Consideration should be given for the provision of electric vehicle charging stations on the site.</p>	<p>Insufficient information provided but could be considered under a future development application.</p>	No
<p>C.5 Commuter bicycle parking (short and long term) is to be provided on the site.</p>	<p>Insufficient information provided but could be considered under a future development application.</p>	No
<p>C.6 Individual developments will be required to provide car-share parking spaces that are available for use by the public and car share members</p>	<p>Insufficient information has been provided with respect to the quantum of proposed land uses on the site. It is noted the Traffic Report indicates a commitment to accommodate car share spaces on the site, subject to detailed design. However, TfNSW have raised concerns with regards to vehicular safety and demand from the proposed access point adjacent the western boundary.</p>	No
<p>C.7 Written evidence must be provided with the development application demonstrating that offers of a car space to car-share providers have been made together with the outcome of the offers or a letter of commitment to the service.</p>	<p>As above.</p>	Yes

Development Control	Proposal	Comply
C.8 Ensure that the following on-street parking uses are accommodated: short stay parking for loading	No details of short stay parking have been provided as part of the application.	No
C.9 Detailed public domain designs should include shared pedestrian and cycle access.	Insufficient information provided.	No
C.10 Development Applications are to be informed by a precinct-wide traffic management study.	No precinct wide traffic study currently available.	No
Heritage	Council's Heritage Consultant has determined that the proposal has unacceptable detrimental impacts on the Leigh Memorial Uniting Church. Furthermore, OEH requires the retention of the Parramatta Convict Drain and therefore a reconsideration of the current proposal is required.	No
Public Art	The application contains insufficient information in relation to public art requirements.	No
Utilities	TfNSW consider that opportunities should be explored for either combined vehicular access with No. 97 Macquarie Street or access via the "super basement" in lieu of the concept proposal arrangements. In addition, the size and location of the above ground OSD system will have an adverse impact on the permeability, activity and use of the ground floor level adjacent to the southern shareway and Civic Link.	No
4.3.3.8 Design Excellence		
	No design excellence competition process has been undertaken, as outlined in the DCP and it has not been demonstrated that the proposal exhibits design excellence.	No

Civic Link Precinct

Council resolved to adopt the Civic Link Precinct chapter (4.3.3.7(m)) of PDCP on 12 October 2020. The subject site is located within Block 1, as identified in the Civic Link Precinct chapter of PDCP. As such, an assessment of the subject development against the relevant controls from the newly adopted DCP is provided below:

Development Control	Proposal	Comply
Amalgamation and Land Dedication		
Controls C.1, C.2, and C.3 require the subject site to provide the following buildings setbacks and land dedication, as illustrated in Figure 19 below: <ul style="list-style-type: none"> No. 119A: 7.5m setback to Macquarie Street to enable views of the Leigh Memorial Uniting Church spire, minimum 6.5m setback to the eastern 	The proposed development does not comply with the required setback, providing the following non-compliant setbacks: <ul style="list-style-type: none"> No. 119A: 5.5m (Ground-Level 2) and nil setback (Levels 3-12) to the eastern boundary, 4.93m (Ground-Level 2) and nil setback (Levels 3-12) to the southern boundary, and 9m (Ground-Level 2) and 2.95m to 6.74m setback (Levels 3-12) to the northern boundary; and 	No

Development Control	Proposal	Comply
<p>boundary for the Civic Link, and minimum 6m setback to the southern boundary for the southern laneway. All land subject to the setbacks must be dedicated to Council;</p> <ul style="list-style-type: none"> No. 119: 6m land dedication and boundary realignment to the southern boundary; and No. 99: 3.5m setback from the western boundary. 	<ul style="list-style-type: none"> No. 99: Nil setback to the western boundary (Ground-Level 13). <p>Note: Council does not accept dedication of land in stratum and/or encumbered by basements/overhangs.</p>	
Public Domain Structures		
C.1: <i>Civic Link Block 1</i> – Create a 20m minimum pedestrian public space between Parramatta Square and Macquarie Street. The 20m shall include minimum 17m wide clear to sky building separation.	The proposed setbacks do not enable a 20m wide Civic Link with 17m wide clear to sky separation to 3PS, on the eastern side of the site.	No
C.2 Car Park Entries must be located and accessed from secondary street and laneways as indicated on Figure 4.3.3.7.41	The proposal includes an independent vehicular access to Macquarie Street adjacent to the western boundary. No consideration to combine with No. 97 Macquarie Street or link with the Parramatta Square “super basement” has been undertaken.	No
C.3 On grade parking is prohibited.	Car parking is proposed at basement levels.	Yes
C.4 Continuous awning with a clearance of 4.5m and depth of 3m must be provided for new buildings along Civic Link.	No awnings are provided as Level 3 and above will cantilever over the Civic Link.	No
Block 1 - Built Form		
C.1 4 storey (22m) street wall with 6 storey upper level setback required along the Civic Link.	The proposal includes a 12 storey building which overhangs the Civic Link from Levels 3-12.	No
C.4 Civic Link, squares, streets and laneways must be open to the sky, without overhangs or encroachments.	The development overhangs the Civic Link to the east, shareway to the south and new public domain on Macquarie Street to the north.	No
C.6 No overshadowing other than by allowable building envelopes.	The proposed building envelopes are not consistent with DCP and therefore will give rise to additional prejudicial overshadowing effects.	No
C.7 Underground parking must not extend under the Civic Link, dedicated streets, laneways and public spaces.	The proposed basement encroaches underneath the proposed Civic Link, southern laneway, western service way and northern public square.	No
Block 1 – Building Edges and Articulation		
	Given that the proposal is for a concept approval, a number of the controls are not applicable or insufficient information has been provided in order to identify whether or not they are complied with.	No

