



Report to Sydney Central City Planning Panel

SCCPP reference	PPSSCC-135
DA No.	493/2020
Date of receipt	31 August 2020. Amended plans or revised/additional information received: <ul style="list-style-type: none">• 28.8.20• 30.10.20• 10.11.20• 21.5.21• 9.9.21• 10.11.21
Proposal	Construction of two residential towers comprising 708 apartments above the existing seven storey podium, the use of existing basement levels 1-5 for residential parking and various adjustments to the existing building to allow for the integration of those towers.
Street address	189 Macquarie Street, Parramatta
Property Description	Lot 1, DP 1214839
Applicant	Toplace Pty Ltd
Owner	JKN PARA Pty Ltd
Submissions	Less than 10 unique submissions
Relevant s4.15 matters	<ul style="list-style-type: none">• Environmental Planning and Assessment Act and Regulations• State Environmental Planning Policy No. 55• State Environmental Planning Policy No. 65• State Environmental Planning Policy (Sydney Harbour Catchment) 2005• State Environmental Planning Policy (BASIX) 2004• State Environmental Planning Policy (Infrastructure) 2007• State Environmental Planning Policy (State Regional Development) 2011• Parramatta Local Environmental Plan 2010• Draft amendments to Parramatta Local Environmental Plan 2011• Parramatta Development Control Plan 2011
Attachments	Attachment A – Detailed planning assessment. Attachment B – Reasons for refusal Attachment C – Selected plans

Summary of s4.15 matters	
Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report ?	Yes
Legislative clauses requiring consent authority satisfaction	
Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised in the Executive Summary of the assessment report ?	Yes
Clause 4.6 Exceptions to development standards	
If a written request for a contravention to a development standard has been received, has it been attached to the assessment report?	N/A
Special Infrastructure Contributions	
Does the DA require Special Infrastructure Contributions conditions (S94EF)?	No
Conditions	
Have draft conditions been provided to the applicant for comment ?	N/A

Recommendation	Refusal
Report by	Brad Roeleven, Executive Planner

1. Executive summary

Assessment of this application against the relevant planning framework was completed in August 2021 at which time it was found the following key issues were unresolved:

- Failure to pay required development application fees;
- Insufficient information provided to demonstrate compliance with the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- Failure to meet the design criteria for the natural ventilation of apartments as nominated in State Environmental Planning Policy (Design Quality of Residential Apartment Development) via the Apartment Design Guide;
- Failure to satisfy the requirements of clauses 101 and 104 of State Environmental Planning Policy (Infrastructure) 2007;
- Failure to meet the design excellence provisions of clause 7.9 of Parramatta Local Environmental Plan 2011; and
- The design of the building is not satisfactory regarding:
 - The assessment of wind impacts and provision of appropriate mitigation measures
 - The provision of appropriate mitigation measures to manage reflectivity impacts

- The location of a substation at Level 17 of Tower A has not been approved by Endeavour Energy, and in any case is not supported by Transport for NSW given impacts upon the operational requirements of Parramatta Light Rail.
- Measures to manage wastewater servicing constraints identified by Sydney Water
- Transport for NSW will not permit any element of Tower A to encroach over the boundary with Macquarie Street.

The applicant requested and was granted additional time to address those matters.

Assessment of the additional information subsequently received confirms that several key matters remain unresolved. On balance the application is therefore not satisfactory when evaluated against section 4.15 of the Environmental Planning and Assessment Act 1979. Accordingly, this report recommends that the application be refused, for the reasons set out at **Attachment B**.

2. Site location, description and related applications

2.1 Site location and description

The land the subject of this application is a single allotment legally described as Lot 1 in Deposited Plan 1214839 and known as 189 Macquarie Street, Parramatta. This allotment was previously under the ownership of the City of Parramatta Council, but on 24 March 2019 Council resolved to sell the site, with applicant becoming the owner on 24 May 2019.

The site is located on the eastern periphery of the Parramatta City Centre, about 400m east of the Parramatta Railway station. It is irregular in shape, with an area of 5,211 m² and with frontages to both Macquarie and Hassall Streets of 40.2m and 51.6m respectively. It is located 250m south west of the Parramatta River and 85 metres north of the Clay Cliff Creek, a Sydney Water asset which is defined by a concrete channel.



Figure 1: Locality plan

Surrounding development comprises a mix of uses consistent with the locality's mixed-use

zoning given its fringe CBD location. The area however is transitioning towards a higher proportion of high density mixed use developments.

Stage 1 of Parramatta Light Rail is currently under construction, including along Macquarie Street immediately adjacent to this site. Once PLR is complete, the Macquarie Street carriageway will comprise two sets of tracks, a shown below plus a single public vehicle travel lane adjacent the northern kerb, allowing for one way (eastbound) movement.



