

## SYDNEY WESTERN CITY PLANNING PANEL

Panel Number:	PPS-2019WCI027
Application Number:	2019/269/1
Local Government Area:	Camden
Development:	Use and development of land for a new 6 storey commercial building, basement car parking and associated site works and landscaping
Capital Investment Value:	\$32,542,000
Site Address(es):	88 Podium Way, Oran Park LOT: 3 DP: 280077 (formerly referred to as 76 Central Avenue, Oran Park prior to subdivision of land).
Applicant:	Greenfields Development Company No.2 Pty Ltd
Owner(s):	Perich Property Pty Ltd
Date of Lodgement:	5 April 2019
Number of Submissions:	Nil
Classification:	Local development
Recommendation:	Approve with conditions
Regional Development Criteria (Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011):	General development capital investment value >\$30 million
List of All Relevant Section 4.15(1)(a) Matters:	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Development) 2011.</li> <li>• State Environmental Planning Policy (Sydney Region Growth Centres) 2006.</li> <li>• State Environmental Planning Policy (Infrastructure) 2007.</li> <li>• State Environmental Planning Policy No 55 - Remediation of Land.</li> <li>• State Environmental Planning Policy (Major Infrastructure Corridors) 2020</li> <li>• Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River.</li> <li>• Camden Development Control Plan 2011.</li> <li>• Oran Park Development Control Plan 2007.</li> </ul>
List all Documents Submitted with this Report for the Panel's Consideration:	<ul style="list-style-type: none"> <li>• Assessment report.</li> <li>• Site Photos.</li> <li>• State Environmental Planning Policy (Sydney Region Growth Centres) 2006 assessment table.</li> <li>• Camden Development Control Plan 2011 assessment table.</li> </ul>

	<ul style="list-style-type: none"> <li>• Oran Park Development Control Plan 2007 assessment table.</li> <li>• Recommended conditions.</li> <li>• Proposed plans.</li> <li>• Applicant's Clause 4.6 written request seeking to justify the contravention of a development standard.</li> <li>• Correspondence from Transport NSW.</li> <li>• Correspondence from the Roads and Maritime Services.</li> <li>• Correspondence from Camden Local Area Command</li> </ul>
Report Prepared By:	Ms Hannah Draper, Development Assessment Planner
Report Date:	April 2020

### Summary of Section 4.15 Matters

	Yes
Have all recommendations in relation to relevant Section 4.15 matters been summarised in the Executive Summary of the assessment report?	<input checked="" type="checkbox"/>

### Legislative Clauses Requiring Consent Authority Satisfaction

	Yes
Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised in the Executive Summary of the assessment report?	<input checked="" type="checkbox"/>

### Development Standard Contraventions

	Yes	N/A
If a written request for a contravention to a development standard has been received, has it been attached to the assessment report?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### Special Infrastructure Contributions

	Yes	No
Does the application require Special Infrastructure Contributions?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### Conditions

	Yes
Have draft conditions been provided to the applicant for comment?	<input checked="" type="checkbox"/>

## **PURPOSE OF REPORT**

The purpose of this report is to seek the Sydney Western City Planning Panel's (the Panel's) determination of a development application (DA) for a commercial development at 88 Podium Way, Oran Park.

The Panel is the consent authority for this DA as the capital investment value (CIV) of the development is \$32,542,000. This exceeds the CIV threshold of \$30 million for Council to determine the DA pursuant to Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011.

## **SUMMARY OF RECOMMENDATION**

That the Panel determine DA/2019/269/1 for a commercial development pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979* by granting consent subject to the conditions attached to this report.

## **EXECUTIVE SUMMARY**

Council is in receipt of a DA for a commercial building at 88 Podium Way, Oran Park.

The DA has been assessed against the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, relevant environmental planning instruments, development control plans and policies.

A summary of the assessment of all relevant environmental planning instruments is provided below with a detailed assessment provided later in the report.

State Environmental Planning Policy (State and Regional Development) 2011.	The Panel is the consent authority for this DA as the development has a CIV of \$32,542,000 which exceeds the CIV threshold of \$30 million for Council to determine the DA.
State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth SEPP).	The proposed development is permitted with consent in the applicable B2 Local Centre zone. The proposed development is consistent with the zones' objectives and generally compliant with the other matters for consideration except for the height of buildings development standard which the applicant has requested a contravention to.
State Environmental Planning Policy (Major Infrastructure Corridors) 2020	This SEPP was recently gazetted on 3 July 2020 and confirmed the location of the rail corridor adjacent to the site. Despite the rail corridor being in draft form at the time of the DA lodgement, the application was referred to Transport for NSW for comment. In response, Transport for NSW supported the

	<p>proposal subject to a number of recommended conditions of consent.</p> <p>Upon notice of the SEPPs operation and confirmation of the rail corridors location, Transport for NSW was again contacted requesting their concurrence pursuant to clause 11 of the SEPP. TfNSW did not provide a formal response to this second referral and given the statutory timeframe of 21 days has lapsed as of 25 July 2020, their concurrence has been assumed subject to the conditions contained in the original response.</p> <p>After the 21 day statutory time period ended, TfNSW did issue a draft response to Council which was awaiting formal endorsement. It is acknowledged that the recommended conditions provided in this draft response are the same as contained within their original response.</p>
State Environmental Planning Policy (Infrastructure) 2007 (ISEPP).	The DA was referred to the Roads and Maritime Services for comment pursuant to the ISEPP and the comments received have raised no objection to the proposed development.
State Environmental Planning Policy No 55 - Remediation of Land.	Council staff have assessed a Contamination Assessment Review Letter which references previous assessment reports for the subject site. This previous assessment included a Phase 2 detailed contamination assessment and associated information. Council staff reviewed this assessment and are satisfied that the site is suitable for the proposed development.
Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (SREP 20).	The development is consistent with the aim of SREP 20 (to protect the environment of the Hawkesbury-Nepean River system) and all of its planning controls.

The proposed development is known as 'Commercial 2' and is a mirrored building design of 'Commercial 1' to the north, albeit with some minor differences. Together the two buildings are to be joined by the three (3) level basement carpark and common space at ground floor. There will be a strong visual connection between the buildings due to their similar architectural design characteristics.

The DA was publicly exhibited for a period of 14 days in accordance with Camden Development Control Plan 2011. The exhibition period was from 23 April 2019 to 6 May 2019. No submissions were received.

The development has been assessed against the State Environmental Planning Policy (Sydney Region Growth Centres) 2006, Camden Development Control Plan (DCP) 2011 and the Oran Park DCP 2007. The development is generally consistent with these planning policies and controls in that it will provide an appropriate mix of employment generating land uses for the site that will contribute to the overall development of the Oran Park Town Centre. The development is also mostly consistent with the area specific development controls of the Oran Park DCP 2007.

The applicant has submitted a traffic report and supporting information in support of the DA. The report and supporting information demonstrate that the development will not have a significant impact upon the surrounding road network and the operation of surrounding intersections. Council staff have reviewed the report and supporting information and agree with their conclusions.

Through the assessment of the DA the applicant has provided amended plans that have improved the functionality of the B1 basement car park by removing the blind aisles and improved landscaping and activation at the interface of the development with surrounding roads. Overall, a reasonable balance will be achieved between attractive, articulated and landscaped frontages, separating heavy and light vehicular traffic on the site and maximising pedestrian linkages within it.

The applicant has submitted an adequate stormwater management strategy that, subject to the recommended conditions, will provide for compliant onsite detention and water sensitive urban design outcomes.

The applicant proposes a contravention to the maximum height of buildings development standard that applies to the site. The development standard limits buildings to a maximum height of 24m above finished ground level. However, the development will have a maximum height of 28.85m above finished ground level. The contravention is assessed in detail in this report and is supported by Council staff.

The applicant proposes a variation to Control 1 in Section 7.3 of Part B1 Oran Park Town Centre of the Oran Park DCP. The DCP sets out a 4 storey building envelope for this site however 6 storeys are proposed. The variation is assessed in detail in this report and is supported by Council staff.

Based on the assessment, it is recommended that the DA be approved subject to the conditions attached to this report.

