



SYDNEY CENTRAL CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	PPS-2019CCI038
DA Number	DA/279/2019
LGA	City of Parramatta
Proposed Development	<p>Lot consolidation, demolition of existing structures, tree removal and construction of a residential flat building under SEPP Affordable Rental Housing comprising 16 units with basement parking for 8 vehicles, landscaping works.</p> <p>The Application will be determined by the Sydney Central City Planning Panel.</p>
Street Address	8-10 Collett Parade, Parramatta, NSW 2150 Lot 21 DP 35120, Lot 20 DP 35120
Applicant	NSW Land and Housing Corporation
Owner	NSW Land and Housing Corporation
Date of DA lodgement	16 May 2019
Number of Submissions	Nil
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	Pursuant to Section 4.7 of the Environmental Planning and Assessment Act 1979 (at the time of lodgement), the development is a Crown Development with a Capital Investment Value greater than \$5 million.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none">• Environmental Planning and Assessment Act 1979• Environmental Planning and Assessment Regulations 2000• SEPP (Infrastructure) 2007• SEPP (State and Regional Development) 2011• SEPP (Sydney Harbour Catchment) 2005• SEPP (Vegetation in Non-Rural Areas) 2017• SEPP No. 55 (Remediation of Land)• SEPP (Affordable Rental Housing) 2009• SEPP No. 65 (Design Quality of Residential Apartment Development)• Parramatta Local Environmental Plan 2011• Parramatta Development Control Plan 2011
List all documents submitted with this report for the Panel's consideration	<p>Attachment 1 – Planning Assessment Attachment 2 – Conditions of Consent Attachment 3 – Architectural Drawings Attachment 4 – Landscape Drawings Attachment 5 – Civil & Stormwater Drawings Attachment 6 – Design Excellence Jury Review Attachment 7 – WSU Planning Proposal</p>

Report prepared by	Najeeb Kobeissi Development Assessment Officer – Development Assessments
Report date	18 December 2019

Summary of s4.15 matters

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

Legislative clauses requiring consent authority satisfaction

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

Clause 4.6 Exceptions to development standards

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

Special Infrastructure Contributions

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

Conditions

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

1. Executive summary

The proposal is for the demolition of all existing structures and construction of a four (4) storey residential flat building comprising sixteen (16) residential units over one (1) level of basement parking.

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

The proposed development has been identified as a Crown Development. The recommended conditions of consent have been endorsed by the applicant.

The site is located in the Collet Park Precinct (North Parramatta).

The application satisfies the requirements outlined in the relevant planning framework and Council's internal departments raised no objections to the proposal. The application is therefore satisfactory having regard to the matters of consideration pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979.

This report recommends that the Panel support the recommendation to approve the application, subject to the conditions of consent in Attachment 2.

2. Site context

The subject development site is comprised of two allotments, being No. 8 and No. 10 Collett Parade, located on the northern side of the street. The site has an approximate total area of 1,014m² with a 31.09 metre frontage.

The site currently accommodates two detached dwelling houses with no other significant improvements and has a slope of approximately 3.8% from the northern (rear) boundary to the southern (front) boundary of the site.

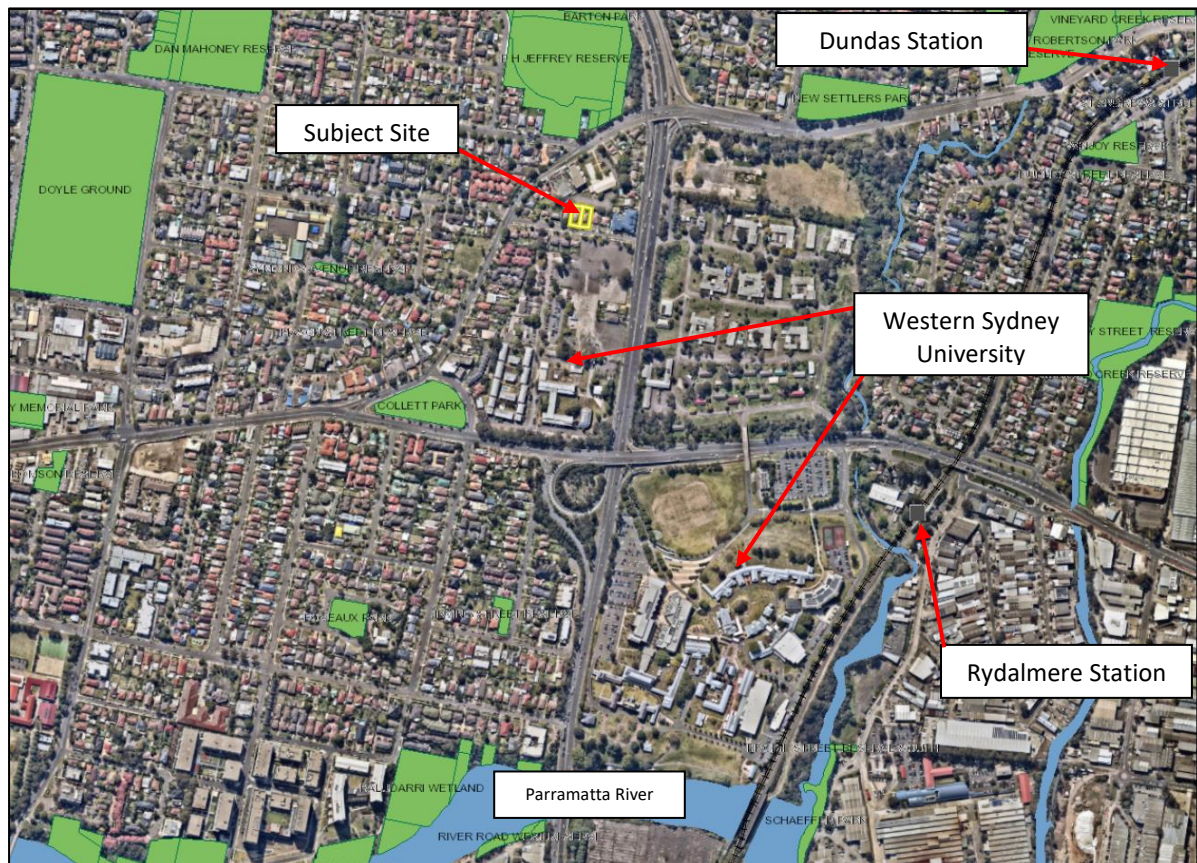


Figure 1: Aerial View of Site Context. Site outlined in Yellow. Source: Geocortex



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

The site is within an existing residential area and is undergoing an urban transition. However, the locality primarily is comprised of detached dwelling houses, despite the high density zoning. Residential flat buildings have started to make an appearance in the area.

Figure 3 below indicates the approved residential flat buildings in close proximity of the site.



Figure 3: Aerial view of the area indicating location of approved and constructed residential flat buildings. Also shown are adjacent proposed developments and planning proposals (grey).

No. 16-18 Collett Parade & No. 202 James Ruse Drive was approved for a part three storey, part four storey residential flat building pursuant to the SEPP ARH 2009 containing 38 units. The residential flat building has been constructed and occupied. See figure 4 below.



Figure 4: Photo of No. 16-18 Collett Parade & No. 202 James Ruse Drive (photo taken by Najeeb Kobeissi on 2 July 2019)

North-west of the site, No. 161-163 Pennant Street was approved for a four storey residential flat building pursuant to the SEPP ARH 2009 containing 19 units. The residential flat building has been constructed and occupied, and can be viewed from the subject site. See Figure 5 below:

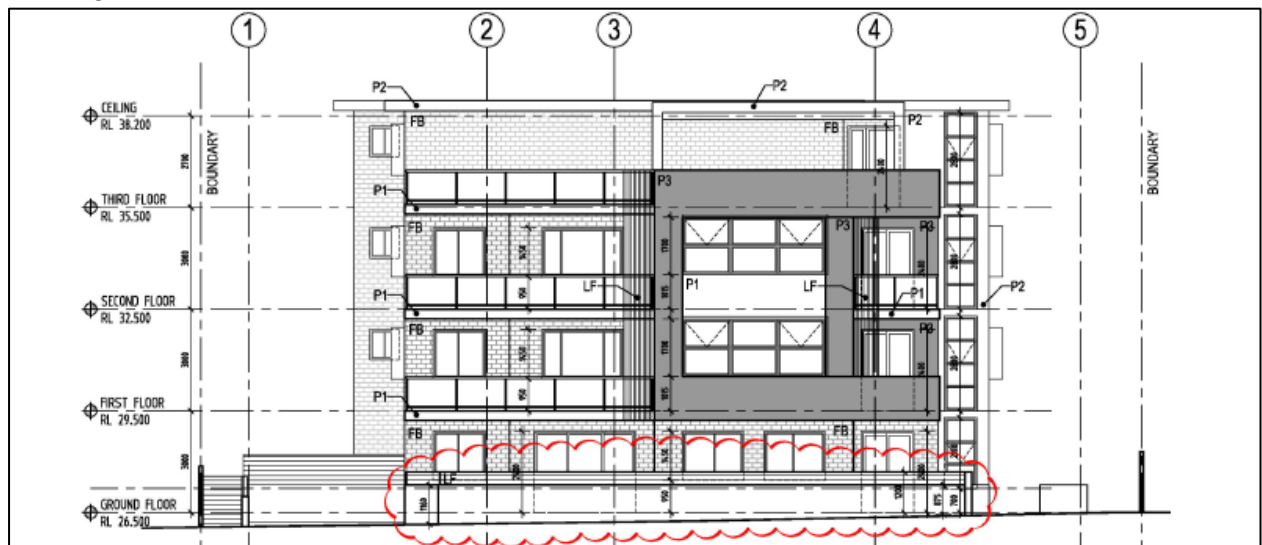


Figure 5: No. 161-163 Pennant Street – 4 Storey RFB – Affordable Housing

Also north-west of the site, No. 165-167 Pennant Street was approved for a four storey residential flat building pursuant to the SEPP ARH 2009 containing 19 units. The residential flat building has been constructed and occupied, and can be viewed from the subject site. See figure 6 below.

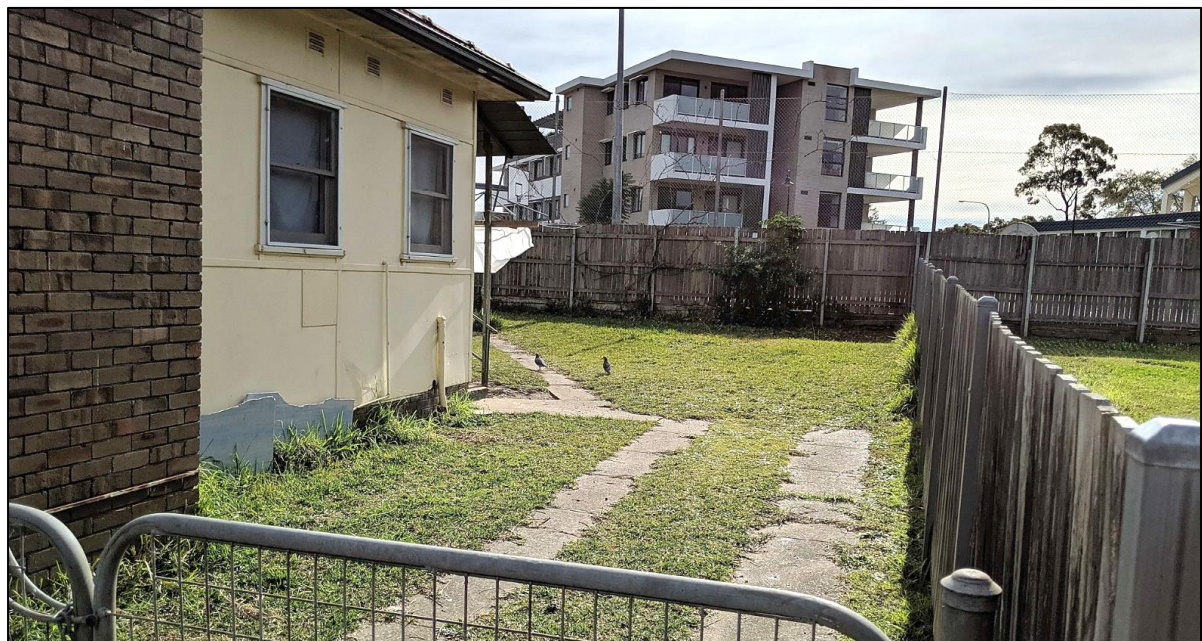


Figure 6: No. 165-167 Pennant Street viewed from the property line between 8 & 10 Collett Parade (photo taken by Najeeb Kobeissi on 2 July 2019)

The adjoining sites to the east (No. 12-14 Collett Parade) was approved for the construction of a four storey boarding house pursuant to the SEPP (Affordable Rental Housing) 2009 containing 58 rooms on 19 November, 2019 by the Parramatta Local Planning Panel. See figure 7 below.