Figure 2: PLR tracks now constructed in Macquarie Street, immediately adjacent to this site.

The site is significantly affected by the 1 in 100-year ARI flood and is completely impacted during a Probably Maximum Flood Event (PMF). Local heritage items located opposite the site in Hassall Street have been incorporated into a recent high density development.

This land was previously operated by Council as an at grade open air public carpark, however construction of mixed-use building approved under DA 852/2013 has commenced with the podium levels largely complete. That project however is subject to a Stop Work Order.

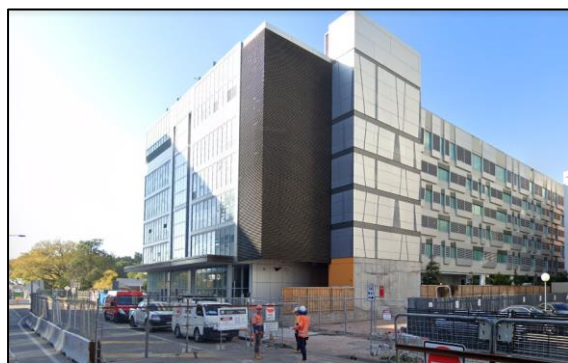


Figure 3: Existing podium from Macquarie Street



Figure 4: Existing Podium from Hassall Street

2.2 Related applications

This site has a complicated history as summarised below:

Table 1: Summary of related matters

DA/852/2013	<p>This application was approved by the Sydney West JRPP on 15 April 2015. Key elements of that project are:</p> <ul style="list-style-type: none"> • 10 car parking levels (4 basement and 6 above ground) providing 715 public spaces and 389 private spaces; • 24 residential storeys above the 6-storey parking podium, providing 425 apartments; • 317m of ground floor retail space. <p>Determination of this DA was contingent upon the site-specific PP which was gazetted on 20 February 2015. A Planning Agreement was also entered into on 15 April 2015.</p>
DA/852/2013/A	<p>This modification application sought to amend the approved development to:</p> <ul style="list-style-type: none"> • Allow an additional two basement levels to provide a further 36 car parking spaces for residential use, increasing the total to 425 car parking spaces; • Relocate the substation from Basement Level 1 to Upper Level 1 so it can be accessed at ground level and be above the 1 in 100-year flood level; and • Reconfigure the layout to the Upper Level 1 and Basement Levels 1, 2 and 3 for the retail spaces, car parking, plant rooms, storage areas, stormwater drainage and ancillary services. <p>The application was refused by the JRPP in February 2016.</p>
Unauthorised Works	<p>In March 2016, Council became aware of the following circumstances:</p> <ul style="list-style-type: none"> • The construction of the additional basement levels (4 and 5) refused via DA 852/2013/A had already been completed; • That a further (6th) basement level was constructed to hold a hydraulic tank with pump for the purposes of dewatering; and • That all basement levels were not waterproofed (tanked). <p>Council issued a Stop Work Order to cease all building work. This Order was issued by Council in July 2017 and remains in place. The most recent advice from Council's solicitors (9 June 2020) sets out the reasons why the Order has not been satisfied, and that it should not be revoked until the following matters are resolved:</p> <ul style="list-style-type: none"> • The basement is tanked, or consent is granted for a dewatered basement • An updated Dewatering Management Plan is approved by Water NSW relative to the quantum of groundwater being pumped from the site. • The ongoing permanent dewatering of the site needs approval from Water NSW.
Appeal to LEC	<p>The Applicant appealed to the Land and Environment Court (LEC) regarding both:</p> <ul style="list-style-type: none"> • The refusal of the modification application; and • The Order issued by Council under (former) Section 121B of the Environmental Planning and Assessment Act 1979 to cease all building work. <p>The Court dismissed the Appeals against the refusal of the modification application and the Order.</p>
Building Certificates	<p>Two (2) separate Building Information Certificates were subsequently issued by Council for the abovementioned unauthorised works. (BC/74/2018 and BC/75/2018 both issued 20.8 2018). The BIC's did not approve the use of those basement levels, nor did they approve method for the collection/discharge of groundwater.</p>
DA/252/2019	<p>This application sought consent for subdivision of the building approved by DA/852/2013 into five (5) stratum allotments. Consent was granted by Notice dated 13 September 2019.</p>
DA/252/2019/A	<p>This application sought to modify the consent for the stratum subdivision by deleting condition 14 from the approval. The application was refused by Notice dated 26 February 2020. The applicant subsequently lodged a request for review under section 8.3 of the Act, however that could not be considered as it was submitted outside of the statutory timeframes nominated in clause 1231(1) of the EPA Regulation. An appeal against the refusal was then commenced by the applicant but ultimately discontinued on 10 August 2020.</p>