#### **KEY PLANNING CONTROL VARIATIONS**

<b>Control</b>	<b>Proposed</b>	<b>Variation</b>
24m maximum building height.	28.85m maximum building height.	4.85m (20.2%).
4 storey building envelope.	6 storeys	2 storey variation requested (50%).
4 star Green Star Rating Certification from the Green Council of Australia	Alternate sustainability measures have been proposed. See detailed justification below.	Non numerical variation requested

## AERIAL PHOTO



Figure 1: Aerial Image

## THE SITE

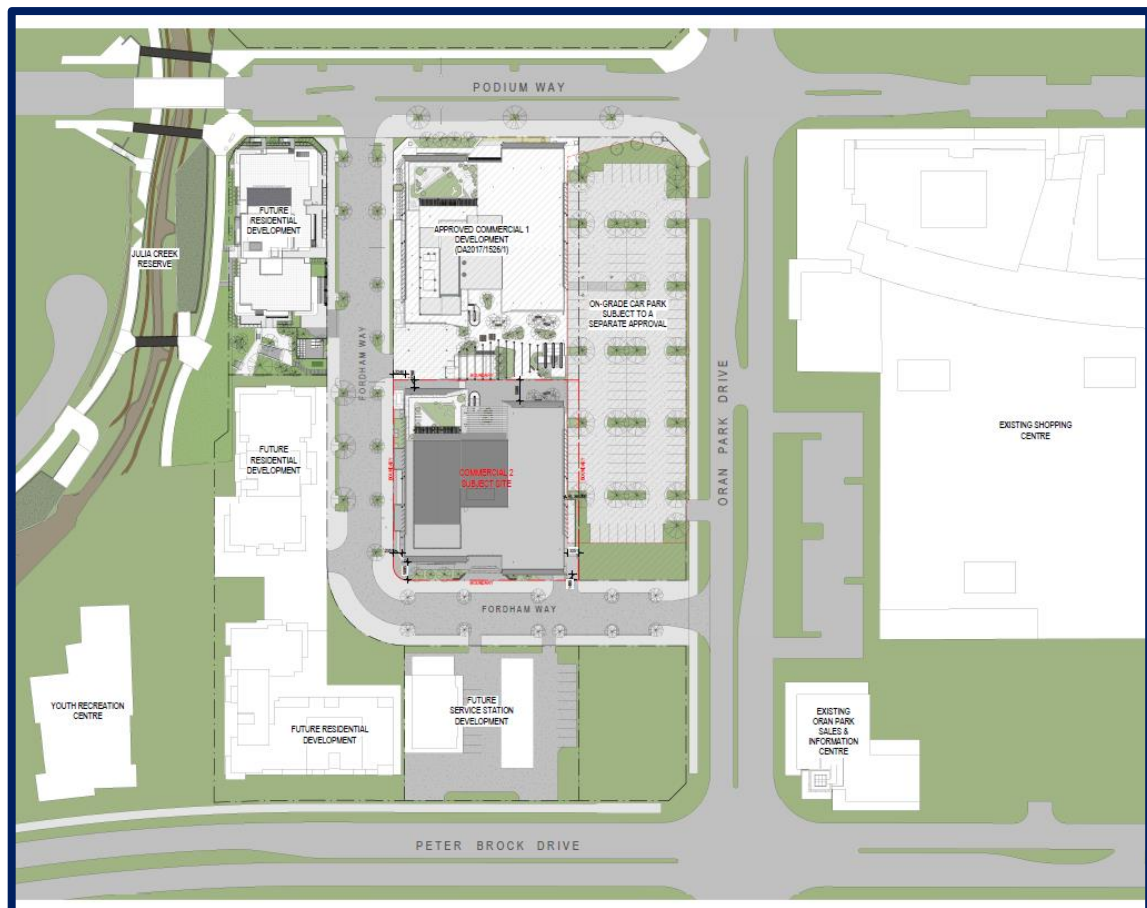
The subject site forms part of an existing parcel which incorporates the balance of the Oran Park Town Centre land and is legally described as Lot 3 in DP 280077. The site is currently gently sloping from the edge of the existing temporary car park (east of the site) to Julia Creek reserve (west of the site).

The development site is bordered by Podium Way (AKA Holden Drive) to the north, Oran Park Drive to the east, Peter Brock Drive to the south and Julia Creek (urban waterway reserve) to the west. Within the development site is an approved youth & recreation centre to the south-west of the proposed building; an approved residential flat building to the north-west; and approved commercial building (known as 'Commercial 1') directly to the north of the proposed building.

The site is accessible to both local and regional vehicular movements given its proximity to Oran Park Drive and Peter Brock Drive. Vehicular access to the site will be achieved via a new service road extension (Fordham Way) to the south and west of the subject site approved under DA/2019/609/1. This new access roadway will connect to the portion of road approved under DA/2017/1525/1 for Commercial Building 1.

Julia Creek, which forms the western boundary, is part of an extended off-road pedestrian and cycle pathway network, ultimately providing a north-south connection through Oran Park Town from South Creek in the south to Kolombo Creek in the north.





*Figure 2: Site Plan*

The surrounding area has been subject to a number of DAs for significant developments. These are:

- Directly to the north of the development site is the Commercial 1 building which was approved by the SWCPP on 30<sup>th</sup> July 2018 under DA/2017/1526/1 which included the use and development of land for a new 6 storey commercial building and three (3) level basement car parking. This building has recently been completed.
- To the north is Podium Way. Immediately north of Podium Way is the planned Oran Park Train Station recently gazette as a major infrastructure corridor part of the South West Rail Link Extension. Currently this site is being used as a temporary car park.
- To the east of the development site is an at-grade car park on the land set aside for the future rail corridor. Further east is the 'Podium Shopping Centre', with Perich Park and the Camden Council Administration Building and Library beyond. The DA for the extension to the Oran Park 'Podium Shopping Centre' (DA/2018/1223/1) was approved at the Sydney Western City Planning Panel meeting on 4 May 2020.
- To the south of the development site is land identified for mixed use development in the Oran Park Town Centre section of the DCP bordered by Peter Brock Drive. The applicant advised this land will likely be proposed for

use as a service station. Beyond Peter Brock Drive is low density residential development being one and two storeys in height.

- To the west of the development site is a local street (Fordham Way) which provides vehicular access to the proposed development. The first section of Fordham Way has been completed. The next section has been approved and will be completed prior to the occupation of the subject development. Beyond this street is land identified for mixed use development in the Oran Park Town Centre section of the DCP and bordered by the Julia Creek Riparian Corridor. The applicant has advised this land will likely be proposed for use as a residential flat building. Beyond Julia Creek is medium density residential development (two storeys in height) with Oran Park Public School to the north and the Julia Creek Community Centre, Skate Park and public open space land to the south.