Development Control	Proposal	Comply
	<p>However, the proposed independent vehicle entry from Macquarie Street is not supported.</p> <p>An active frontage is required along the eastern edge and primary frontage along the northern edge of the subject site. Insufficient information has been provided to understand how these street frontages will work.</p>	

The concept proposal contravenes the site specific DCP requirements under C2 of Part 4.3.3.7(m) requiring compliance with the setbacks of Figure 4.3.3.7.40 as detailed below.

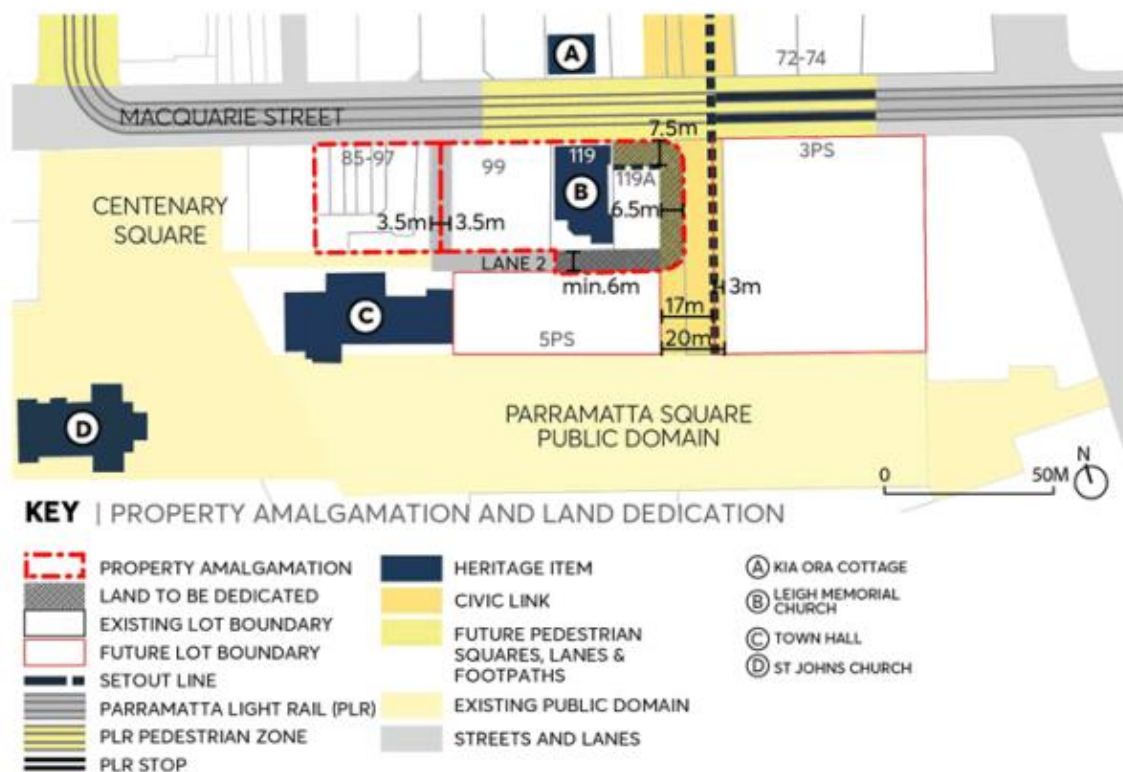


Figure 4.3.3.7.40 Property Amalgamation and Land Dedication

Figure 19: Extract from the Civic Link Precinct requiring the setbacks for No. 119A Macquarie Street

The above setback provisions must be clear to the sky and the concept proposal does not accord with these requirements. The non-compliance with the setback requirements will either encroach into the Civic Link to the detriment of the public domain or encroach into the curtilage of the Leigh Memorial Uniting Church to the detriment of its heritage significance and views to and from the site. Council's Urban Design and Heritage Consultants consider the proposal is unsatisfactory in this regard.