Figure 7: No. 12-14 Collett Parade – 4 storey Boarding House

Opposite the site, a planning proposal was lodged at No. 70 Pemberton Street, No. 260 & No. 260A Victoria Road, No. 178-184 & No. 190-200 James Ruse Drive and No. 15-19 Collet Parade, Parramatta (WSU Northern Parramatta Campus) for the purposes of requesting a Gateway Determination from the Department of Planning, Industry and Environment. The final revised planning proposal seeks to amend the site's Parramatta Local Environment Plan (PLEP) 2011 zoning, FSR and maximum height. For more information, refer to the discussion in *CL16(A) Character of the local area* under the SEPP ARH in *Attachment 1 – Planning Assessment*, and refer to *Attachment 7 – WSU Planning Proposal*.

The subject site is identified as part of the Collet Park Precinct (North Parramatta) in the Parramatta Development Control Plan (DCP) 2011. The objectives of the section are to provide for high and medium density housing development that responds to existing development, and to provide improved pedestrian links throughout the precinct.

The locality is consequently undergoing transition from a low density to a high density residential area.

Figure 8 below indicates the locations of:

- trees and shrubs to be removed (red), and
- Sydney Water sewer infrastructure (orange)

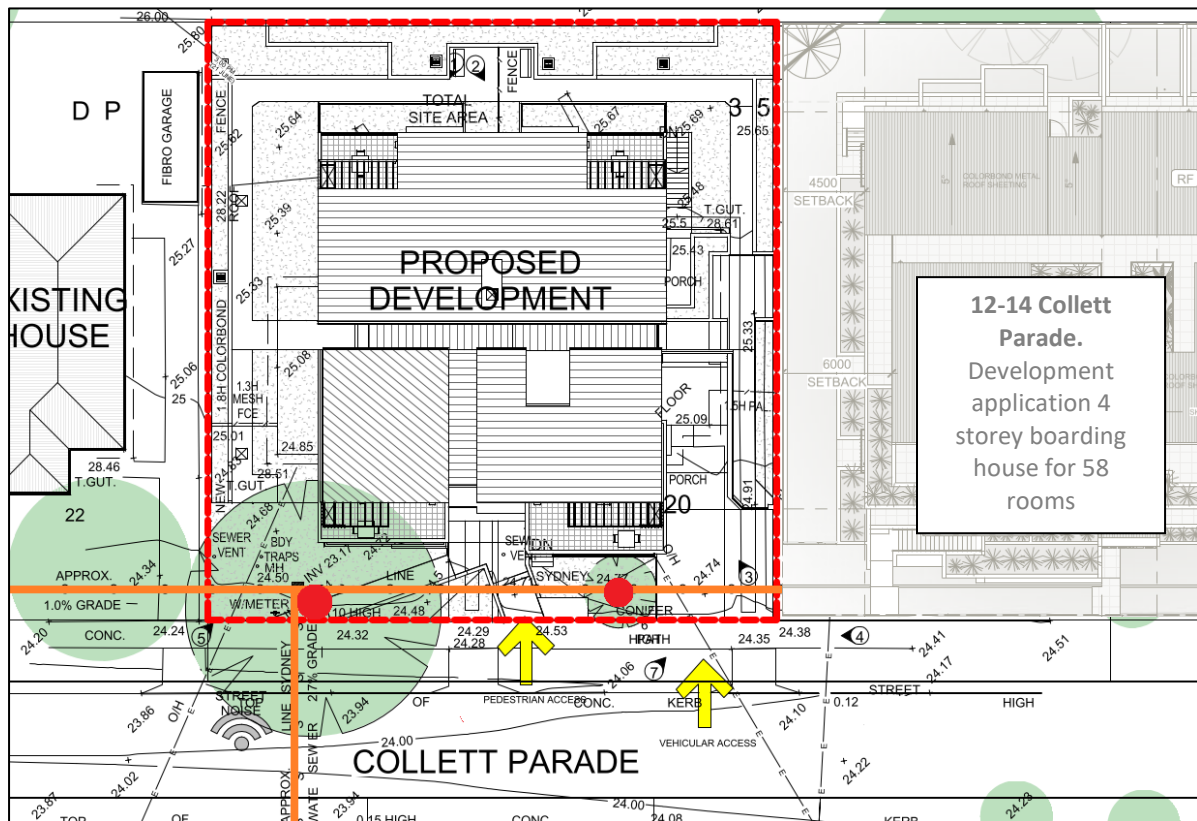


Figure 8: Annotated Site Plan

3. Background

On 14 February 2018, a pre-lodgement meeting was held with Council staff and the applicant (PL/87/2018). At this meeting, the proposed design was discussed and comments to improve the proposal were issued. The architectural plans submitted with the development application are substantially the same development as the pre-lodgement plans.

On 16 May 2019, the subject development application was lodged with the City of Parramatta.

The application was advertised from 29 May, 2019 to 20 June 2019 in accordance with the Parramatta DCP 2011. In response, zero submissions were received.

On 6 June 2019, the application was referred to DEAP. The advice from DEAP is included in this report. The Panel issued an amber light but the required amendments were minimal. A meeting with the senior project officer from urban design resulted in the application not requiring a referral back to the Panel and the senior project officer from urban design provided a few minor comments to be addressed.

On 20 June 2019, a request for information was forwarded to the applicant requesting a Social Impact Statement, a response to the DEAP comments, additional design concerns and BCA concerns.

On 13 December 2019, following the submission of amended plans and documents, the applicant was advised that Council will be recommending the application for approval to the SCCPP.

4. The proposal

The proposal comprises the following primary elements:

- Demolition of all buildings and outbuildings on site;
- Lot consolidation;
- Construction of a 4 storey Residential Flat Building comprising of 16 units;
- Eight (8) car spaces within 1 level of basement;
- Removal of 2 trees from the site;
- Landscaping works.

The proposed dwelling mix is as follows:

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

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

- Eight (8) residential car spaces including 2 accessible spaces.

5. Public notification

The application was advertised 29 May 2019 to 20 June 2019. In response, no (0) submissions were received.

6. Referrals

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

Does Section 3.25 (Significant effect on threatened species) apply ?	No
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Does Section 4.10 (Designated Development) apply ?	No
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Does Section 4.46 (Integrated Development) apply ?	No
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Are submission requirements within the Regulations satisfied?	Yes
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8. Consideration of SEPPs

Key issues arising from evaluation against SEPPs	Non-compliance with SEPP (Affordable Rental Housing) landscaped area however acceptable
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A detailed assessment is provided at
Attachment 1.

9. Parramatta Local Environmental Plan 2011

The following table is a summary assessment against the LEP. A detailed evaluation is provided at **Attachment 1**.

Table 1: LEP compliance

	<i>Comment or non- compliances</i>
Zones	<ul style="list-style-type: none"> R4 High Density Residential
Definition	<ul style="list-style-type: none"> Residential flat building
Part 2 Permitted or prohibited development	<ul style="list-style-type: none"> Permissible in the zone Consistent with the zone objectives
Part 4 Principal development standards	<ul style="list-style-type: none"> Non-compliance – Clause 4.3 Building height The development standard is 11 metres. The maximum height of the building is 14.01 metres (non-compliance is 3.01 metres or 27.36%) A submission under Clause 4.6 has been provided. Discussion on the variation sought is discussed later in this report.
Part 5 Miscellaneous provisions	All relevant provisions satisfied
Part 7 Additional local provisions	All relevant provisions satisfied

10. Parramatta Development Control Plan 2011

The following table is a summary assessment against this DCP. A detailed evaluation is provided at **Attachment 1**.

Table 2: DCP compliance

	<i>Comment or non- compliance</i>
Part 3 Section 3.1 – Preliminary Building Envelope	Not consistent including: - Height
Part 4 Section 4.1 – Town and Neighbourhood Centres	The objectives outlined in the Collet Park Precinct (North Parramatta) seek to provide for medium and high density housing. The objectives for improved pedestrian links do not apply to the proposed development since none adjoin the proposed development or are within close proximity.

11. Conclusion

After consideration of the development against Section 4.15 of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, the proposal is suitable for the site and is in the public interest. It is recommended for approved for the following reasons:

1. The development is permissible in the R4 zone and satisfies the requirements of all of the applicable planning controls.
2. The development will be compatible with the emerging and planned future character of the area.
3. For the reasons given above, approval of the application is in the public interest.

Therefore, it is recommended that the application be approved subject to conditions.

12. Recommendation

1. **That** the Sydney Central City Planning Panel, exercising the functions of the consent authority, support the variation to Clause 4.3 Height of Buildings of the Parramatta LEP 2011 under the provisions of Clause 4.6..
2. **That** the Sydney Central City Planning Panel, exercising the functions of the consent authority, approve DA/279/2018 for Lot consolidation, demolition of existing structures, tree removal and construction of a residential flat building under SEPP Affordable Rental Housing comprising 16 units with basement parking for 8 vehicles on land at 8-10 Collett Parade, Parramatta for a period of five (5) years within which physical commencement is to occur from the date on the Notice of Determination, subject to the attached conditions of consent.



ATTACHMENT 1- PLANNING ASSESSMENT

DA No.

279/2019

1. Overview

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

Table 1 : Matters for Consideration

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

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

Table 2: Referrals

Landscape	No objections subject to conditions
Development Engineer	No objections subject to conditions
Traffic	No objections subject to conditions.
DEAP	Supported with amendments required.
Urban Design	No objections subject to submission of amended plans.
Environmental Health – Waste	Supported with amendments required.
NSW RMS	No objections subject to conditions

2. Integrated Development

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

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

The application does not require any heritage approval.

3. Environmental planning instruments

Compliance with these instruments is addressed below.

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

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

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

3.2 State Environmental Planning Policy (Infrastructure) 2007

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

The subject site does not adjoin James Ruse Drive and thus, SEPP Infrastructure does not apply.

3.3 State Environmental Planning Policy – BASIX

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

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

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

The application proposed the removal of 2 trees from the site identified as:

Tree No.	Name	Common Name	Location
1	<i>Melia azedarach</i>	White Cedar	Adjacent to the front boundary of 8 Collett Parade
2	<i>Thuja orientalis</i>	Lemon Tree	Adjacent to the front boundary of 10 Collett Parade

Council's Tree and Landscape Officer supports the removal of these trees.

The application therefore meets the aims of the SEPP.