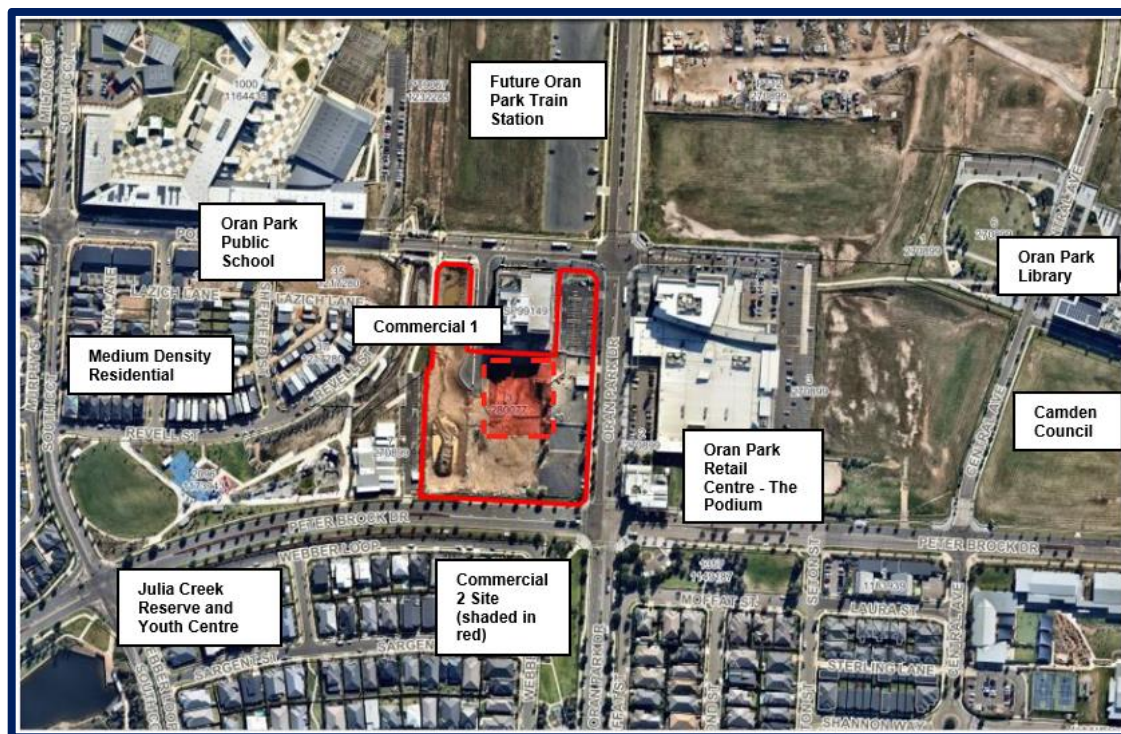


Figure 3: Locality Plan



## ZONING PLAN

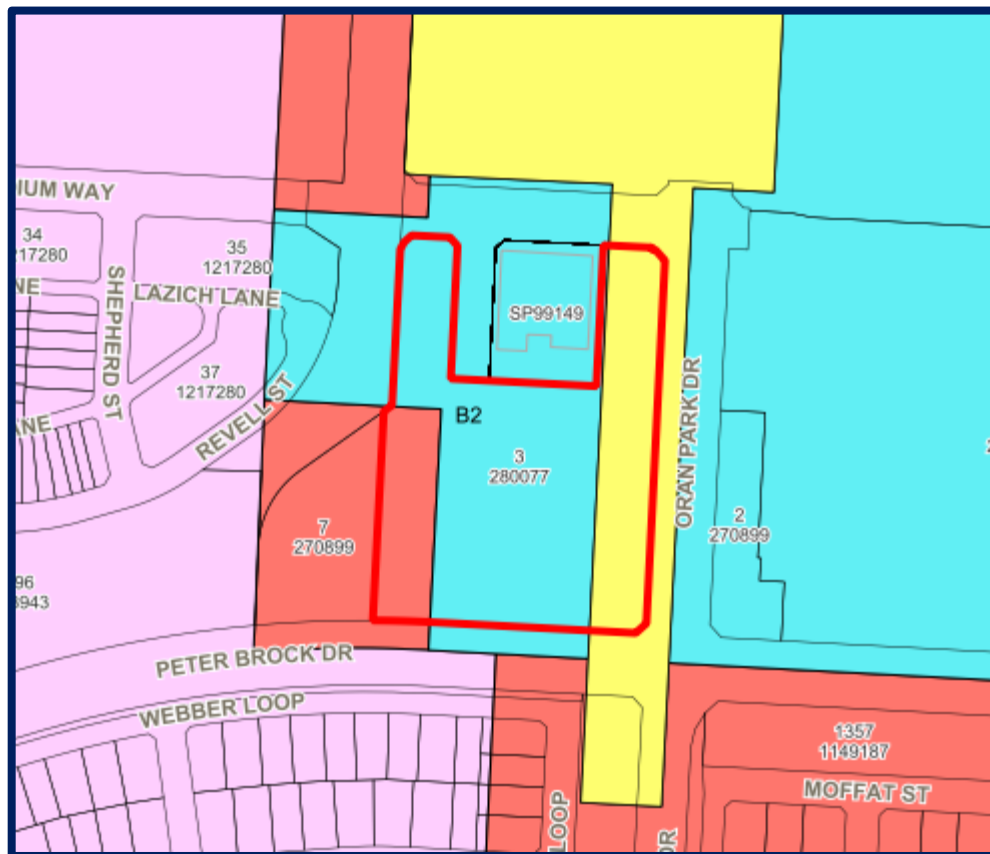


Figure 4: Land Zoning Map

## AREA MASTER PLAN

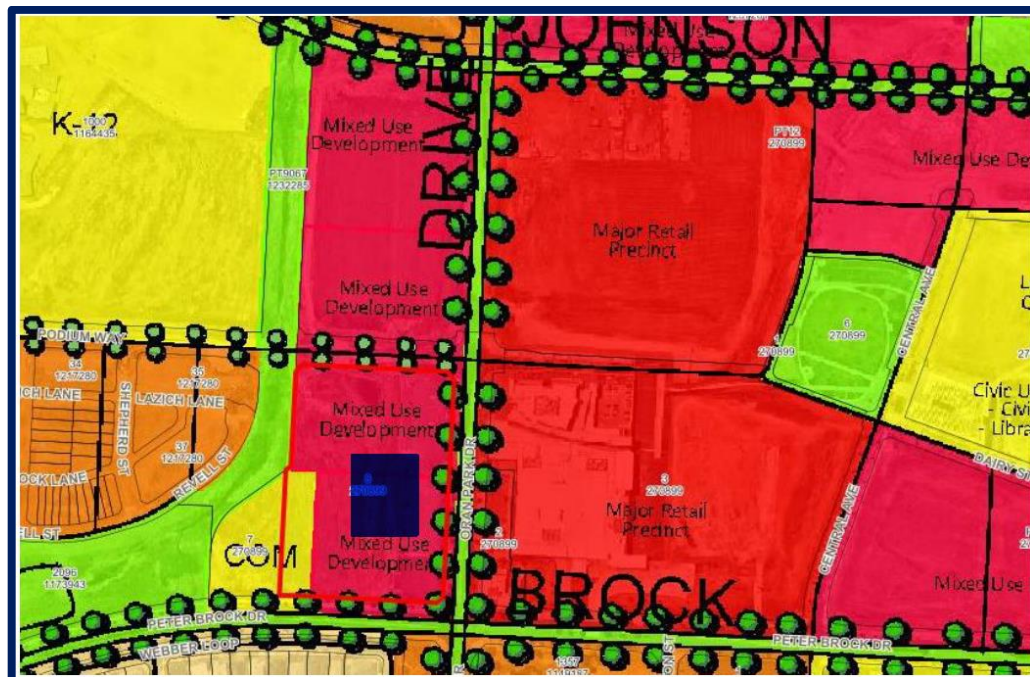


Figure 5: Indicative Layout Plan – The development site is shown blue and identified for mixed use development

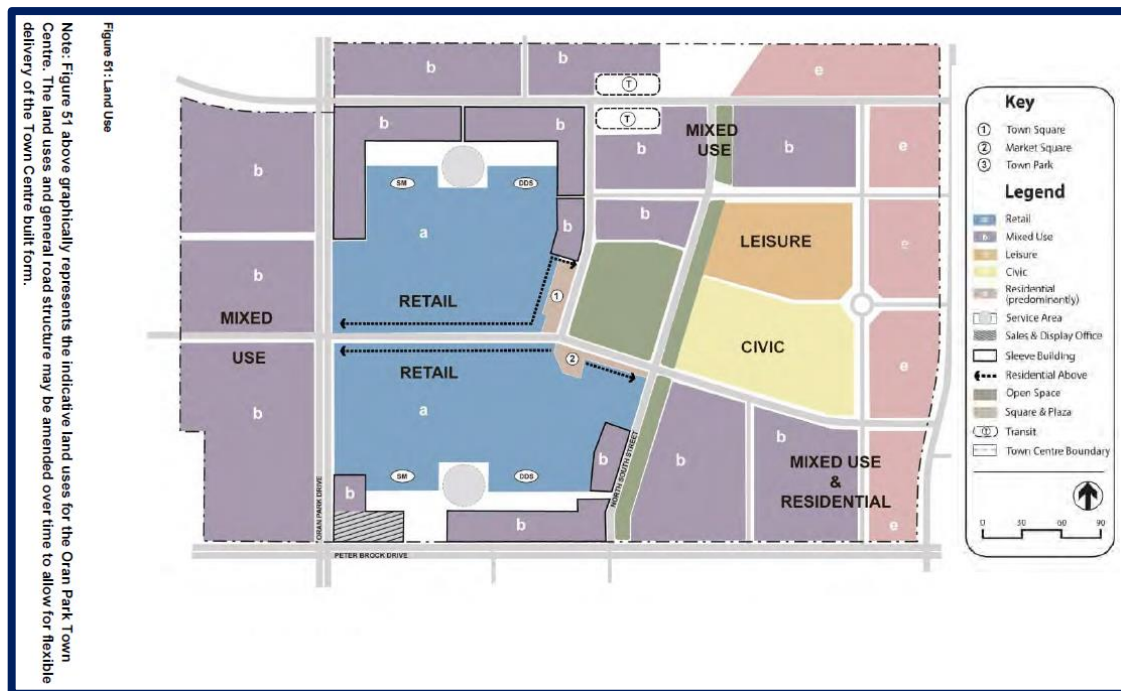


Figure 5: Structure Plan from the Oran Park DCP, subject site located in the south-western corner of the plan (approximately where the 'b' is marked below the word use).