It is noted Paragraph 11 of the Council Report on the Civic Link states as follows:

11. Detailed controls for Block 1 are unaffected by Sydney Metro West and are recommended for endorsement with minor amendments to provide certainty to landowners and Council regarding development outcomes. The exhibited draft DCP identified 119a

Macquarie Street as an 'option site', with two possible development outcomes. Discussions with the landowner have resulted in a preference for a smaller built form outcome whilst complying with the setbacks, which is reflected in the revised DCP.

As such, the land owners of No. 119A Macquarie Street are aware of the Civic Link Precinct chapter of PDCP and the implications of the setback requirements. No additional supporting information or justification for the non-compliances with the setbacks are provided. The concept proposal does not satisfy the relevant objectives of Controls of Part 4.3.3.7(m) of PDCP and is recommended for refusal.

10. Planning Agreements

The subject application is not subject to a planning agreement.

11. The Regulations

The following relevant provisions of the Regulation can be satisfied:

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

12. The likely impacts of the development

11.1 Context and setting

Statutory Context

Insufficient information has been provided to ascertain the proposed land uses and whether or not the provisions under SEPP 65 or the ADG are applicable to the proposal, and that the development is consistent with the design principles outlined in SEPP 65.

Insufficient information has been submitted with the development application to demonstrate that the proposal is compatible with the safe and efficient continued function of Macquarie Street and the future operation of Parramatta Light Rail as detailed in Section 7.3 and as required by the ISEPP.

The proposal is considered to be unacceptable due to its non-compliance with the following provisions of PLEP 2011:

- Objectives for development in Zone B4 Mixed Use;
- Clause 5.10 Heritage;
- Clause 6.3 Flood Planning;
- Clause 7.10 Design Excellence.

Furthermore, insufficient information has been provided to demonstrate compliance with the following provisions of PLEP 2011:

- Clause 6.1 Acid Sulfate Soils;
- Clause 6.2 Earthworks;
- Clause 7.3 Car Parking.

The proposal is considered unacceptable due to its non-compliance with the relevant controls of PDCP 2011 as outlined in Section 9.1 above and in particular the proposed adverse impacts on existing and future public domain, heritage assets on the site, and failure to exhibit design excellence. The proposal is also inconsistent with the Civic Link DCP chapter which was adopted on 12 October 2020 and does not contain any savings or transition provisions.

As discussed throughout this report the development does not provide a satisfactory relationship to the context and setting of surrounding development and intended future public open space and public infrastructure including the publically accessible share way adjoining to the south, the Civic Link adjoining to the east, and the Parramatta Light Rail – Stage 1 on Macquarie Street.

11.2 Urban Design and Public Domain

Insufficient information has been provided to enable an appropriate assessment of the potential impacts to, and integration with, the existing and future public domain. Council's Urban Design Consultants have determined that a Public Domain Plan and an Alignment Plan is required.

11.4 Public Open Space

Insufficient information has been provided to enable an appropriate assessment of the potential integration of the proposal with adjoining future public open space. The proposed envelope of the Fellowship Centre building is unacceptable due to a significant encroachment at Level 3 and above over the Civic Link. Insufficient information has been submitted to assess and determine appropriate provisions for a two way publicly accessible link to be created along the southern edge of the site in a manner compatible with the neighbouring civic building at No. 5 Parramatta Square to the south.

11.5 Access, parking and traffic

Insufficient information has been provided to demonstrate that the amount of parking provided is compliant with the maximum car parking rates in PLEP 2011, or that satisfactory vehicular and pedestrian access can be provided between proposed basement levels and the variety of land uses proposed throughout the site.

Insufficient information has been provided to demonstrate that the development will be compatible with the future Parramatta Light Rail and in particular the infrastructure and road function changes anticipated to accommodate the light rail stop on Macquarie Street. Furthermore, the applicant has not demonstrated that the subject site cannot link to the Parramatta Square "super basement" or the adjoining development at No. 97 Macquarie Street.

11.6 Heritage

Council's Heritage Consultant has assessed the application and determined that the proposal will have unacceptable detrimental impacts to the setting and heritage curtilage of the Leigh Memorial Uniting Church.