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

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

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

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

3.6 State Environmental Planning Policy (Affordable Rental Housing) 2009

Table 3: SEPP (Affordable Rental Housing) compliance

SEPP (Affordable Rental Housing) 2009			
Subject	Control	Proposal	Compliance
Cl. 13 Floor Space Ratio	<p>If the maximum floor space ratio is 2.5:1 or less:</p> <p>(i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or</p> <p>(ii) Y:1—if the percentage of the gross floor area of the</p>	<p>The applicant proposes to allocate 100% of the development to Affordable Rental Housing which would result in a maximum allowable FSR of 1.3:1.</p>	Yes

	<p>development that is used for affordable housing is less than 50 per cent, where:</p> <p>AH is the percentage of the gross floor area of the development that is used for affordable housing.</p> <p>$Y = AH \div 100$</p>	The proposal indicates an FSR of 1.18:1.	
Cl. 14(1)(b) Site Area	Minimum 450m ²	Site Area 1,014m ²	Yes
Cl. 14(1)(c) Landscaped Area	Minimum 35m ² per dwelling (required 560m ²)	18.31m ² per dwelling (293m ² landscaped area provided)	No But acceptable See below discussion
<p>The proposal does not achieve the minimum requirements for 35m² of landscaping per dwelling where the application is made by a social housing provider.</p> <p>As a percentage of the site, the control requires the provision of 55% landscaping to be compliant.</p> <p>Hypothetically, if the number of units were to be reduced so that the proposed amount of landscaping (293m²) is compliant, the development would be reduced to 8 dwellings, or 2 storeys if the same footprint were to be maintained. This is considered unrealistic in an area that permits up to a 3 storey development.</p> <p>Additional landscaping, albeit not deep soil, could be provided on the rooftop, however the NSW LAHC policies restrict the provision of communal open space on rooftop.</p> <p>As addressed later in this report, the development complies with the SEPP 65 ADG design requirements.</p>			
Cl. 14(1)(d) Deep Soil Zones	<p>Minimum 15% (152m²)</p> <p>Min Dimension 3m</p> <p>2/3 located at rear (101.3m²)</p>	<p>17% (173.8m²)</p> <p>Min dimension 3m</p> <p>108.5m² provided at rear</p>	Yes
Cl. 14(1)(e) Solar Access	70% receive 3 hours	75% receive 3 hours of sunlight	Yes
Cl. 14(2)(a) Car Parking	<p>0.4 / 1 bedroom = 2.4 spaces</p> <p>0.5 / 2 bedroom = 5 spaces</p> <p>Required = 7.4 = 8 spaces</p>	8 spaces provided	Yes
Cl. 14(2)(b) Dwelling Size	<p>50m² / 1 Bedroom</p> <p>70m² / 2 Bedroom</p>	<p>1 Bedroom min 50m²</p> <p>2 Bedroom min 73m²</p>	Yes
Cl. 16A	The consent authority must consider whether the design of	See discussion below	Yes

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

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

1. Identifying the local area

This assessment identified the local area as primarily the visual catchment of the site (as viewed from within the site and directly adjacent to the site on the street) which is shown in Figure 2 below:



Figure 2: The ‘local area’ as considered by Council.

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

Present Character

The historic subdivision of Collett Parade (DP35120) as shown in Figure 3 below:

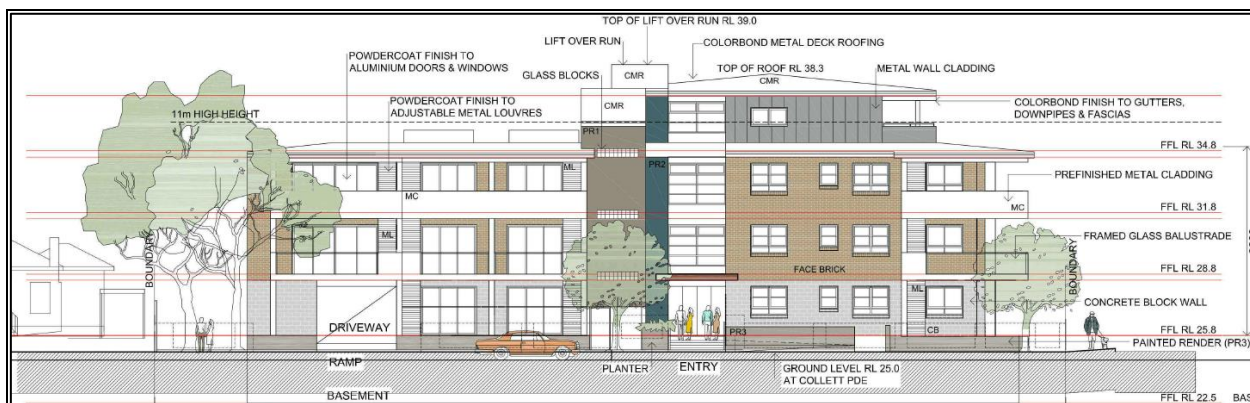


Figure 4: 16-18 Collett Parade – 3-4 storey RFB – Affordable Housing

No. 161-163 Pennant Street is a 4 storey residential flat building comprising 19 units over basement parking approved under DA/1045/2016. The application was assessed under the Affordable Rental Housing SEPP. See Figure 5 below:

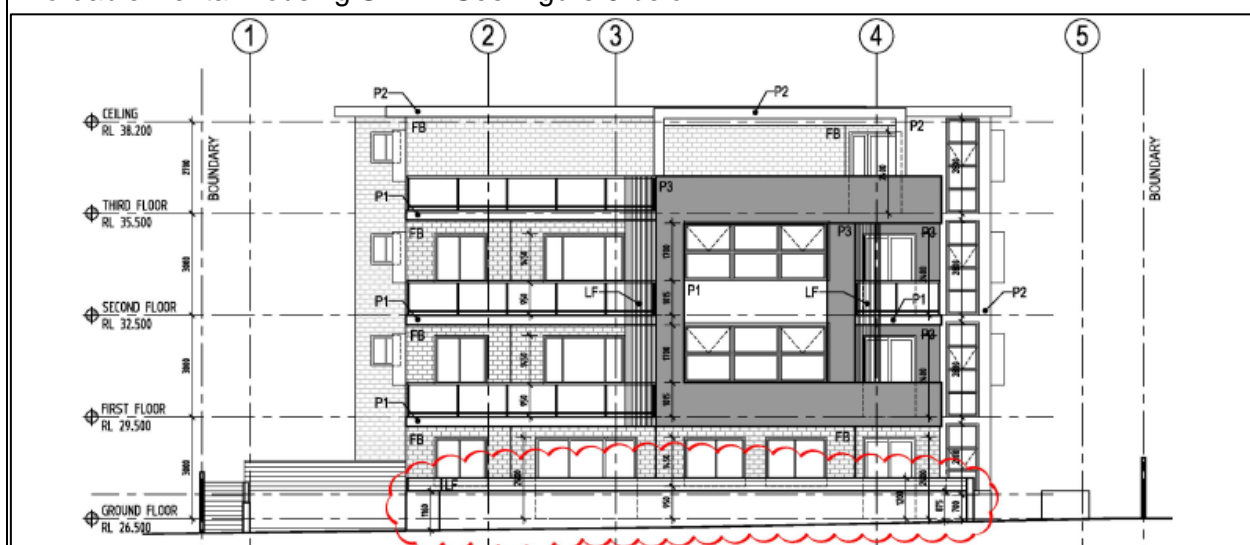


Figure 5: 161-163 Pennant Street – 4 Storey RFB – Affordable Housing

No. 165-167 Pennant Street is a 4 storey residential flat building comprising 19 units over basement parking approved under DA/940/2015. The application was assessed under the Affordable Rental Housing SEPP. See Figure 6 below:



Figure 6: 165-167 Pennant Street – 4 Storey RFB – Affordable Housing

No.12-14 Collett Parade is a 4 storey boarding house comprising 58 Rooms over one level of basement parking approved under DA/249/2019. The application was assessed under the Affordable Rental Housing SEPP. See Figure 7 below:



Figure 7: 12-14 Collett Parade – 4 storey Boarding House

In detail, the remaining detached dwelling house stock interspersed with multi-dwelling housing developments in the surrounding area retains its general character. The existing dwelling houses are generally setback between 6.5-7.5 metres with some variation depending on the age of the dwellings and orientations of the site.

In terms of the recently constructed residential flat building at No. 16-18 Collett Parade, it has an approved front setback of 3 metres to 5 metres.

Future Character

The future character of the area is best determined by consideration of the following:

- Planning framework that applied to the site under Environmental Planning Instruments and Development Control Plans, currently in force;
- Development Applications in the immediate area currently lodged with Council, and;
- Planning Proposals currently lodged with Council.

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

Zoning

Part 2 of the Parramatta LEP 2011 defined the zoning that applies to any given precinct or site. As shown in the figure below, the zoning of the site and around the affected property is R4 High Density Residential with a transitional area of R3 Medium Density Residential to the south-east and west, and R2 Low Density Residential to the north and north-west, under the Parramatta LEP 2011.

The current zoning to the south is SP2 Educational Establishment which forms part of the Western Sydney University campus.