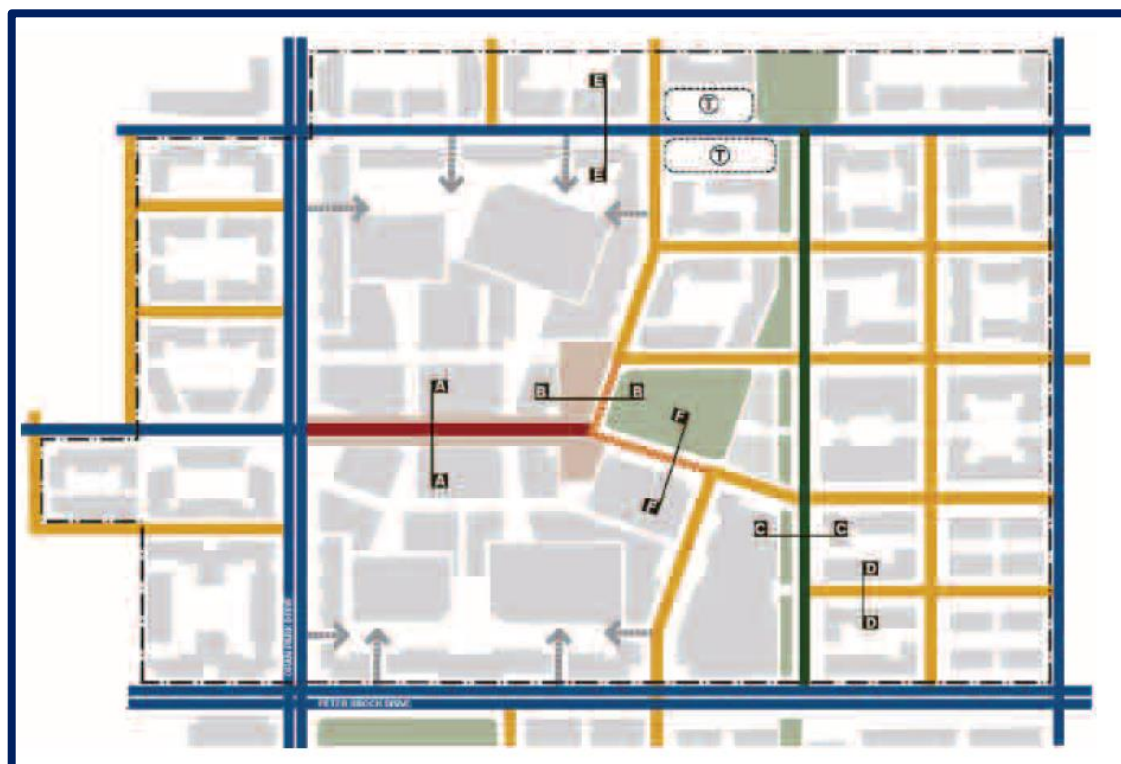


Figure 6: Street Hierarchy from Public Domain Manual subject site located in the south-western corner of the plan.

## HISTORY

The relevant development history of the site is summarised in the following table:

Date	Development
30 <sup>th</sup> April 2018	Approval of DA/2017/1438/1 for the subdivision of one lot to create five residue lots.
10 <sup>th</sup> May 2018	Approval of DA/2017/1525/1 for the subdivision to create two lots and construction of a road.
21 <sup>st</sup> August 2019	Approval of DA/2017/1763/1 for the reconstruction of a temporary carpark to accommodate 125 vehicles, 5 bike parking racks, provision of kerb and guttering and landscaping works.
18 March 2020	Approval of DA/2019/609/1 for the construction of Fordham Way and Torrens Title subdivision to create 5 lots

DA/2019/609/1 was recently approved for the construction of the Fordham Way extension and the Torrens Title subdivision to create 5 lots. In particular, this subdivision will amend the land area and site description for a number of lots within Tranche 8. As such, the development site for the Commercial 2 building will be located on proposed lot 5 once the subdivision is registered. The resulting site will be as shown below.

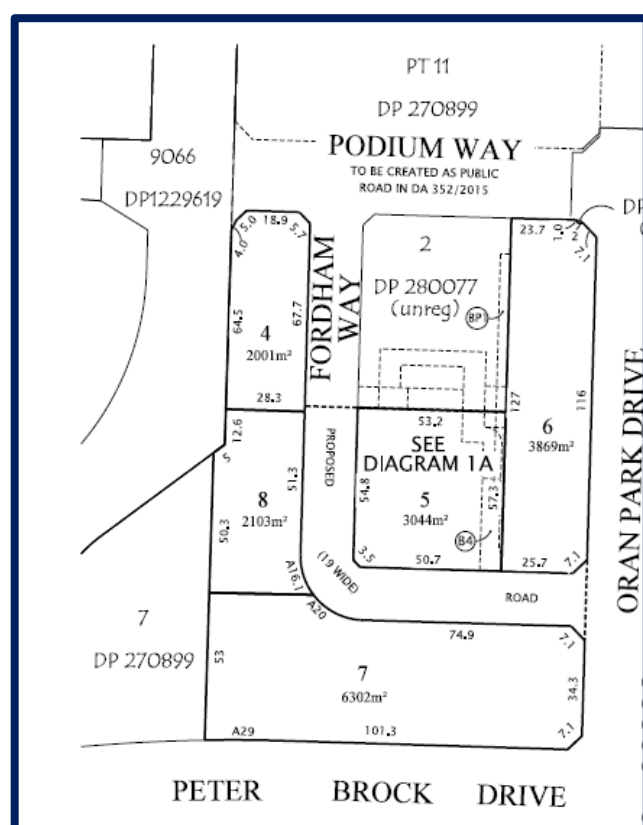


Figure 7: Approved subdivision under DA/2019/609/1. The future subject site is shown as lot 5.

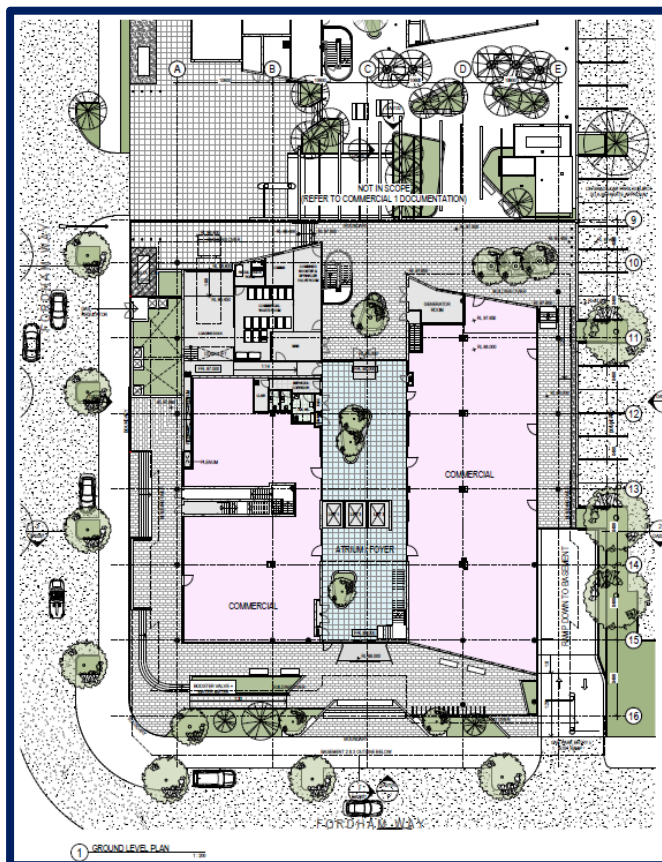
The recommended conditions of consent for this DA prohibits the release of any Occupation Certificate until Fordham Way is constructed as this will be the commercial building's primary point of access.

## THE PROPOSAL

DA/2019/269/1 seeks approval for the use and development of land for a new 6 storey commercial building. Specifically, this includes:

- Erection of six storey commercial building with a total Gross Floor Area of 10,315m<sup>2</sup>;
- Three-storey basement car park incorporating a total of 264 vehicle spaces, 3 accessible car spaces, 8 visitor car spaces and 26 motorcycle spaces;
- Landscaped roof-top terrace;
- One lockable bike storage area (45 bike spaces) located on basement car park level 1;
- Employee “End of Trip” facilities including showers and bathroom facilities;
- Landscaping works;
- Dedicated loading / delivery dock area; and
- Operating Hours are 7am – 10pm Monday to Sunday

The CIV of the development is \$32,542,000.