Furthermore, insufficient information has been provided to demonstrate that impacts on the Parramatta Convict Drain and archaeological elements located on the site can be properly managed as part of the development.

11.7 Water management, WSUD and Flood-related matters

Council's Catchment and Development Engineers are satisfied that the proposed development can satisfactorily address stormwater management and WSUD provisions at this stage.

However, the proposal includes significant amounts of habitable floor space (including commercial and retail uses) at basement levels, below the flood planning level. This poses an unacceptably high risk to loss of life and property and is therefore not supported.

11.8 Social and economic impacts

Council's Social Outcomes staff have determined that additional information is required with regards to the proposed uses and activities to be conducted within the site, and their locations on the site in order to fully assess the social impacts of the development.

11.9 Waste management

Council's Environmental Health Officer has assessed the application and raised no objections in respect of waste management, subject to recommended conditions.

11.10 Construction Management

TfNSW requires a revised Construction and Pedestrian Management Plan to demonstrate compatibility with the future works and activities associated with Parramatta Light Rail.

11.11 Utility services

All standard utilities can be provided to the site and amplification of services can be resolved through direct consultation with the providers.

11.12 Landscaping and Tree Protection

Council's Landscape officer has recommended a detailed landscape plan is required to enable a thorough assessment of the development application.

11.13 Public Art

A Public Art plan is required to enable a thorough assessment of the development application.

13. Site suitability

The suitability of the site for the development as proposed cannot be determined unless all additional information and abovementioned issues have been addressed.

14. Submissions

The application was notified and advertised in accordance with Appendix 5 of DCP 2011 between 10 October 2018 and 31 October 2018. No (0) submissions have been received.

15. Public Interest

For the reasons outlined in this report, the proposal is contrary to the public interest as it provides a building envelope that is detrimental to the heritage significance of heritage items located on the site and fails to exhibit design excellence.

16. 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.

17. Developer Contributions

The need for payment of a 3% contribution as required by this Plan can be addressed by way of a condition of consent if the application were to be recommended for approval.

18. Summary and Conclusion

The application has been assessed relative to section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls.

Insufficient information has been provided to ascertain the proposed land uses and whether or not the provisions under SEPP 65 or the ADG are applicable to the proposal, and that the development is consistent with the design principles outlined in SEPP 65.

Insufficient information has been submitted with the development application to demonstrate that the proposal is compatible with the safe and efficient continued function of Macquarie Street and the future operation of Parramatta Light Rail as detailed in Section 2 and as required by the ISEPP.

The proposal is considered to be unacceptable due to its non-compliance or failure to demonstrate compliance with the following provisions of PLEP 2011;

- Objectives for development in Zone B4 Mixed Use;
- Clause 5.10 Heritage;
- Clause 6.1 Acid Sulfate Soils;
- Clause 6.2 Earthworks;
- Clause 6.3 Flood Planning;
- Clause 7.3 Car Parking; and
- Clause 7.10 Design Excellence.

The proposal is considered unacceptable due to its non-compliance with the relevant controls of PDCCP 2011 as outlined in Table 9.1 above and in particular the proposed adverse impacts on existing and future public domain, heritage assets on the site, and failure to exhibit design

excellence. Furthermore, the concept proposal is inconsistent with the envelope requirements of the Civic Link Precinct 4.3.3.7(m) of PDCP which was adopted on 12 October 2020 with no savings and transition provisions.

For these reasons, it is considered that the proposal is unsatisfactory having regard to the matters of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979.

19. Recommendation

- A. **That** the Sydney Central City Planning Panel, as the consent authority, **Refuse** Development Application No. DA/684/2018 for a development described as:

Concept Proposal for 14 storey mixed use (retail, office, student housing, group home and boarding house) building envelope at 99-113 Macquarie Street [Epworth House], 13 storey mixed use (church administration, community facility, student housing, group home and boarding house) building envelope at 119A Macquarie Street [Fellowship Centre], 2-6 storey basement envelope (retail, church administration and 142 parking spaces), retention and restoration of Leigh Memorial Church Building including new spire; and Stage 1 demolition of existing commercial buildings to ground level.

at 99 to 119A Macquarie Street, PARRAMATTA NSW (Lot 9 DP 702736, Part Lot 1 DP 626765 Stratum lot - lease of 58sqm part of ground floor lease, Lot 1 DP 628809) for the reasons listed below:

1. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(i) to the *Environmental Planning and Assessment Act, 1979* because it is considered to be inconsistent with the objectives for development in Zone B4 Mixed Use as listed in Parramatta Local Environmental Plan 2011. Specifically, the proposal is inconsistent with
 - a. Zone Objectives (a) and (b) in that it fails to demonstrate that the mix of uses will be compatible with each other, that the mix of uses will be compatible with the constraints of the site (due to flooding) and that the mix of uses will be compatible with the intended future character and use of adjoining public open spaces.
 - b. Zone Objectives (c), (d) and (e) in that it fails to demonstrate that the development contributes active frontages and improvements to the interface with the public domain and pedestrian links (Civic Link and shareway) intended for Parramatta Square and land immediately adjoining the site.
2. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(i) to the *Environmental Planning and Assessment Act, 1979* because it is contrary to the provisions of Clause 5.10 Heritage of Parramatta Local Environmental Plan 2011. Specifically, the proposed building envelopes are considered to have detrimental impacts to the curtilage, visual legibility and setting of the Leigh Memorial Uniting Church. Furthermore, the concept proposal does not seek to retain or consider the Parramatta Convict Drain which is required to be retained by the Office of Environment and Heritage.
3. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(i) to the *Environmental Planning and Assessment Act, 1979* because it is contrary to the provisions of Clause 6.3 Flood Planning of Parramatta Local Environmental Plan 2011. Specifically, the proposal includes significant areas of habitable space (including commercial and retail uses) in basement levels that are below the flood planning level and flood management and protection measures have not

demonstrated that this does not pose an unacceptably high risk to loss of life and property.

4. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(i) to the *Environmental Planning and Assessment Act, 1979* because it is contrary to the provisions of Clause 7.10 Design Excellence of Parramatta Local Environmental Plan 2011. Specifically, the proposed development fails to demonstrate design excellence, thereby failing to satisfy Clause 7.10(4) of PLEP 2011.
5. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(i) to the *Environmental Planning and Assessment Act, 1979* because it is contrary to the provisions of SEPP No. 55 – Remediation of Land as a Detailed Site Investigation (Phase 2) is required but has not been undertaken. As such, the application fails to adequately demonstrate that site can be made suitable for the proposed use in accordance with the requirements of SEPP No. 55.
6. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(iii) to the *Environmental Planning and Assessment Act, 1979* because it is considered to be inconsistent with the provisions of Section 4.3.3.7(b) Parramatta Square of Parramatta Development Control Plan 2011. In this regard, the proposal is inconsistent with C1, C4 & C5 (Site Objectives), C1-C6 & C8 (Building Form) and C1 (Utilities) in the PDCP.
7. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(iii) to the *Environmental Planning and Assessment Act, 1979* because it is considered to be inconsistent with the objectives and provisions of Section 4.3.3.7(m) Civic Link Precinct of Parramatta Development Control Plan 2011. In this regard, the proposal is inconsistent with C1-C3 (Amalgamation and Land Dedication), C1, C2 & C4 (Public Domain Structure) and C1, C4, C6 & C7 (Built Form) in the PDCP.
8. The proposal is unacceptable pursuant to the provisions of Section 4.15(b) to the *Environmental Planning and Assessment Act, 1979* in that the application includes insufficient information to satisfactorily assess the likely impacts of that development, including:
 - Location and quantum of the proposed land uses on the site;
 - An assessment against the design principles of SEPP 65 and the applicable requirements of Apartment Design Guide;
 - Overland flow flooding, flood protection measures and emergency flood risk management;
 - Geotechnical information regarding the impacts of excavation on the structural integrity of the Leigh Memorial Uniting Church;
 - Traffic and parking generation associated with the unknown quantum, location and accessibility of proposed land uses;
 - Vehicular and pedestrian safety and amenity concerns associated with the Parramatta Light Rail given Macquarie Street is a transitway under ISEPP. It is further noted that no concurrence has been obtained by Transport for NSW, as required under ISEPP;
 - Public domain integration, including the lack of a Public Domain and Alignment Plan and a Public Arts Plan;
 - Social impacts associated with the unknown quantum, location and accessibility of proposed land uses;
 - Construction and traffic management as it relates to the construction and ongoing operation of the Parramatta Light Rail; and
 - Assessment and management of potential Acid Sulfate Soils.

9. The proposal is unacceptable pursuant to the provisions of Section 4.15(e) to the *Environmental Planning and Assessment Act, 1979* in that the proposal's non-compliances and inconsistencies with the provisions of adopted environmental planning instruments and a development control plan are not in the public interest and would set an undesirable precedent. Furthermore, the precedent represented by the proposal is contrary to the consistent application of design excellence provisions and application of the same environmental planning instruments to surrounding developments in Parramatta Square and the immediate locality.