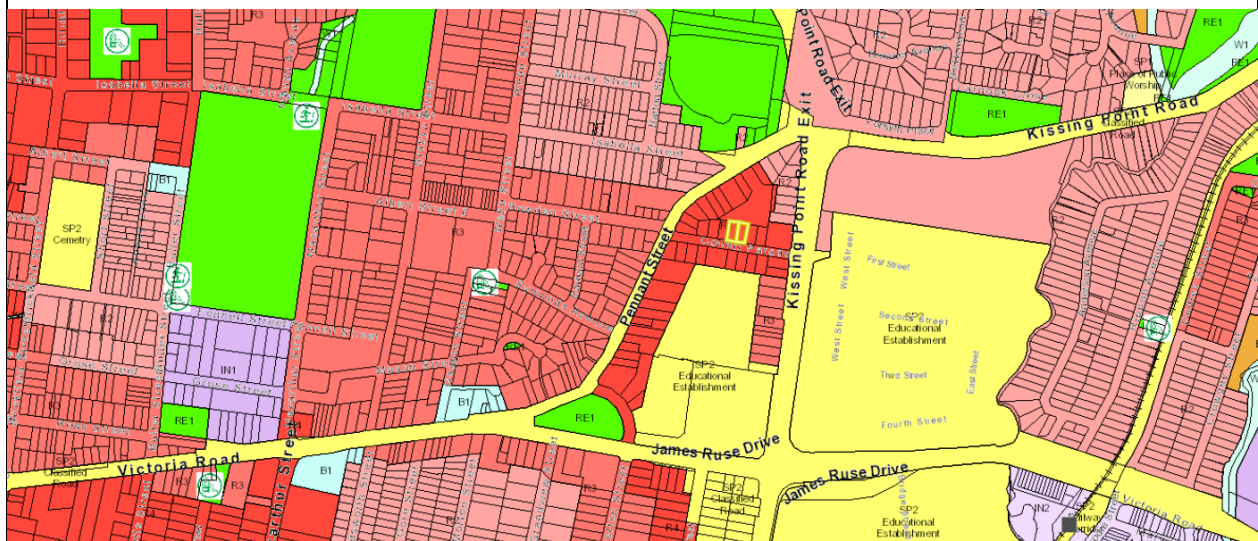


Figure 8: Zoning of the broader area

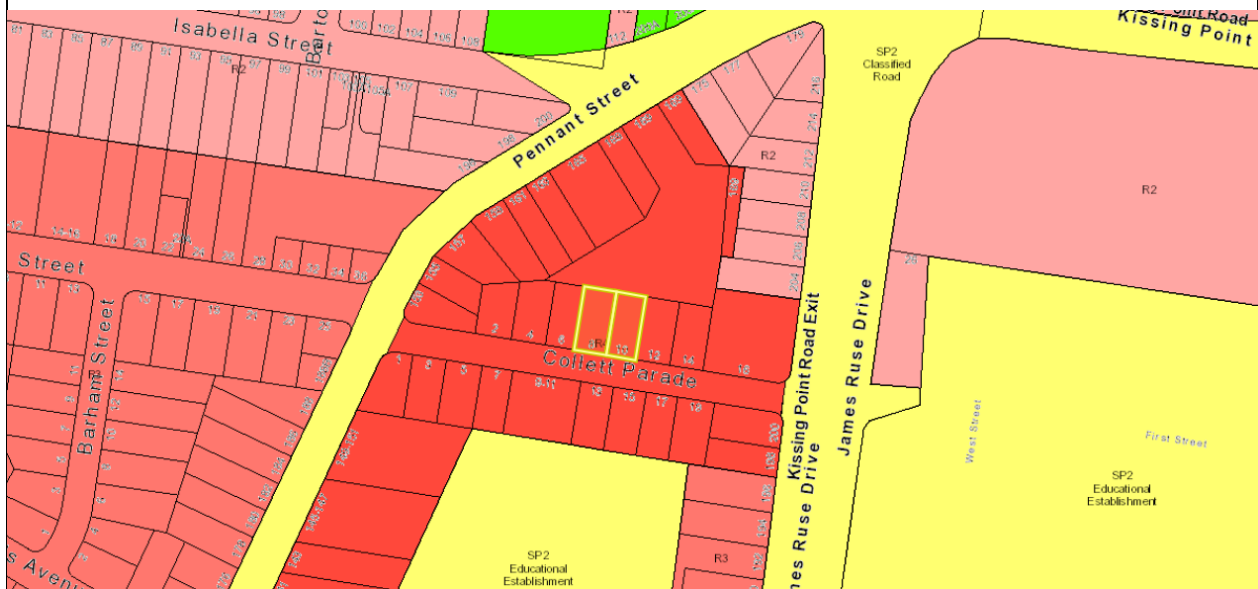


Figure 9: Zoning of the site.

Maximum Height and Maximum Gross Floor Area controls

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

The sites to the north and south of Collett Parade share this same height.

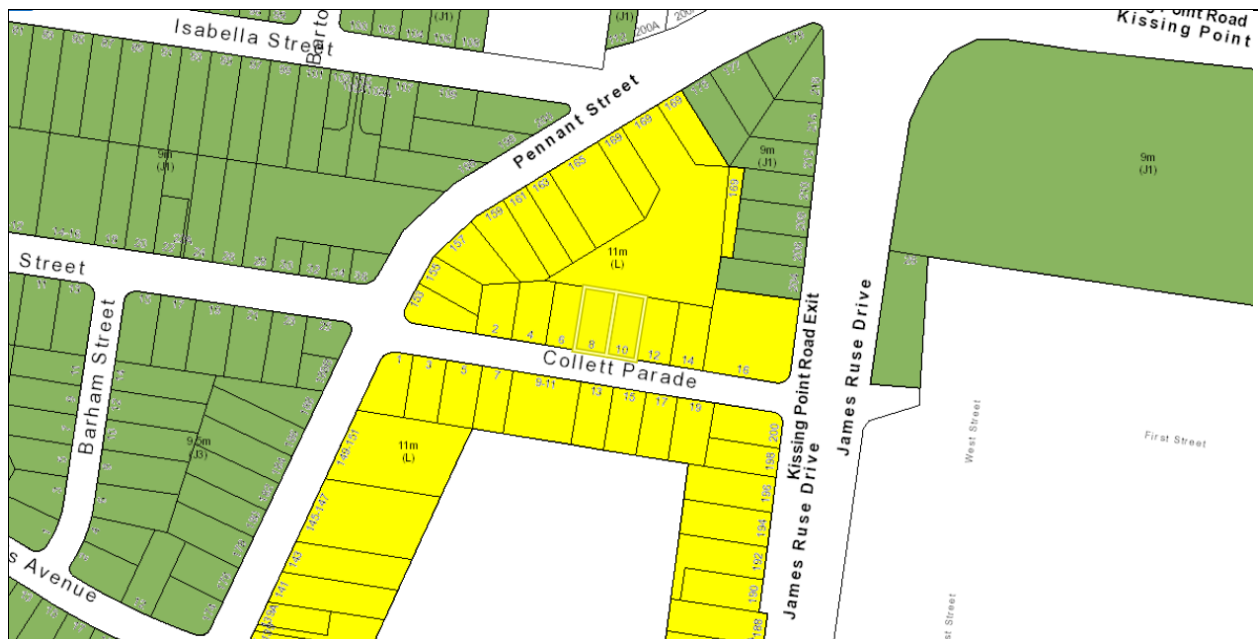


Figure 10: Extract of Building Height as per Parramatta LEP 2011.

Figure 11 below, shows the maximum floor space ratio in the area to be consistent with the relative zones and heights respectively.

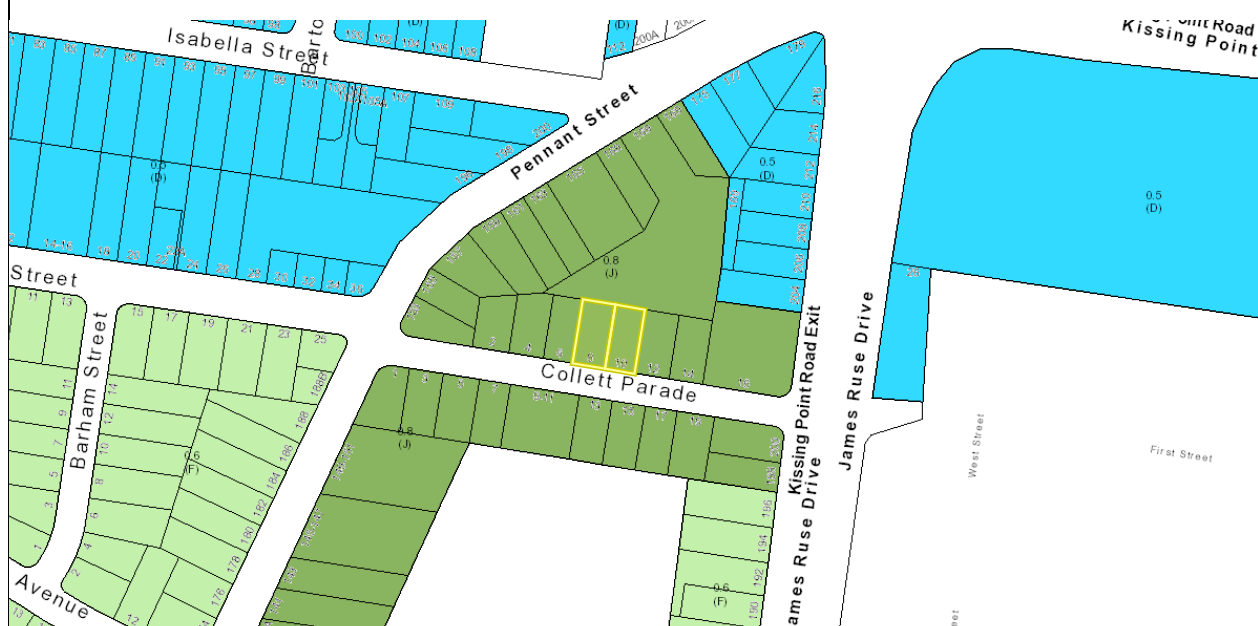


Figure 11: Extract of FSR as per Parramatta LEP 2011

The subject site has a maximum floor space ratio of 0.8:1 with reducing floor space ratios to the north and west towards the R2 and R3 zoned areas.

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

This control, along with the zoning and height controls, shows the subject site is likely to have development of a similar nature and scale to the sites around it, being a 3 storey residential flat building which is an increasing pattern in the area.

Setbacks and other building envelope controls

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

- 24 metre site frontage;
- A maximum of 3 storeys;
- A 5-9 metre setback to Collett Parade;
- Side setbacks of 4.5 metres to walls and 6m to windows as per the ADG; and
- Rear setback of 4.9m (15%).

The development form expected from the above is in the form of a low scale residential flat building in a landscaped setting.

RZ/22/2017 – Planning Proposal at No. 70 Pemberton Street, No. 260 & No. 260A Victoria Road, No. 178-184 & No. 190-200 James Ruse Drive and No. 15-19 Collet Parade, Parramatta (WSU Northern Parramatta Campus)

South of the 8-10 Collett Parade, the Council Officer preferred development scheme for the WSU Northern Parramatta Campus seeks the following amendments to the Parramatta Local Environment plan 2011:

- a. Rezone the land from part SP2 (Educational Establishment), part R3 Medium Density Residential and part R4 High Density Residential to part R4 High Density Residential, part B4 Mixed Use and part RE1 Public Recreation;
- b. Increase the maximum height of buildings from part 11m (3 storeys) and part no height control (SP2 land) to part 28m (8 storeys) and part 50m (15 storeys); and
- c. Increase the floor space ratio from part 0.6:1, part 0.8:1 and part no FSR control (SP2 land) to 1.4:1.

The site at 70 Pemberton Street, 260 & 260A Victoria Road, 178-184 & 190-200 James Ruse Drive and 15-19 Collet Parade, Parramatta is subject to the Parramatta LEP 2011, has a total land area of approximately 60,370m² (6.37ha).. The site is shown below in Figure 12:



Figure 12: WSU Northern Parramatta Campus Planning proposal site boundary

The planning proposal is seeking an increase to the permissible density on the site, with a proposed dwelling yield of up to 1,110 new dwellings (approximately 2,720 new residents). This will have a noticeable effect on the character of the area which currently contains lower density detached residential dwellings and is anticipated to eventually be redeveloped to residential flat buildings (3-4 storey - 11m), under the current zoning provisions. The University's proposed scheme along Collett Parade is included in Figure 13 below.

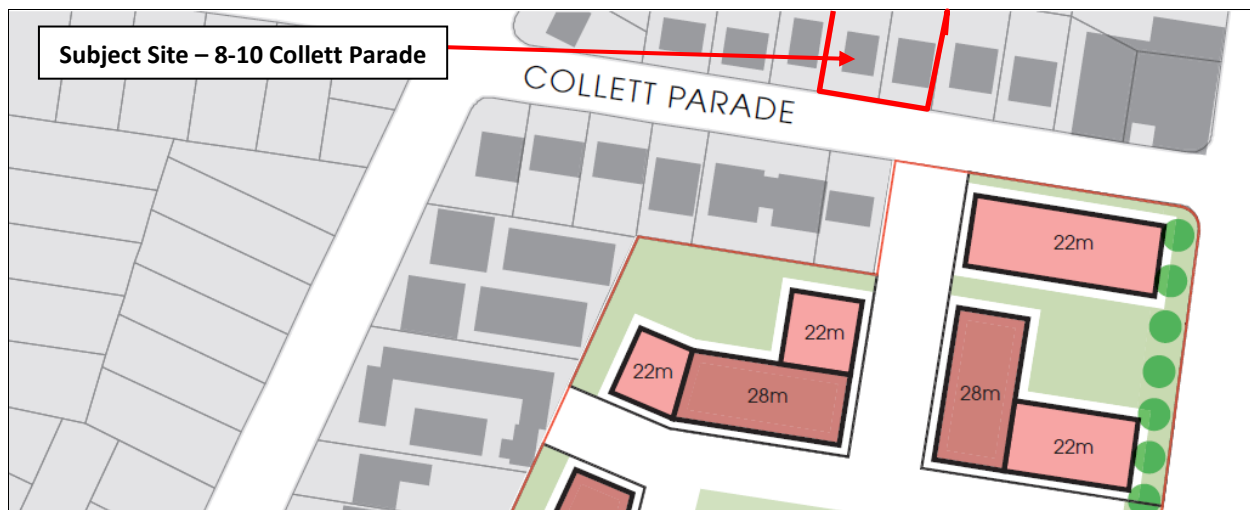


Figure 13: Applicant's proposed density along Collett Parade in the WSU Northern Parramatta Campus Planning Proposal

Council's strategic planners have assessed the planning proposal and the University's preferred scheme. Figure 14 shows Council Officer's preferred scheme.