*Figure 8: The ground floor plan and surrounding landscape.*





*Figure 9: 3D perspective from Oran Park Drive on the south-east corner.*



*Figure 10: 3D aerial perspective of the south-east corner.*



*Figure 11: 3D aerial perspective of the south-west corner.*



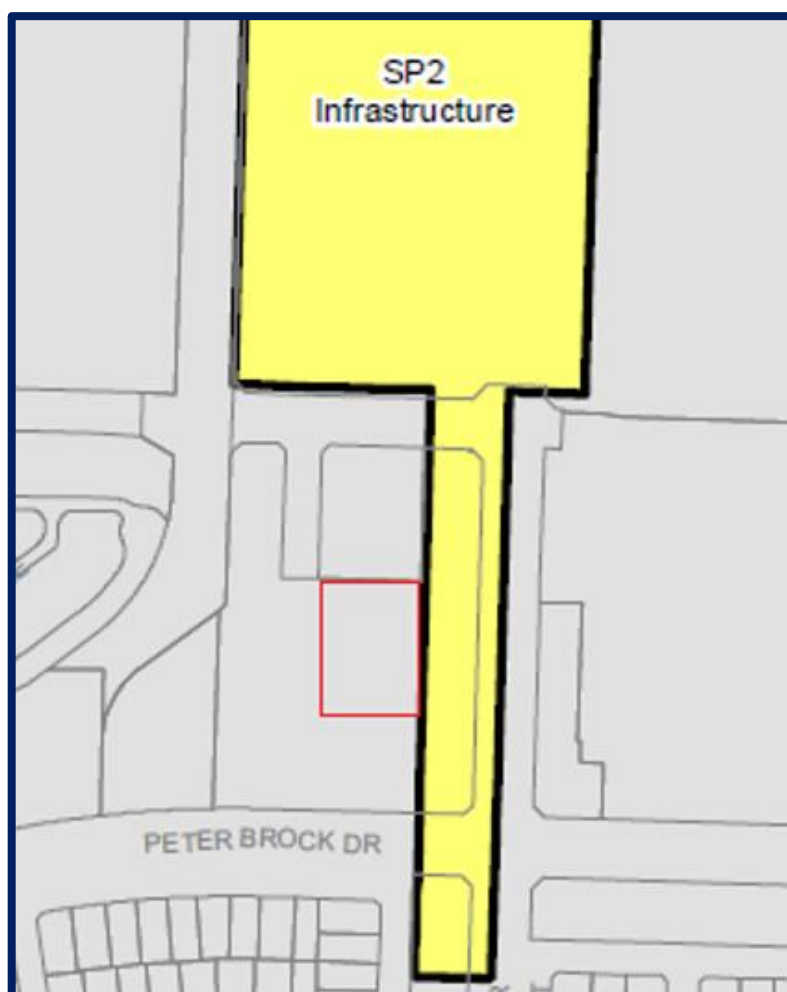
## **PANEL BRIEFING**

Council staff briefed the Sydney Western City Planning Panel on the DA on 27 May 2019. The following discussion provides an assessment of how the issues raised by the Panel at the briefing have been addressed:

### *1. Impacts on the rail corridor needs attention*

Land to the east of the development site has been identified as land set aside for the future rail corridor. The proposed commercial building is proposed adjacent to the rail corridor but does not encroach within or impact on the land designated for planned rail corridor. Despite the rail corridor being in draft format at the time of the DA lodgement, the application was referred to Transport for NSW for comment due to the development's proximity to the rail corridor. In response, Transport for NSW supported the proposal subject to a number of recommended conditions of consent. These conditions have been referenced in the consent and are to be complied with unless otherwise agreed to in writing by Transport for NSW.

The rail corridor was recently gazetted on 3 July 2020. It came into effect by the commencement of the State Environmental Planning Policy (Major Infrastructure Corridors) 2020 which confirmed the location of the rail corridor (see below).



*Figure 12: Gazetted Rail Corridor and Recently Rezoned SP2 land as shown under the SEPP (Major Infrastructure Corridors) 2020*

Upon notice of the SEPPs operation and confirmation of the rail corridors location, Transport for NSW was contacted requesting their concurrence pursuant to clause 11 of the SEPP. TfNSW did not provide a formal response to this second referral and given the statutory timeframe of 21 days has lapsed as of 25 July 2020, their concurrence has been assumed subject to the conditions contained in their original response.

After the 21 day statutory time period ended, TfNSW did issue a draft response to Council which was awaiting formal endorsement. It is acknowledged that the recommended conditions provided in this draft response are the same as contained within their original response.

- 2. The presentation of the buildings to Fordham Way should not be neglected, as they will form part of the developing character of this area.*

The architectural and landscape plans have been amended to allow for an extended shop front / business suite presentation along Fordham Way. The cantilevered building design with columns and minimal blank walls/facades open up the ground floor tenancies which will provide the opportunity for a range of future uses and activation of the streetscape. The proposed development is a mirrored building design of Commercial 1 adjacent, albeit with some minor differences. Together the two buildings will be connected by the extension of the internal street and atrium resulting in a strong visual connection between the buildings due to their similar architectural design characteristics.

- 3. The panel would be interested generally as to how the design anticipates ground floor tenancies which will allow for street activation to make this a desirable and animated place to work.*

The applicant has advised that the building will likely incorporate commercial or business activities at ground level, with specialised retail and food related uses proposed for within the core retail areas to the east. While the tenancies of the ground floor have not yet been confirmed, a condition of consent has been applied specifying that ground floor tenancies must be limited to those which will result in active street frontages.

## **ASSESSMENT**

### ***Environmental Planning and Assessment Act 1979 - Section 4.15(1)***

In determining a DA, the consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the DA:

#### ***(a)(i) the provisions of any environmental planning instrument***

The environmental planning instruments that apply to the development are:

- State Environmental Planning Policy (State and Regional Development) 2011.
- State Environmental Planning Policy (Sydney Region Growth Centres) 2006.
- State Environmental Planning Policy (Infrastructure) 2007.
- State Environmental Planning Policy (Major Infrastructure Corridors) 2020
- State Environmental Planning Policy No 55 - Remediation of Land.
- Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River.

State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)

The SRD SEPP identifies development that is State significant or regionally significant development.

The Panel is the consent authority for this DA as the CIV of the development is \$32,542,000. This exceeds the CIV threshold of \$30 million for Council to determine the DA pursuant to Schedule 7 of the SRD SEPP.

State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth SEPP)

*Site Zoning*

The development site is zoned B2 Local Centre pursuant to Appendix 1, Clause 2.2 of the Growth Centres SEPP.

Note: Portions of the lot are zoned R3 Medium Density Residential. However, no development is proposed upon these portions of the lot under the subject DA.

The proposed development is defined as an “office premises” by the Growth Centres SEPP.

*Permissibility*

Office premises are permitted with consent in the B2 zone pursuant to the land use table in Appendix 1 of the Growth Centres SEPP.

*Planning Controls*

An assessment table in which the proposed development is considered against the Growth Centres SEPP is provided as an attachment to this report.

*Proposed Contravention*

The applicant proposes a contravention to the height of buildings development standard that applies to the site. The development standard limits buildings to a maximum height of 24m above finished ground level. The applicant proposes a maximum building height of 28.85m which equates to a 4.85m (20%) departure to the 24m maximum permitted building height. The contravention relates to the atrium roof, lift access shaft to the rooftop and plant equipment as shown on the height plane diagram, below. Accordingly, the applicant has sought a variation to this development standard under Clause 4.6