Figure 14: Council officers' preferred density along Collett Parade in the WSU Northern Parramatta Campus Planning Proposal (height in storeys)

The Local Planning Panel has not endorsed either of the development scheme options, nonetheless, it is anticipated that Collett Parade will accommodate buildings at least 4 storeys within the WSU Planning Proposal site.

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

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

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

Physical impacts generally include privacy, overshadowing, visual bulk and compatibility in the streetscape.

The development does not have a detrimental impact on the privacy or solar access to the adjoining developments. The fourth storey does not result in unacceptable visual bulk to the adjoining residential developments and follows the existing and emerging streetscape by responding to the spatial characteristics of the existing urban environment.

It is considered that in the current environment, the site is not constrained by developments on the immediately adjoining sites as no applications have been lodged, or approvals granted, to high density residential developments to the western site, and the eastern site development has been recently approved with compliant side setbacks. The proposal provides compliant setbacks to the west and will not constrain any potential development on the western sites.

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

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

Historic and recent development in the precinct, and the planning controls applying to the precinct, seek a form of development where the buildings are multi-unit developments with appropriate setbacks between buildings. In this, building setbacks are particularly important in ensuring appropriate compliance is achieved.

A recurring theme in the approved developments is a breach in the height limit to accommodate a fourth storey. No. 16-18 Collett Parade and No. 12-14 Collett Parade are both 4 storey developments along with No. 161-163 Pennant Street and No. 165-167 Pennant Street also being 4 storeys. This sets a contextual pattern of 4 storey developments in the area.

The form proposed is consistent with the character. Though the proposal exceeds the maximum building height allowable for this site, if the development were reduced by one level in compliance with the Parramatta LEP and DCP 2011, the form would be dissimilar from the surrounding context.

An assessment of the nearby new developments confirm that they are all non-compliant with respect to building height. The 11 metre building height is considered insufficient for the emerging character of the area.

The site, being at the centre of Collett Parade, would provide continuity along the street when driving west along Collett parade. Due to the existing and approved residential flat building within both Collett Parade and Pennant Street, the additional height proposed would be very similar within the streetscape.

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

In summary, the development is generally compliant with the numerical controls of the ARH SEPP, while also meeting the character of the local area and is therefore supported.

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

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

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

Design Excellence Advisory Panel (DEAP)

The development application was considered by DEAP at its meeting of 6 June, 2019. The DEAP notes are provided below with the applicant's response to each item:

DEAP's Comment 7 February 2019	Applicant's Response 21 October 2019
1. <i>The panel understands this proposal is for social housing and is made pursuant to SEPP (Affordable Rental Housing) 2009.</i>	Noted
2. <i>It is currently proposed to install a diagonal ramp from existing footpath to the entry landing and this will require the removal of an existing established White Cedar tree. The panel is of the view that this tree should be retained and the ramp be repositioned or replaced by a platform lift.</i>	<p>It should be noted that the White Cedar is listed as an exempt species under Parramatta Development Control Plan 2011 and does not require approval for removal, as identified in the submitted Arboricultural Impact Assessment prepared by Redgum Horticultural.</p> <p>Nevertheless, retention of the existing tree was explored as part of the design development process, however given its position and large tree protection zone (TPZ) it was not considered viable.</p> <p>As shown on the submitted White Cedar Location Plan and Impacts of Development prepared by Susan Stratton Landscape Architect Pty Ltd, the proposed building footprint represents an encroachment of approximately 28% into the TPZ. Additional proposed works and services within the TPZ including the provision of an access ramp, substation, OSD and drainage works would further increase the impacts on this tree. Based on advice from the landscape architect and arboricultural consultant, the extent of encroachment into the TPZ and the necessary reduction of the canopy to accommodate the proposed building would pose a risk to the long term viability of the tree.</p>

	In this regard, the existing tree is proposed to be removed and replaced with compensatory tree planting in the front setback area as shown on the submitted Landscape Plan (Drawing No LA01, Revision C)
3. <i>Units 1 and 2 do have a small area of private open space (POS) adjacent to the footpath and entry to the building. The panel generally supports POS in these circumstances however believes that the POS allocated to Unit 2 should be altered to common open space and be mass planted. This is due to levels and the limited area available due to the hydrant booster cabinet.</i>	As shown on the revised Site Plan (Drawing No DA001, Revision G) the setback area in front of Unit 2 is proposed to be common landscaped space and will be mass planted with ground covers and shrubs, including advanced sized Syzigium 'Cascade' and Syzigium austral 'Resilience' as shown on the submitted Landscape Plan (refer to Drawing No LA01, Revision C). An Elaeagnus reticulatus (Blueberry Ash) feature tree is also proposed which is capable of reaching a mature height of 6m.
4. <i>The hydrant booster cupboard should be more integrated with the front fence so that it is not so apparent from the street.</i>	Based on advice from the consultant Fire Engineer, Innova Services Pty Ltd, the bunker protection to the hydrant booster assembly is not required given that a sprinkler system is proposed to be installed throughout the building. As shown on the revised Site Plan (Drawing No DA001, Revision G), the hydrant booster has been relocated to align with the wall adjacent to the entry stairs and will be screened by landscaping to minimise its visual impact on the streetscape. It should be noted that conversion of the front setback area from private open space to common landscaped area has negated the need for a fence along the front boundary.
5. <i>The common open space is limited being below what is required SEPP (Affordable Rental Housing) 2009, Parramatta DCP 2001 and SEPP 65 and has no facilities such as BBQ or shade structures typically required in residential developments. The applicant (Dept of Housing) advised that in their experience these spaces are not easy to control and can be abused. As a result, they no longer provide them. The panel accepts this approach in this instance.</i>	Noted
6. <i>For the same reason, the applicant will not revert the ground floor common open space to private use for the ground floor units and will not provide rooftop common open space.</i>	Noted

<p>7. <i>The applicant has provided a detailed landscape plan and advised that all of the landscaped common open spaces will be maintained by independent contractors. The Panel accepts that the landscape proposal incorporates some larger trees and shrubs, which will provide substantial screen planting to the north, west and eastern boundaries when mature. However, the appropriate details for large trees in deep soil planting have not been provided and should be incorporated in the landscape plan</i></p> <p><i>Further consideration should be given to the choice of species and location of the trees along the northern boundary (e.g. compatibility and proximity between the Acer rubrum and Harpulia)</i></p>	<p>Details for large trees in deep soil planting have been included on the revised Landscape Plan (refer to Drawing No LA02, Revision C).</p> <p>The proposed Harpulia pendula (Tulipwood) located in the north western corner and along the northern boundary of the site have been substituted with a smaller species, Elaeocarpus reticulatus (Blueberry Ash) to reduce potential for conflict of canopies (refer to Landscape Plan, Drawing Nos LA01 and LA02, Revision C). The Elaeocarpus and Harpulia species are both evergreen. The Acer Rubrum (Bowhall Maple) proposed along the northern boundary are deciduous and will allow for solar access to the site during the winter months.</p>
<p>8. <i>Given the recommendations made in Point 2 the panel recommends the entry be reconsidered to provide improved amenity. It is currently considered too narrow and to be visually dominated by the twin external fire egress doors. A slight reduction in the 6m setbacks may assist here subject to discussion with Council.</i></p>	<p>As shown in the revised plans and elevations, the building entry has been reconfigured to emphasise the main entry door (refer to Basement & Ground Plans, Drawing No DA100, Revision H and Elevations North & South, Drawing No DA200, Revision G). The main entry door has been brought forward in line with the fire egress doors, which are proposed to be coloured to match the adjacent bricks in order to be unobtrusive.</p>
<p>9. <i>Projecting windows bays that capture northern light for unit 1 and Unit 2 should be considered to improve amenity. This will also have minor impact on the side setbacks</i></p>	<p>The provision of a projecting window bay was not considered feasible given the location of Unit 2 adjacent to the driveway. Additional highlight windows have been provided to the living rooms of Units 1 and 2 to improve solar access and amenity (refer to Basement & Ground Plans, Drawing No DA100, Revision H, and Elevations East & West, Drawing No DA201, Revision G).</p>
<p>10. <i>Unit 6 and 10 internal layout to be reconfigured so that the bedrooms are adjacent to the bathroom to avoid having to go through the living room to get to a bathroom</i></p>	<p>It is considered that the portion of the living room that is required to be traversed in order to go from the main bedroom to the bathroom in Units 6 and 10 functions as a circulation space and does not form the central part of the living room. The architect explored alternative layouts for these units and concluded that the proposed configuration was the most functional and efficient use of space.</p>

11. <i>Unit 1 is currently 48sqm therefore under the 50sqm minimum set by SEPP (Affordable Rental Housing) 2009. Considering Point 9 above may assist in improving this condition.</i>	As shown in the revised floor plans, Unit 1 has been increased to 50sqm by shifting the front wall of the dwelling forward by 200mm (refer to Basement & Ground Plans, Drawing No DA100, Revision H). The size of upper floor units above Unit 1 (ie Units 5, 9 and 13) have also increased as a result of the repositioning of the wall. The proposed increase to the dwelling size of Unit 1 results in a minor reduction in the size of the associated balcony, from 15sqm to 14sqm. The setback to the ground floor balcony of Unit 1 remains unchanged, however the upper floor balconies of Units 5, 9 and 13 have a proposed front setback of 4m.
12. <i>The panel notes the finishes palette selected for the proposal and would prefer a lighter expression for the building as the current proposal is considered too dark.</i>	The proposed external colours and finishes have been revised as shown on the amended Colour Schedule (Drawing No 202, Revision G). The proposed face brick and metal wall cladding finishes have been selected to provide a lighter expression for the building in response to the DEAP's comments.

Planners Comments:

The panel raised no comment or objections towards the height variation proposed by the development.

All the issues brought up by the Design Excellence Advisory Panel have been addressed.

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

Design Quality Principles

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

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

Table 4: Response to SEPP 65 design principles

Principle
<p>Context and neighbourhood character</p> <p>It is noted that a residential flat building development with an appropriate scale and appropriate design could meet the context and neighbourhood character of the precinct. The proposed</p>

development, being a residential flat building, meets this principle, notwithstanding its noncompliance with the controls of the Parramatta LEP and Parramatta DCP regarding its height.

Built form and scale

The proposed scale, bulk and height is considered appropriate for the area. The proposal does exceed the maximum building height allowable under the Parramatta LEP, however, the additional height is in character with the current and emerging context.

The site is bound to the north by the Church of Jesus Christ of Latter-Day Saints, whose adjoining boundary contains parking spaces and a basketball court. To the east, the site is currently bound by residential dwellings, however, 12-14 Collett Parade has been approved for a 4 storey boarding house. To the south and west, the site is bound by residential dwellings and local roads.

It is considered that the site is not significantly restricted, however, to similarly achieve a comparable built form to the current and emerging context, the exceedance of the building height development standard is necessary.

The proposal does appropriately address the constraints of the site and is of an acceptable scale envisioned for the area.

Density

The proposed density on the site is appropriate in the context as the proposal achieves a high level of amenity for the residents.

With the WSU planning proposal across the street from the subject site, the area is experiencing an increase in population growth. The proposed residential apartment's density responds to this population growth.

The site has access to public transport in the form of a bus stop on Pennant Parade that is a direct connection the Parramatta CBD. The site is also an 8 minute walk to local shops located south of the subject site on the corner of Victoria Road and Pennant Street.

Sustainability

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

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

Landscape

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

The application adequately meets the requirements of the Landscaping Principle.

Amenity

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

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

The common internal circulation corridors are legible without many corners.

The development is considered to achieve the Amenity Principle.

Safety

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

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

The development is considered to achieve the Safety Principle.

Housing Diversity and Social Interaction

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

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

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

Aesthetics

The residential apartment buildings in the surrounding context are approved and built at 4 storeys. The proposed building with a height noncompliance of one storey results in a building proportional with the nearby developments.

The use of robust materials such as masonry and metal cladding present a muted palette with a proportionally designed building that responds to the context achieves the Aesthetic Principle.

Apartment Design Guide

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

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

Table 5: Response to ADG

Apartment Design Code			
Subject	Control	Proposal	Compliance
Communal Open Space (COS)	25% (253.5m ²) of site Developments achieve a min. of 50% direct sunlight to the principal useable part of the COS for a min. 2 hours between 9am and 3pm, mid-winter.	(32.1%) 325.4m ² Communal Open Space provided. The COS will receive more than 3 hours during the winter solstice	Yes
Deep Soil Zones	7% (71m ²) of site Min. dimensions of 3m 10% (101.4m ²) deep soil encouraged given the size of the site and context.	Plans indicate deep soil areas primarily at the rear of the site Total provided: 11.2% (113.9m ²)	Yes

Visual Privacy/ Building Separation				<u>North</u>	Yes
Building Height	Habitable to Habitable	Non-habitable to Habitable	Non-habitable to Non-habitable	<u>East</u>	
up to 12m (4 storeys)	12m	9m	6m	6m to boundary	
				<u>West</u>	
				6m to boundary	
Parking	The site is more than 800m walking distance a railway station and the DCP rates apply: Total Bicycle: 8 spaces Total Car Parking: 19 residential spaces + 4 visitor spaces			8 car parking spaces No visitor spaces No bicycle spaces.	No The noncompliance with the DCP is acceptable since the ARH SEPP prevails.
Solar Access	Living rooms and private open space of at least 70% of apartments in a building receive a min. 2 hours of direct sunlight between 9am and 3pm on 21 June A max. of 15% of apartments in the building receive no sunlight between 9am and 3pm at mid-winter			12/16 apartments receive 2 hours (75%) All units receive some sunlight	Yes
Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building			12/12 apartments are naturally cross ventilated (100%)	Yes
Ceiling Heights	Habitable rooms 2.7m Non-habitable 2.4m			Section and floor plans indicate a floor-to-floor height of 3100mm. Floor to ceiling heights are 2.9m with the third floor potentially being 2.7m depending on how services are installed	Yes
Apartment Size & Layout	1 bedroom 50m ² 2 bedroom 70m ²			1 bedroom 50m ² (min.) 2 bedroom 73m ² (min.)	Yes
	Master bedrooms have a min. size of 10m ² & other bedrooms 9m ² (excluding wardrobe space) Min dimension 3m			Bedroom sizes achieve the minimum dimensions and sizes.	Yes

	Living rooms or combined living/dining rooms have a minimum width of: - 3.6m for studio and 1 bedroom apartments. - 4m for 2 and 3 bedroom apartments.	All minimum dimensions provided	Yes
Noise and Pollution	Rooms with similar noise requirements are grouped together	Bedrooms are located away from the living rooms of adjoining apartments. Noise attenuation requirements in the BCA would additionally aid in the mitigation of noise.	No But acceptable
Private open space and balconies	All apartments are to have primary balconies as follows: 1 bedroom: 8m ² , min. 2m depth 2 bedroom: 10m ² , min. 2m depth 3 bedroom: 12m ² , min. 2.4m depth	All units achieve the minimum dimensions	Yes
	Ground floor units are to have private open space as follows: 15m ² , min 3m depth	Units 3 and 4 on the ground floor have access to adequate private open space Units 1 and 2 are not provided with Private open space.	Yes
Common Circulation	Max. number of apartments off a circulation core on a single level is 8.	Max. 4 apartments accessed of a dual lift/stair core per level	Yes
Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is required: Studio: 4m ³ 1 bedroom: 6m ³ 2 bedroom: 8m ³ 3 bedroom: 10m ³	Adequate storage provided to each unit.	Yes

In summary, the development is generally compliant with the numerical controls of the ARH SEPP, while also meeting the character of the local area and is therefore supported.

3.8 Parramatta Local Environmental Plan 2011

3.8.1 Zoning and permissibility

The Site is zoned R4 'High Density Residential'.

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

3.8.2 Zone objectives

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

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

The proposed development, being a residential flat building incorporating affordable housing, provides for the housing needs of the community. The development does exceed the envisioned building heights as expected by both the Parramatta LEP and Parramatta DCP, however, with the surrounding context at a similar bulk and scale, the development is considered to be commensurate with the surrounding high density residential environment.

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

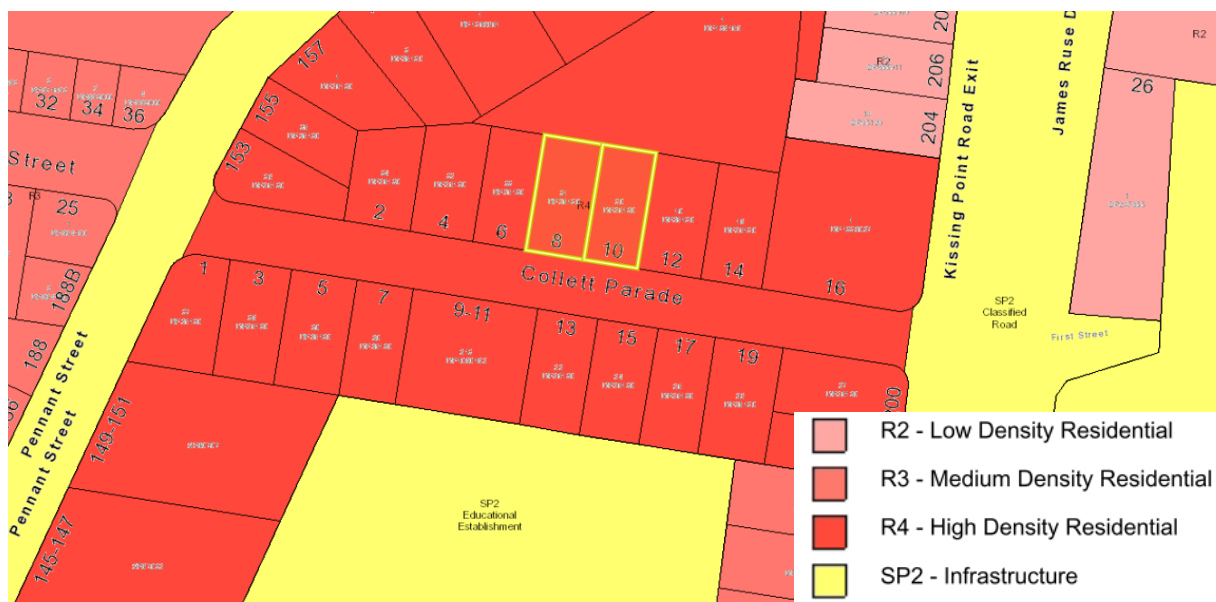


Figure 15: Extract of the current PLEP Zone Map. Source: Geocortex

3.8.3 Remaining provisions

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

Table 6: PLEP 2011 compliance table

Clause	Comment	Complies
Clause 2.7 Demolition	The application includes the demolition of all existing improvements on the site.	Yes
Clause 4.3 Building height	The mapped control is 11m. The building would have a maximum height of 14.01 metres. Variation = 3.01 metres or 27.36%	No See further discussion below
Clause 4.4 Floor space ratio	Maximum FSR 0.8:1 which equates to 811.2m ² of gross floor area. The building has an FSR of 1.188:1 which equates to 1205m ² of GFA. An FSR bonus of up to 0.5:1 is provided under SEPP (ARH).	Yes
Clause 4.6 Exceptions to standard	The application relies upon this clause to allow the exceedance of the height as noted above. See assessment following at the end of this table.	Yes
Clause 5.1 Relevant acquisition authority	No land acquisition applies to the land.	N/A
Clause 5.6 Architectural roof features	An architectural roof feature is not proposed.	N/A
Clause 5.10 Heritage	The site is not a listed heritage item, nor is it within a conservation area. No heritage items in the immediate locality.	N/A
Clause 6.1 Acid sulphate soils	The site is identified as Class 5 on the PLEP2011 Acid Sulphate Soils Map. An Acid Sulphate Soils Management plan is not required to be prepared.	N/A
Clause 6.2 Earthworks	Consideration of potential impacts upon drainage patterns have been considered by Council's Development Engineer, who is satisfied the works can be managed without adverse impact. Site works will not prejudice the future development of any adjoining land, or the amenity of that land. Issues relating to soil quality are addressed via considerations of SEPP 55 No circumstances identified to indicate potential for disturbing relics.	Yes

Clause 6.3 Flood Planning	The site is not identified by council as being flood prone.	N/A
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3.8.4 Clause 4.3 Height of Buildings

Clause 4.3 of the Parramatta LEP 2011 provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 11m. The application proposes a maximum height of 14.01m. The application was accompanied by a Clause 4.6 Statement which is discussed below.

LEP Height of Building	Proposed Height	Exceedance
11 metres	14.01 metres	3.01 metres or 27.36%

3.8.5 Clause 4.6 Exceptions to development standards – Building Height

Clause 4.3(2) of the Parramatta LEP 2011 identifies a site on which a building is to be erected shall not exceed 11 metres in height. The application proposes a maximum building height of 14.01 metres, which is a variation of 3.01 metres or 27.36%. See Figure 16, 17, 18 and 19 below:



Figure 16: Extract of Southern, front elevation showing areas of non-compliance

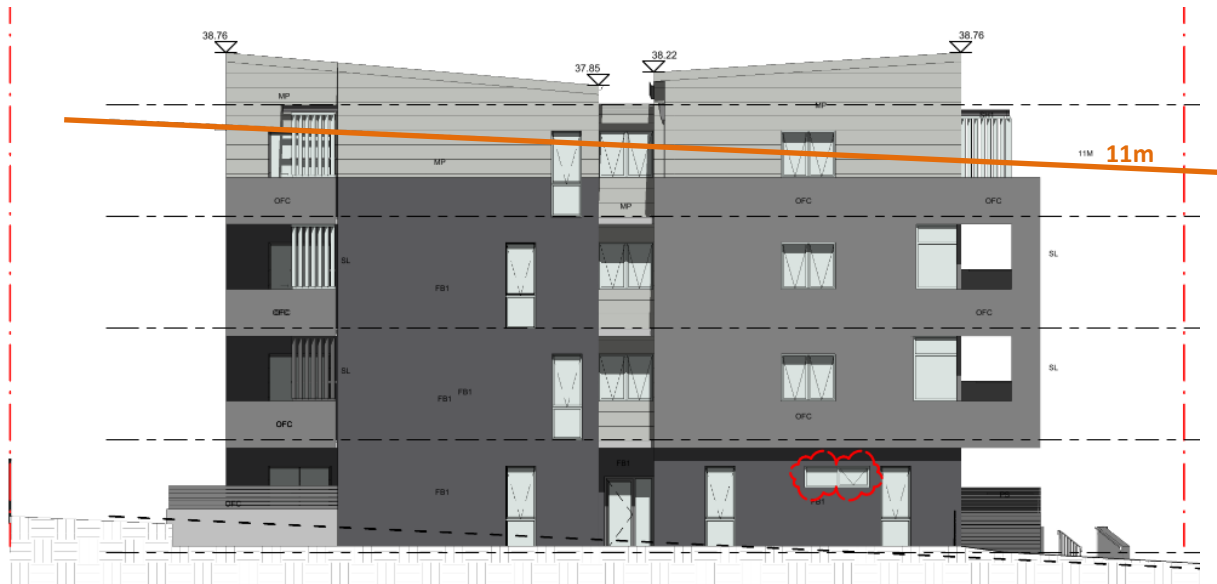


Figure 17: Extract of Western, side elevation showing the area of non-compliance.