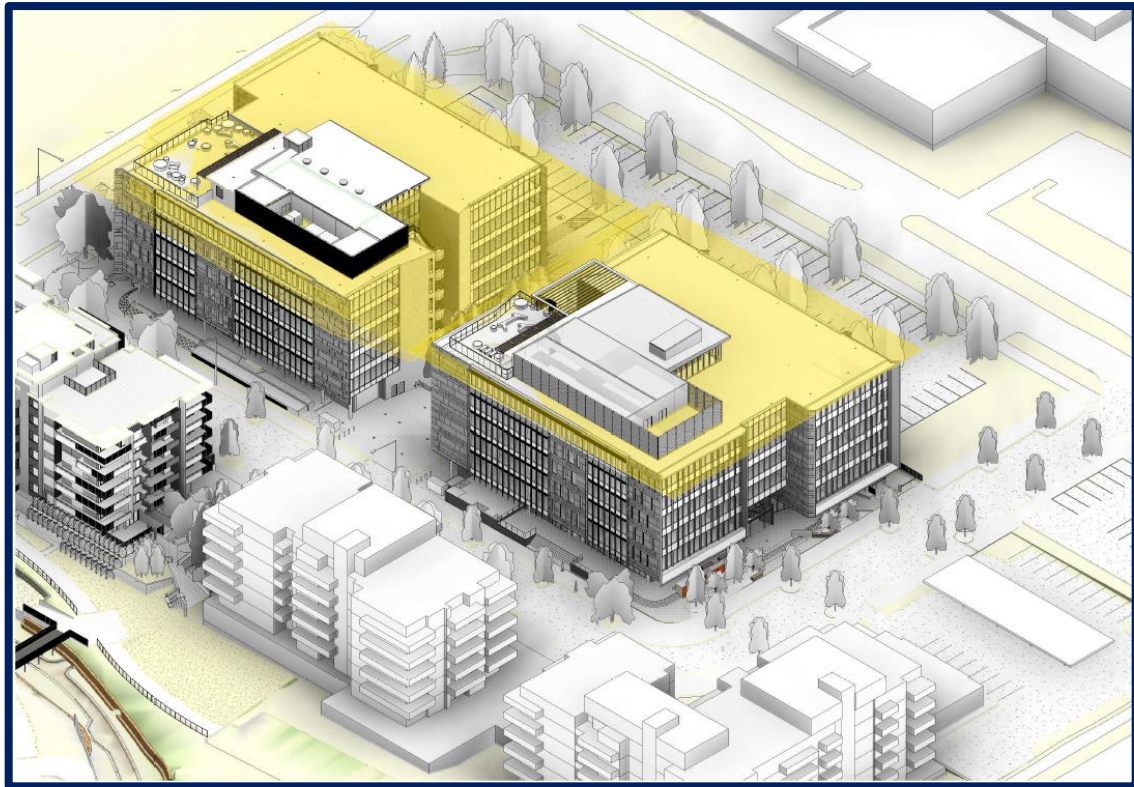


Figure 12: 3D height plane diagram

#### Contravention Assessment

Clause 4.6(3) states that 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:

- the applicant's written request has adequately addressed the matters required to be demonstrated by Appendix 1, Clause 4.6(3) of the Growth SEPP, and
- the development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zones in which the development is proposed to be carried out.

In accordance with Clause 4.6(3) the applicant requests that the height of buildings development standard be varied. The applicant's written request is attached to this report. The request has put forward the following key points in relation to demonstrating that compliance with the development standard is unreasonable and unnecessary.

- the development is consistent with the objectives of the development standard, namely:
  - (a) *To preserve the amenity of adjoining development in terms of solar access to dwellings, private open space and bulk and scale.*

#### Comment:

Detailed solar access diagrams have been prepared and submitted as part of this Development Application. The amenity of adjoining development, including solar

access to the adjoining residential apartments (and private open space) to the west and adjacent commercial 1 building to the north will be preserved. The development is not located in the vicinity of any dwellings and the development will present a bulk and scale reasonable for the surrounding streetscape.

Furthermore, despite the building's orientation, the design of the commercial building has ensured that a degree of solar access is achievable the streetscape will be maintained to planned and existing roadways and footpath areas.

The bulk and scale respond to the both the existing Town Centre built form and the desired vision, scale and character of the Oran Park Town Centre. The proposed building is similar in bulk & scale to the adjacent large scale commercial building 1 to the north of the subject site.

- (b) *To provide for a range of residential building heights in appropriate locations that provide a high quality urban form.*

Comment:

This objective is not relevant as no residential buildings are proposed. Notwithstanding, Clause 7.3 Building Envelopes / Bulk & Scale of the Oran Park Town Centre Part B4 DCP addresses building height modulation and building envelopes within the Town Centre precinct.

Development Control (2) of Clause 7.3 provides guidance on the appropriate locations for high quality building form and height stating that prominent street corners should be reinforced in a visual context through concentrating building height and built form.

The proposed building is situated on a prominent street corner along Fordham Way, in close proximity to the Oran Park Drive/Peter Brock Drive intersection.

Given that the land to the east is to be retained for a future rail line, the built form on this site should reflect its importance in anchoring built form on the western edge of Oran Park Drive.

The building design specifically responds to the site-specific design considerations and concentrates building height on a prominent street corner and is appropriate in its context when considered against the objectives and controls for building heights listed in the DCP.

- (c) *To facilitate higher density neighbourhood and town centres while minimising impacts on adjacent residential areas.*

Comment:

The development will facilitate a higher density neighborhood and town centre environment that is spatially well separated from all residential areas. The proposed development has adequate separation from the residential flat building to the west, and no adverse impacts to this adjacent development is anticipated.

- (d) *To provide appropriate height controls for commercial and industrial development.*

Comment:



The proposal comprises a commercial development of an appropriate height having regard to the aforementioned lack of impact and acceptable bulk and scale.

The main building form of the commercial building generally achieves compliance with the specified maximum building height.

The requested variation relates to internal atrium roof and the need to provide access to the roof top terrace area.

The discussion above has also demonstrates that this subject site is an appropriate location for the built form, as it will frame a prominent Town Centre street corner.

As such, the proposal is consistent with the objective to deliver site appropriate height controls.

- the development is consistent with the objectives for development within the zones in which the development is proposed to be carried out:

*B2 Local Centre*

1. *To provide a range of retail, business, entertainment and community uses which serve the needs of people who live in, work in and visit the local area.*

Comment:

Within the greater context of Tranche 8, the commercial building contributes to the mixed use precinct of Oran Park.

2. *To encourage employment opportunities in accessible locations.*

Comment:

The proposed development is located in the town centre adjacent to the draft rail corridor and bus stops. This location will enable accessible employment opportunities in the future.

3. *To maximise public transport patronage and encourage walking and cycling.*

Comment:

The location of the development is adjacent to public transport opportunities and walking and cycling paths.

4. *To ensure that residential development does not detract from the primary function of the centre being to provide for retail, business, entertainment and community uses.*

Comment:

The development is set to incorporate commercial or business activities at ground level. It does not detract from the core retail function of the Oran Park Podium to the east which is designated for specialised retail and food related uses.

5. *To ensure that residential development does not preclude the provision of active uses at street level.*

Comment:

Not applicable as the proposed use is not residential.

6. *To provide for land uses of a higher order and density within the Local Centre Zone than are permitted within the Neighbourhood Centre Zone or the Mixed-Use Zone.*

Comment:

The scope and scale of the development is in line with the area and its prominent location adjacent to the town centre. The land uses envisioned for the site in the future will contribute to the appropriate density for the town centre.

7. *To provide for residential development that contributes to the vitality of the local centre.*

Comment:

Not applicable. No residential is proposed.

The applicant also outlines the following key environmental planning grounds particular to the proposed development and site context:

- The proposed Commercial 2 building is of a similar bulk and scale to the approved Commercial 1 building to the north. Both developments will appear consistent with one another.
- The proposal is consistent with the objectives of the zone and the objectives of the height control. The proposal is thereby considered to be within the public interest.
- The proposal does not result in any unreasonable overshadowing impacts of either planned residential sites or streetscape areas.
- The height plane diagram demonstrates that only the atrium roof, lift access shaft to the rooftop communal area and plant equipment extend beyond the height plane. These elements will not be visible from the street level, and as such will be indiscernible to pedestrians. These building design elements will significantly enhance environmental performance and amenity of the building for future employees and workers.
- The subject site is a significant corner within the Town Centre context, with the bulk and scale of the building responding to the scale, character and desired vision of existing and planned development in the Oran Park Town Centre Precinct

The environmental planning grounds put forward by the applicant are supported and it is considered that compliance with the building height standard would be unreasonable and unnecessary in this instance.

The proposal results in a preferable outcome on the site as compared to a strictly compliant scheme. The height variation does not result in any additional gross floor

area (GFA), but instead creates a superior indoor environment for occupants through the provision of a naturally lit atrium. Additionally, building occupants are provided with external landscaped areas in the form of a rooftop terrace area.

The incorporation of the internal atrium and rooftop terrace area is a preferred environmental planning outcome than simply providing for a compliant building height. These aspects of the development, which are responsible for the variation to the height of buildings standard, significantly enhance the environmental performance and amenity of the building for future employees and workers.

It is considered that the applicant's written request has adequately addressed the matters required to be demonstrated by Appendix 1, Clause 4.6(3) of the Growth SEPP, and the development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zones in which the development is proposed to be carried out.

Consequently, it is recommended that the Panel support this proposed variation to the Growth Centres SEPP.

#### State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The ISEPP aims to facilitate the effective delivery of infrastructure across the State.

#### *Roads and Maritime Services (RMS)*

The DA was referred to the RMS for comment pursuant to Clause 104 of the ISEPP as the development is classed as traffic generating development.

The RMS advised that:

*"Roads and Maritime has reviewed the submitted application and raises no objection to the Application, provided the proposed dwelling density and road layout design is consistent with the Oran Park Precinct. Council should be satisfied that the density can be accommodated on the local road network."*

The applicant has submitted a traffic report and supporting information in support of the DA. The report and supporting information demonstrate that the proposed development will not have a significant impact upon the surrounding road network and the operation of surrounding intersections. Council staff have reviewed the report and supporting information and agree with the conclusions.

#### *Transport NSW and the South West Rail Link Extension*

At the time of assessment, this application adjoined land adjacent to draft rail corridor and was referred to Transport for NSW for comment pursuant to clause 88 of the SEPP.

Transport NSW (TfNSW) advised that:

*"TfNSW has reviewed the relevant documentation in support of the proposed development and notes that it is within close proximity to the future NSRL corridor. As such, there are concerns regarding the potential impact the proposed development may have on the integrity of the NSRL corridor. In order to safeguard the NSRL corridor through Oran Park all parties are working closely*

*with Council to minimise the impact of the development. If Council approves the application, TfNSW requests that the conditions provided in **Attachment A** be imposed. This will help ensure that any potential impacts are adequately managed.”*

The conditions as recommended by TfNSW have been included in the schedule of recommended conditions. These conditions are to be complied with unless otherwise agreed to in writing by Transport for NSW.

It is noted that the development is NOT of a type which is identified as being likely to be adversely affected by rail noise or vibration pursuant to clause 87 of the SEPP. These being:

- (a) residential accommodation,
- (b) a place of public worship,
- (c) a hospital,
- (d) an educational establishment or centre-based child care facility.

Since this response, on the 3 July 2020 the North South Rail Line and South West Rail Link Extension was gazetted. This came into effect by the commencement of the State Environmental Planning Policy (Major Infrastructure Corridors) 2020 which formalised the rail corridor and rezoned the land SP2.

Upon notice of the Corridors SEPPs operation and confirmation of the rail corridors location, Transport for NSW was contacted requesting their concurrence pursuant to clause 85 and 86 of the SEPP. Transport for NSW have not responded to this second referral and given the statutory timeframe of 21 days has lapsed as of 25 July 2020, their concurrence has been assumed subject to the conditions contained in their original response.

After the 21 day statutory time period ended, TfNSW did issue a draft response to Council which was awaiting formal endorsement. It is acknowledged that the recommended conditions provided in this draft response are the same as contained within their original response.

Clause 86 also requires the consent authority to take into consideration any guidelines issued by the Secretary for the purposes of this clause and published in the Gazette. Council staff have considered the Development Near Rail Corridors And Busy Roads – Interim Guideline and imposed a recommended condition of consent which requires the proposal to be constructed in accordance with the recommendations of this Guideline.

#### State Environmental Planning Policy (Major Infrastructure Corridors) 2020

The SEPP (Major Infrastructure Corridors) commenced on 3 July 2020 and aims to protect land identified as a future infrastructure corridor. It specifically defines the location for the future North South Rail Line and South West Rail Link Extension.

Upon notice of the SEPPs operation and confirmation of the rail corridors location, Transport for NSW was contacted requesting their concurrence pursuant to clause 11 of the SEPP. Transport for NSW have not responded to this second referral and given the statutory timeframe of 21 days has lapsed as of 25 July 2020, their concurrence has been assumed subject to the conditions contained in their original response.

After the 21 day statutory time period ended, TfNSW did issue a draft response to Council which was awaiting formal endorsement. It is acknowledged that the recommended conditions provided in this draft response are the same as contained within their original response.

Clause 11 of the SEPP also requires the consent authority to consider any guidelines issued by the Planning Secretary for the purposes of this clause and published in the Gazette. The Planning Guideline for Major Infrastructure Corridors contains no relevant controls for the assessment of this DA. The Guidelines seems to be intended to guide more strategic level planning decisions as it finds that: *“The identification of a corridor in a strategic land use plan will not affect how a development application (DA) in or around the corridor is assessed, nor create additional criteria for assessment and/or additional limitations on the development that is allowed to occur.”*

#### State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)

SEPP 55 provides a State-wide planning approach to the remediation of contaminated land.

Clause 7 of SEPP 55 requires the consent authority to consider if the site is contaminated. If the site is contaminated, the consent authority must be satisfied that it is suitable in its contaminated state for the development. If the site requires remediation, the consent authority must be satisfied that it will be remediated before the land is used for the development. Furthermore, the consent authority must consider a preliminary contamination investigation in certain circumstances.

The applicant has submitted a Contamination Assessment Review which detailed the previous assessment reports and documents relevant for the site including phase 2 detailed contamination assessment. This review found the site to be suitable for the proposed development from a contamination perspective. Council staff have reviewed the documentation and support its findings.

A standard contingency condition is recommended that requires any contamination found during construction to be managed in accordance with Council's Management of Contaminated Lands policy.

#### Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (SREP 20)

The proposed development is consistent with the aim of SREP 20 (to protect the environment of the Hawkesbury-Nepean River system) and all of its planning controls.

There will be no detrimental impacts upon the Hawkesbury-Nepean River system as a result of the proposed development. Appropriate erosion and sediment control measures and water pollution control devices have been proposed as part of the development.

***(a)(ii) the provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)***

#### Draft Environment State Environmental Planning Policy (Draft Environment SEPP)



The development is consistent with the Draft Environment SEPP in that there will be no detrimental impacts upon the Hawkesbury-Nepean River system as a result of it.

***(a)(iii) the provisions of any development control plan***

The development control plans that apply to the development are:

- Camden Development Control Plan 2011.
- Oran Park Development Control Plan 2007.

Camden Development Control Plan 2011 (Camden DCP)

An assessment table in which the proposed development is considered against the Camden DCP is provided as an attachment to this report.

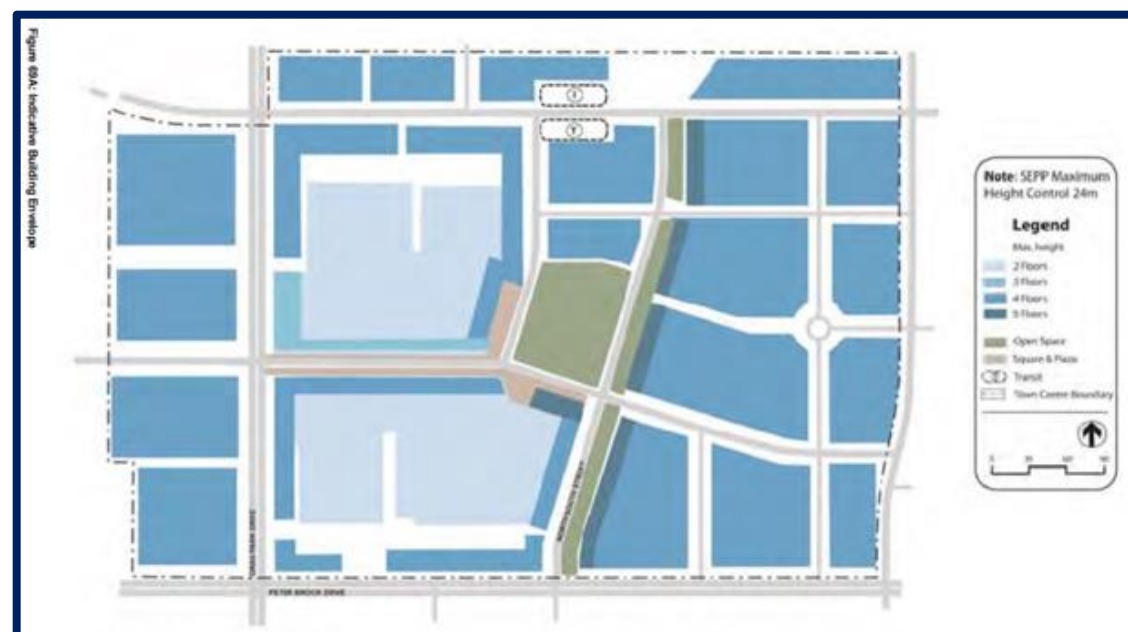
Oran Park Development Control Plan 2007 (Oran Park DCP)

An assessment table in which the proposed development is considered against the Oran Park DCP is provided as an attachment to this report.

An assessment of the variations sought to the building envelope and minimum Green Star rating controls is provided below.