Figure 8: Extract of East West Section showing exceedance in building height.



Figure 19: Extract of North South Section showing exceedance in building height.

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

The objectives of Clause 4.6 are as follows:

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

Clause 4.6(3) prescribes

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

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

- *The proposed development reflects the existing scale of surrounding residential flat buildings and will contribute to the high density housing scale of this area of Parramatta.*

The design, scale and materiality of the proposed development is consistent with the character of the locality.

- *The proposed development responds to the existing height of high density housing developments in the area.*
- *The proposed development provides a future transition in height to the properties north and west of Collett Parade. With the WSU Planning proposal currently at council, a reasonable transition in height will be needed between the potential 7 storey developments and the lower density areas around Collett parade.*
- *Overshadowing impacts the adjacent property to the west and east by overshadowing their front setbacks during the morning and afternoon respectively, however it will not restrict the property from receiving at least 3 hours of solar access throughout the day.*
- *The building height non-compliance is therefore necessary to achieve a social housing development to the maximum density under the controls. The portion of the building above the 11m height largely comprises of wall, ceiling area and roof form of four (4) apartments only. The additional height above the 11m control is required to achieve a full habitable floor with appropriate ceiling heights, as required by SEPP 65 and the ADG.*
- *The proposed development provides for ceiling heights for habitable and non-habitable rooms in accordance with minimum requirements under the ADG. The proposed minimum floor-to-floor height will be 3.1m, which satisfies the recommended 2.7m minimum habitable room ceiling height and 2.4m minimum non-habitable room ceiling height.*
- *It is considered that the development is consistent with this objective as the development has been designed to minimise visual impacts, privacy impacts, and loss of solar access on the residential property to the south and will not be noticeably different when compared to a development scheme under the 11 metre height control.*

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

- The elevation and sections plans in Figures 17, 18, 19 and 20 above, illustrates that the exceedance includes almost the entirety of the fourth floor towards the front of the site with less of an exceedance as the building approaches the rear due to the natural ground level.
- Using the finished floor level of the fourth storey as a guide (RL34.200), the building would be fully compliant being at least 1.4 meters below the 11m height limit if it were 3 storeys.
- It is acknowledged that the City of Parramatta's Design Excellence Advisory Panel raised no design objection to the fourth floor.
- The recently approved eastern neighbour and already built residential apartment buildings in the area are all 4 storeys in height with exceedances above the 11m height limit.

- The redevelopment of the southern sites under the WSU Planning proposal may result in building heights of 4-8 storeys.

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

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

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

Compliance with the development standard is reasonable or unnecessary because

- (a) the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- (b) the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
- (c) the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
- (d) the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; or
- (e) "the zoning or particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would be unreasonable or necessary"

The objectives of Clause 4.3 of the Parramatta LEP 2011 are:

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

The relevant objectives of Clause 4.3 are emphasised above. The remaining objectives relate to historic precincts, low density residential environments, and commercial centres.

In consideration of the first objective, the context of the site within the Height of Buildings Map is required:

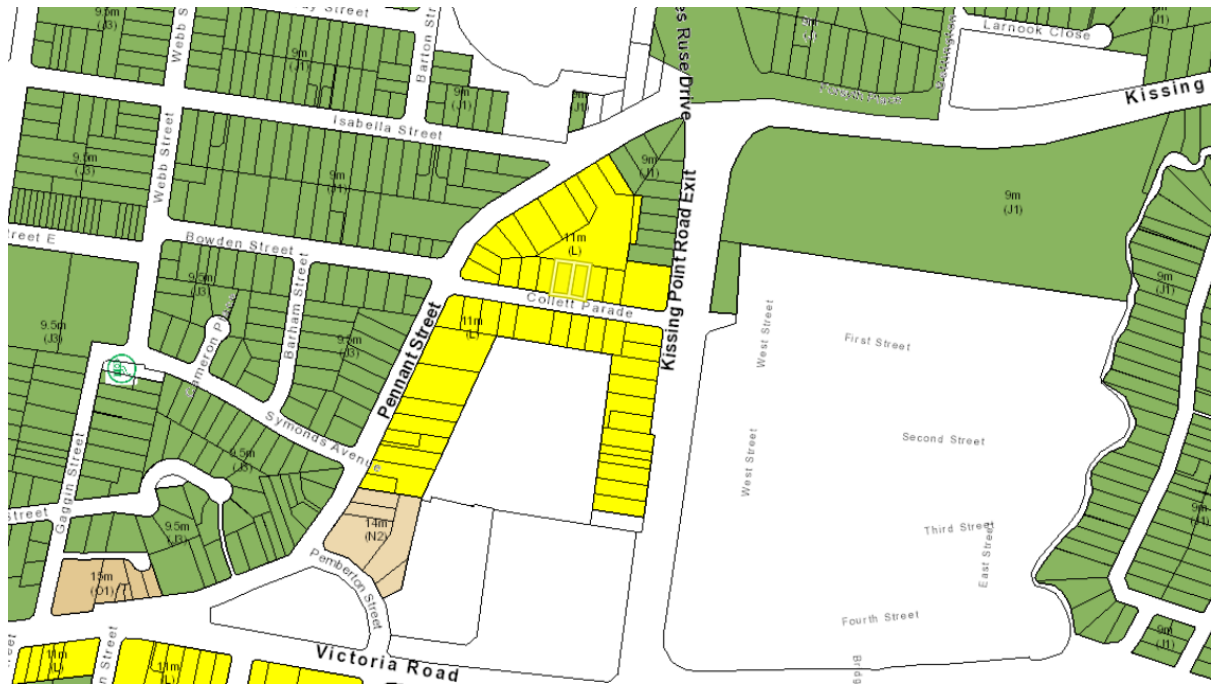


Figure 20: Extract of Height of Buildings Map. The subject site is located in the middle of Collett Parade

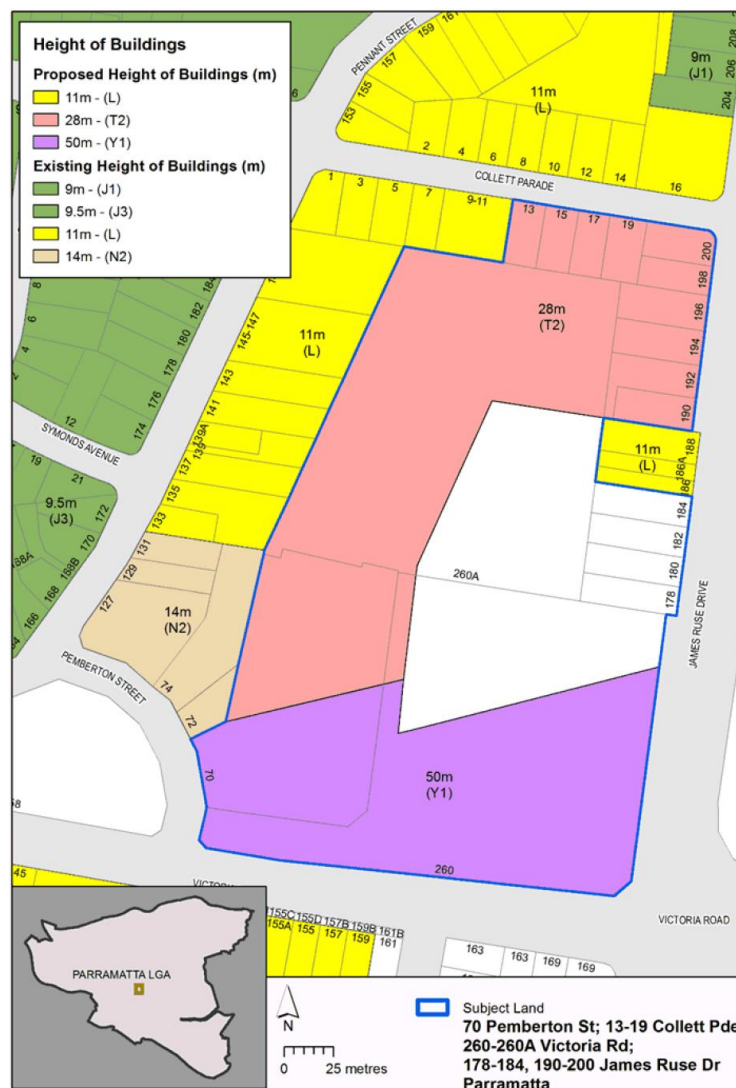


Figure 21: Extract of Height of proposed Buildings Map under the WSU planning proposal.

While the current height map shows the sites along Collett Parade being attributed with a maximum allowable height of 11m, the current Council Officer recommended version of the WSU Planning Proposal seeks to permit an allowable height of 28m directly south of the Subject site. The building heights, when compared with the zoning maps, indicate that the northern and south-eastern sites along Collett Parade are utilised as transition zones to the surrounding R2 low density residential and R3 medium density residential zones that adjoin the planning proposal site.

The proposed additional height is in the appropriate location to provide a transition in built form and land use intensity between the developments, and potential developments, to the south and the low to medium density development to the north and west.

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

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

- The development achieves more than the required building separation distances as required by the ADG;
- The shadow diagrams provided indicate that the overshadowing impacts as a result of the additional height are towards Collett Parade with adjoining properties able to achieve adequate solar access; and
- The subject site and the surrounding properties do not benefit from significant views or historic views which require protection.
- The additional fourth storey will not create further visual impacts when compared to a three storey development
- The additional fourth storey will not be obvious within the built form of the area.

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

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

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

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

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

In this instance, the applicant’s justification for the contravention of Clause 4.3 relies on the existing and recently approved developments in the area that contravene the 11m height limit. With further developments in the surrounding context being approved at a 4 storey height, and the proposed residential flat building being compliant on the remaining environmental planning grounds, the argument is reasonably justified and acceptable.

The applicant’s justification also relies partially on the provision of social housing stating “The proposed building height exceedance will enable the provision of four (4) social housing dwellings (out of a total of 16 apartments) and therefore will have a positive social impact.” When taking the aims and objectives of *Parramatta Affordable Housing Policy*, the NSW Government’s *Plan Future Directions for Social Housing in NSW*, the *Greater Sydney Region Plan 2018*, and the *Central City District Plan 2018* into consideration,

In this instance, Council is satisfied that applicant’s Clause 4.6 Statement adequately addresses the matter in Clause 4.6(3) of the Parramatta LEP and has provided a suitable argument as why the standard is unreasonable and unnecessary in this case or demonstrate sufficient environmental planning grounds to justify contravening the Height of Building development standard.

4. Parramatta Development Control Plan 2011

4.1 Overview

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

CONTROL	COMPLIANCE	DISCUSSION
2.4.1 Views and Vistas		
<i>Preserve significant features and areas of high visibility</i>	N/A	The site is not identified as containing significant views.
2.4.2.1 Flood affectation		
	N/A	The site is not identified as flood affected.

CONTROL	COMPLIANCE	DISCUSSION
2.4.2.2 Protection of Waterways <i>Does the site adjoin a waterway?</i>	N/A	The site does not adjoin a waterway.
2.4.2.3 Protection of Groundwater <i>Is a basement car park proposed?</i>	Yes	The proposed development will not adversely affect the groundwater.
2.4.3.1 Soil Management <i>Are there adequate erosion control measures?</i>	Yes	An erosion and sedimentation plan has been submitted with the application.
2.4.3.2 Acid sulfate soils	Yes	Refer to LEP discussion above.
2.4.3.3 Salinity <i>Moderate, high or known salinity potential?</i>	Yes	The site is of low salinity potential and accordingly salinity is unlikely to impact on the development. The landscaping is appropriate for the salinity hazard and appropriate conditions have been included in the recommended conditions.
2.4.4 Land Contamination	Yes	Refer to assessment under SEPP 55 heading.
2.4.5 Air Quality <i>Will demolition and construction contribute to increased air pollution?</i>	Yes	Standard conditions of consent will be applied to ensure the minimisation of potentially harmful airborne emissions.
2.4.6 Development on Sloping Land. <i>Does the design of the development appropriately respond to the slope of the site?</i>	Yes	The site experiences a gentle slope to the rear. The development does not include any significant excavation within the habitable floors of the development to response to the slope.
2.4.7 Biodiversity <i>Is vegetation removal appropriate?</i>	Yes	Council's Landscape Officer has assessed the following application and is supportive of the proposed tree removal, subject to conditions of consent.
2.4.7.2 Does the land abut the E2 Environmental Protection zone or W1 Natural Waterways zone	Yes	The site does not adjoin land zoned E2 or W1.
2.4.8 Public Domain <i>Does the building address the public domain, provide appropriate passive surveillance opportunities, and have appropriate public domain enhancements?</i>	Yes	The proposal adequately addresses Collett Parade. No specific public domain updates are proposed.
3. Preliminary Building Envelope		
Frontage Minimum 18m if the development is more than 10 metres in height.	Yes	31.09m frontage.

CONTROL	COMPLIANCE	DISCUSSION
Height (refer also to LEP table) <i>Does the proposal exceed the number of storeys outlined in the DCP height table?</i>	No	Please refer to Clause 4.6 variation under PLEP 2011 discussion.
Front Setback Ground floor consistent with predominant street setback? Residential component to be set back an additional two metres.	Yes	The front setback is consistent with the prevailing front setback of the existing and recently approved developments in Collett Parade.
Side Setback Dependent on amenity impacts on adjoining developments.	Yes	Please refer to ADG discussion for side setbacks.
Deep Soil and Landscaping Required to the rear setback if the site adjoins residential development or otherwise on merit.	Yes	Refer to previous ADG assessment.
3.2. Building Elements		
3.2.1 Building Form and Massing <i>Height, scale and bulk consistent with existing or planned building patterns in the street?</i>	Yes	The proposed height, scale and bulk is consistent with the existing and planned building patterns in the street.
3.2.2 Building Façade and Articulation <i>Does the building exceed the building envelope by more than:</i> <ul style="list-style-type: none"> 800mm for balconies and eaves: 600mm for Juliet balconies and bay windows Are the building facades modulated in plan and elevation to reduce building bulk? Are Multiple stair lift/cores provided to encourage multiple street entries?	Yes	The façade of the development includes multiple elements and is well modulated.
3.2.3 Roof Design <i>Does that roof form minimise the bulk and scale of the building, and respond to the existing or planned form?</i>	Yes	The roof itself does not unnecessarily add to the bulk and scale of the development and is consistent with the existing and planned form of the area.
3.2.5 Streetscape <i>Does the development respond to the existing or planned character of the street?</i> <i>Are garages and parking structures dominant?</i>	Yes	The proposed development, being a four storey structure, does meet existing or planned character of the street. The underground basement is not dominant in the streetscape.

CONTROL	COMPLIANCE	DISCUSSION
<p><i>Are pedestrian or vehicular laneways activated?</i></p> <p><i>Are the mail boxes visually integrated within the built form and conveniently accessed?</i></p> <p><i>Does the development provide for active non-residential uses with at grade pedestrian access?</i></p> <p><i>Minimal solid walls used on the ground floor shop front.</i></p>		<p>Yes</p> <p>N/A</p> <p>N/A</p>
<p>3.2.6 Fences</p> <p><i>Front fence a maximum height of 1.2 metres?</i></p>	N/A	The application does not propose a fence on the front boundary.
3.3 Environmental Amenity		
<p>3.3.1 Landscaping</p> <p><i>Natural features retained and incorporated?</i></p> <p><i>Minimum soil depth of 1m provided above basement?</i></p>	Yes	There are limited natural features existing on the site to be preserved. The proposal provides sufficient deep soil landscaping as per the ADG.
<p>3.3.2 Private Open Space</p> <p><i>Minimum of 10m² private open space with minimum dimensions of 2.5m per unit?</i></p>	Yes	The proposal provides sufficient private open space per unit as per the ADG.
<p>3.3.2 Common Open Space</p>	Yes	Refer to previous ADG assessment.
<p>Swimming Pool</p>	N/A	A swimming pool is not proposed.
<p>3.3.3 Visual Privacy</p> <p><i>Do balconies face the street or another element of the public domain such as a park?</i></p> <p><i>Is a minimum building separation of 12m provided between habitable rooms/ balconies?</i></p>	Yes	<p>Balconies face the front and rear boundaries of the subject site.</p> <p>Habitable rooms and balconies are setback 6m from the boundary resulting in 12m separation between buildings.</p>
<p>3.3.4 Acoustic Amenity</p> <p><i>Does the dwelling adjoin a noise-generating land use?</i></p>	Yes	The site does not adjoin a noise generating land use..
<p>3.3.5 Solar Access</p> <p><i>Will adjoining properties receive a minimum of 3 hours sunlight to habitable rooms and 50% of their private open space areas between 9am and 3pm on 21 June?</i></p>	Yes	Complies

CONTROL	COMPLIANCE	DISCUSSION
Cross Ventilation		
Minimum floor to ceiling height ground (3.3 metres) and upper levels (2.7m)	Yes	Achieves the requirements of the ADG.
<i>Are 80% of dwellings naturally cross ventilated?</i>		See previous ADG assessment.
<i>Are single aspect apartments limited in depth to 8m from a window?</i>		
<i>Does the building have a maximum depth of 18m?</i>		
3.3.6 Water Sensitive Urban Design <i>On-site detention system appropriately designed?</i>	Yes	See Engineers comment in Referrals section.
3.3.7 Waste Management		
<i>Is the waste management plan satisfactory?</i>	Yes	Yes, a satisfactory waste management plan has been provided
<i>Is the bin room appropriately sized for the number of bins required?</i>		
<i>Will a private contractor be required to minimise bins on the street for pickup?</i>		
3.4 Social Amenity		
3.4.1 Public Art	N/A	A Public Arts Plan is not provided.
3.4.2 Access for People with disabilities. <i>Does the development contain adequate access for people with a disability?</i>	Yes	Proposal contains three (3) adaptable units and suitable internal pathway grades. The proposal provides adequate access for people with disabilities.
3.4.4 Safety and Security <i>Has the development been designed in accordance with crime prevention principles?</i>	Yes	The orientation of the building and location of living spaces and balconies allows for passive surveillance of Collett Parade. A clear pedestrian entry allows for a more navigable development.
3.4.5 Housing Diversity and Choice Is the unit mix in accordance with the following: 3 bedroom 10% - 20% 2 bedroom 60% - 75% 1 bedroom 10% - 20% Adaptable dwelling provision Less than 10 units = 1 10-20 units =2	No But acceptable	Provided - 6 x 1 bedroom units (37.5%) 10 x 2 bedroom units. (62.5%) The demand requirements of the NSW LAHC indicate a deficit in single and two bedroom social housing units.

CONTROL	COMPLIANCE	DISCUSSION
More than 20 units = 10%		
3.5 Heritage and Archaeology The site is not within a heritage conservation area or in the vicinity of a heritage listed item.		
3.6.2 Sustainable Transport <i>Is a publicly accessible car share parking space required and provided, with evidence of an offer to car share providers?</i>	Yes	No shared parking space provided.
3.6 Parking Provision <i>Required parking:</i> 1 space per 1 bedroom 1.25 spaces per 2 bedroom 0.25 visitor space per unit <i>Total 36 spaces requires</i>	No But acceptable as compliance with SEPP ARH	The application provides a total of 8 spaces within the basement. The allocation of spaces is considered appropriate in consideration of the basement design and location of parking spaces.
3.6.3 Accessibility and Connectivity <i>Is a 3m wide pedestrian through link required and provided?</i>	Yes	No pedestrian through-link provided or required.

5. Planning agreements

No applicable planning agreements apply to the site or development.

6. Environmental Planning and Assessment Regulation 2000

This application satisfies relevant clauses of the Regulation as follows:

Table 7: Relevant EPA Regulations

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

7. Likely impacts

7.1 Site works

Excavation

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

Tree removal

The application proposes the removal of a number of trees from the site. The scheme makes satisfactory adequate arrangements for the re-landscaping of the private elements of the proposal.

Utility services

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

7.2 Natural and technological hazards

Geotechnical

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

7.3 Site design

Setbacks

The proposal achieves the required setbacks required by the ADG to the neighbouring residential allotments.

Presentation to Collett Parade

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

External materials

The schedule of external materials and finishes is satisfactory.

Accessibility

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

Landscaping

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

7.4 Amenity considerations

Internal amenity

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

- 100% of apartments benefit from cross ventilation;
- 75% of apartments receive more than 2 hours direct solar access between 9am and 3pm at midwinter
- Ceiling heights to habitable rooms are capable of achieving 2.7m.

Common open space

The primary common open space is located at the rear of the site. Overall the development achieves the numerical requirements of the ADG for size (minimum 25% of the site area) and solar access (75% receiving 2 hours of solar access at midwinter).

7.5 Public domain

Built form relationship to public domain

The development would adequately address the public domain.

Public domain works

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

7.6 Relationship to adjacent sites

Overlooking

The proposal achieves the required separation distances as per the ADG.

Operational noise

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

Lighting

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

7.7 Access, transport and traffic

Parking supply

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

Parking access and design

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

Construction Traffic

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

7.8 Water management

Stormwater collection and disposal

The disposal of the stormwater is considered appropriate.

Water quality during construction

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

7.9 Waste management

Construction phase

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

Operation phase

A bin storage room is located adjacent to the driveway and satisfies council's requirements for waste collection.

7.10 Construction Management

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

- Dilapidation reports;
- Demolition and removal of hazardous materials;
- Sediment and erosion control and water quality during construction;
- Construction traffic management plan;
- Hours of works;
- Construction noise and vibration;
- Material delivery and storage;

- Safety fencing;
- Traffic and pedestrian safety;
- Dust control; and
- Tree protection.

7.11 Safety, security and crime prevention

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

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

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

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

The matters listed above could be addressed by conditions.

7.12 Social and economic impacts

No adverse impacts have been identified.

7.13 Site Isolation

The site would not isolate any adjoining property.

8. Site suitability

Though the proposed development exceeds the height of buildings development standard of the Parramatta LEP 2011, the site is suitable for the development given the following:

- The proposal's height responds to the existing height of residential flat buildings in the area
- The future context of the area will comprise of buildings of greater height than the current existing and proposed developments in the area.
- With the exception of height, the proposed development achieves reasonable compliance with the ARH SEPP, SEPP 65 and ADG, the PLEP 2011 and the PDGP 2011.

The site is suitable for the development for the proposed residential flat building in its current form.

9. Public interest

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

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

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

The proposed development is consistent with the *Greater Sydney Regional Plan* as it would provide 16 additional social housing dwellings.

9.2 Public Notification

The application was advertised 29 May, 2019 to 20 June 2019 in accordance with the Parramatta DCP 2011. In response, **no** submissions were received.