*Proposed Variation No 1 – Building Envelope*

The proposed development seeks a variation to the 4 storey building envelope control contained in Control 1 in Section 7.3 of Part B1 Oran Park Town Centre of the Oran Park DCP:



*Figure 14: Indicative Building Envelope Plan from the Oran Park DCP*

*Applicants Variation Justification – Building Envelope*

The applicant made the following submission in support of the proposed variation:

*“The proposal includes a minor variation to the permissible SEPP building Heights to accommodate the internal atrium roof structure and roof top plant and machinery.*

*This has been addressed in detail in the Clause 4.6 Variation request submitted with the application.”*

#### *Variation Assessment – Building Envelope*

The objectives for the building envelope control are:

- *To ensure that the bulk and scale of future development responds to the desired vision, scale and character of the Oran Park Town Centre and surrounding development.*
- *To encourage a variety of building heights within the Town Centre which respond to the site specific design considerations.*
- *To embody buildings with flexibility in their use over time.*

In accordance with clause 4.15(3A)(b) of the Environmental Planning and Assessment Act 1979 there must be flexibility in the application of DCP provisions to allow reasonable alternative solutions that achieve the relevant objectives.

It is considered that the proposed development remains consistent with the objectives of the control given that:

- The proposed development is consistent with the adjacent twin Commercial 1 Building which was approved by the SWCPP as a 6 storey building. Together both buildings will have a strong visual connection due to their consistent height.
- The proposed building scale would result in the introduction of additional variety in building heights within the town centre. The existing building heights within the town centre are:
  - Commercial 1 Building – 6 storeys
  - Stage 1 of the retail component – 4 storeys at the street frontage.
  - Oran Park Sales building – 2 storeys with a 4 storey clock tower.
  - Camden Council Administration Building – 3 storeys
  - Oran Park Library – 2 storeys.

As such the introduction of an additional 6 storey commercial building in such a key intersection is considered to promote variety in building heights at an appropriate location in the town centre.

- The proposed development is considered to respond to the site-specific design considerations, most prominently is the development's concentration of scale and employment generating land uses in close proximity to the recently announced Oran Park train station indicative location.
- The proposed development's larger scale has led to increased tenancy floor plates that provides for greater flexibility in their use over time. The increased floor area as a result of the increased scale allows for the co-location of commercial/office floor space.
- The proposed development represents a response to the changing vision of the Oran Park Town Centre following the recent announcement of the South-West Rail Link Extension Corridor and the proposed location of the Oran Park train station to the north of the subject site.

Consequently, it is recommended that the panel support this variation to the minimum building envelope.

#### *Proposed Variation No. 2 – Green Star Rating*

The applicant has not submitted certification that the building's design has reached a minimum 4 Green Star rating from the Green Council of Australia. The applicant has also indicated they are unwilling to accept the requirement to obtain this certification for the Green Council of Australia as part of the conditions of consent.

#### *Applicant's Variation Justification – Green Star Rating*

The applicant made the following submission in support of the proposed variation:

*"A detailed Environmental Sustainability Report has been prepared by Thermal Environment and is submitted with this proposal.*

*The report demonstrates that the building is capable of achieving the equivalent of 4 Star Green Star rating.*

*The report demonstrates general compliance with the objectives of sustainable development strategies and sufficiently to addresses ESD requirements for the Development Application which fulfils the sustainable development of the proposed Office Building 2 at Oran Park."*

The applicant points out that environmental sustainability and internal office comfort have formed key elements in the design of the proposed building.

To assess sustainability outcomes, the proponent has adopted the site-specific sustainability criteria which were prepared for 'Attachment B' in the DCP in consultation with the Department of Planning, Landcom, Camden Council and the Oran Park Town project team. The sustainability controls are considered more appropriate to the Western Sydney context of the subject site than adopting a standardized target of the 4 Star Green Star rating.

A detailed Environmental Sustainability Report has been prepared by Thermal Environment which demonstrates that the proposed building either meets, or exceeds all of the sustainability measures and criteria listed in the Sustainability DCP which forms Attachment B. The report also addresses compliance with Section J of the BCA, which sets out a range of measures that requires buildings to be constructed to reduce greenhouse gas emissions.

The report meets the objectives and intent of the sustainability measures of the Part B DCP, being to ensure the new commercial building achieves an appropriate level of environmentally sustainable design.

Requiring strict compliance with the private Green Star system is not considered warranted in this circumstance.

The applicant also notes that all buildings delivered within the Oran Park Town Centre to date have successfully adopted and implemented the Part B DCP Sustainability Measures and it is considered appropriate to maintain a consistent approach to sustainability assessment throughout the Town Centre.

#### *Variation Assessment – Green Star Rating*

The objectives of this control are:

- To ensure all new Retail, Commercial and Mixed-Use buildings achieve a minimum level of environmental sustainable design and meet statutory benchmarks in sustainable development.

The proposed development's architectural design featuring a full height internal atrium will deliver natural lighting and ventilation to all levels of the building. These features will significantly enhance long term employee amenity and environmental sustainability for the proposal. The inclusion of the large-scale internal atrium will allow the building to achieve a Class A office space rating, bringing architectural, environmental design and delivery to the Oran Park Town Centre. Further, the measures outlined in the Environmental Sustainability Report adequately achieve an acceptable level of environment sustainable design which is far superior to the minimum statutory benchmarks of Section J of the BCA. These measures include, but are not limited to:

- Installation of 5 star WELS rating taps and urinals.
- Implementation of rainwater harvesting.
- All timber used for the development to be sourced from Forest Stewardship Council (FSC) certification scheme or reused source.
- The appointed head contractor to divert 90% of the construction and demolition waste as per the DCP requirements.
- Active modes of transport will be encouraged on site, by providing access facilities such as:
  - Bike racks,
  - Visitor bike racks,
  - End of trip facilities (showers, changing amenities with appropriate drying space and lockers), and
  - Parking space for fuel efficient vehicles or small cars.

Consequently, it is recommended that the Panel support these two proposed variations to the Oran Park DCP.

***(a)(iia) the provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4***

The site falls within land which is subject to the Oran Park Urban Release Area Voluntary Planning Agreement (VPA), signed in September 2011.

The Oran Park VPA provides for infrastructure and associated facilities within the Oran Park Town project, in lieu of payments under the Oran Park & Turner Road Precinct Section 94 Contributions Plan.

The site is located within Stage F, as identified in the VPA. The delivery of facilities and infrastructure is required based on lots for residential purposes, commercial development does not trigger any requirement thresholds.

The Proposal is consistent with the land use and development outcomes, infrastructure/facilities provision and staging outcomes prescribed under the Oran Park

VPA. The proposed development will not trigger any deliverables nor impinge on the capacity of any of these requirements to be delivered.

**(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)**

The *Environmental Planning and Assessment Regulation 2000* prescribes several matters that are addressed in the conditions attached to this report.

**(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

As demonstrated by the assessment, the development is unlikely to have any unreasonable adverse impacts on either the natural or built environments, or the social and economic conditions in the locality.

Traffic Impacts

The applicant has submitted a traffic report and supporting information in support of the DA. The report and supporting information demonstrate that the proposed development will not have a significant negative impact upon the surrounding road network and the operation of surrounding intersections. Council staff have reviewed the report and supporting information and support their conclusions.

**(c) the suitability of the site for the development**

As demonstrated by the above assessment, the site is considered to be suitable for the development.

**(e) any submissions made in accordance with this Act or the regulations**

The DA was publicly exhibited for a period of 14 days in accordance with Camden Development Control Plan 2011. The exhibition period was from 23 April 2019 to 6 May 2019. No submissions were received.

**(e) the public interest**

The public interest is served through the detailed assessment of this DA under the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, environmental planning instruments, development control plans and policies. Based on the above assessment, the development is consistent with the public interest.

**EXTERNAL REFERRALS**

The external referrals undertaken for this DA are summarised in the following table:

External Referral	Response
Roads and Maritime Services.	No objections, subject to Council's traffic assessment.
Transport for NSW	Some concerns raised which can be addressed, subject to recommended conditions in Attachment A.



Camden Local Area Command	No objection subject to recommended conditions.
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A standard condition that requires compliance with the external referral responses is recommended.

### **FINANCIAL IMPLICATIONS**

This matter has no direct financial implications for Council.

## **CONCLUSION**

The DA has been assessed in accordance with Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and all relevant instruments, plans and policies. The DA is recommended for approval subject to the conditions attached to this report.

## **RECOMMENDED**

**That the Panel:**

- i. Support the written request lodged pursuant to Clause 4.6 of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 to contravene the maximum height of buildings development standard, and**
- ii. Approve DA/2019/269/1 for a 6 storey commercial development at 88 Podium Way, Oran Park subject to the conditions attached to this report.**