DA/283/2019	This application sought consent for the construction of a permanent ground water dewatering system which would re-use water that water for irrigation and toilet flushing, with excess ground water being disposed of offsite using water tanker trucks. The application was refused by Notice dated 24 March 2020. The applicant's appeal against that decision was upheld by the LEC via a judgement dated 31 August 2021.
DA/852/2013/B	This application sought consent to modify DA 852//2013 to reduce the supply of public parking spaces from 715 to 695 and was approved on 23 July 2020. Notwithstanding, the applicant appealed to the LEC in relation to new conditions that were included in the modified consent at the request of TfNSW. Ultimately TfNSW agreed not to press those conditions and the matter was resolved by agreement and confirmed by Court Orders dated 8 December 2020.
Planning Proposal (RZ/22/2015)	This PP sought to amend the Parramatta Local Environmental Plan (LEP) 2011 in relation to the site-specific clause '7.9 – Development on land at 189 Macquarie Street, Parramatta'. The amendment seeks to: <ul style="list-style-type: none"> • Increase the building height from 91.3 metres to 167 metres; • Increase the Gross Floor Area (GFA) from 36,000sqm to 60,000sqm (excluding any floor space used for private balconies and communal open space); and • Introduce a new provision in relation to maximum car parking rates for private car parking (amendment to Clause 7.14). The PP was gazetted on 4 September 2020. The related VPA has been executed by both the applicant and Council, and post-execution tasks are ongoing.
Design Competition (DC/11/2016)	The Brief for this scheme was endorsed in July 2019 and the competition conducted in September 2019. The purpose of the competition was to determine a scheme that would implement the outcomes of the concurrent site-specific PP being pursued by the applicant. The Jury report for the finalisation of the competition was prepared in June 2020.
DA/356/2020	This application sought consent to construct and operate a permanent groundwater reuse system that will capture and treat this groundwater, allowing it to then be re-used on site for toilet flushing and irrigation of landscaping. Any surplus groundwater would be discharged to Clay Cliff Creek via a private drainage lines separate from council's stormwater system. That DA was approved by Notice dated 13 April 2021.
DA/356/2020/A	This application sought to amend condition 3 in terms of timing for compliance with its requirements. That application was approved by Notice dated 10 August 2021.
DA/493/2020	Construction of residential flat building over an existing podium (two towers 45 and 54 storeys) with a total of 718 residential units over 5 basement parking levels, and associated works. That application is the subject of this report.

3. The proposal

In summary the application comprises the following primary elements:

- The erection of two towers above the existing seven storey podium level comprising 708 apartments as follows:
 - Tower A – 47 levels with 463 residential apartments
 - Tower B – 38 levels with 245 residential apartments
- Use of the existing basement levels 1, 2, 3, 4, 5 for residential car parking requiring the re-configuration of the layout of all levels, and installation of an additional lift to service Building A.
- Minor re-configuration of the units in the podium level to accommodate an additional lift

- Installation of an additional lift to service Building A in the public car parking levels at Lower ground, Upper ground, Levels 2, 3, 4, 5 & 6.
- Identification of the need to also modify DA/852/2013 to incorporate the additional lift and minor re-configuration of the units in the podium and deletion of towers A & B.



Figure 5: View north towards Hassall Street



Figure 6: View west generally along Macquarie Street

The overall development, including those elements already completed, would therefore comprise:

- 718 residential apartments (10 within the existing podium);
- 4 retail tenancies (existing at ground floor);
- 470 residential parking within the existing constructed basements, accessed via Macquarie Street; and
- 695 public parking spaces within the existing constructed podium, accessed via Hassall Street.

4. Design Excellence

The proposal is the subject of a Design Excellence Competition conducted in September 2019. Evaluation of this DA submission by the competition Jury has identified various matters which are unsatisfactory. Accordingly the proposal does not satisfy the qualitative provisions of clause 7.10(4) of PLEP 2011. See further discussion at section 6.4 of **Attachment A**.

5. Public notification

The notification period was 10 September 2020 until 1 October 2020. Nine submissions were received, all raising objections to the proposal.

Noting the changes to the operation of Planning Panels which commenced on 1 August 2020, this matter is not required to be the subject of a public meeting as there is less than 10 unique submissions.

Consideration of the issues raised is provided at section 8 in **Attachment A**.

6. Referrals

Table 2

Are there matters arising from internal/external referrals which are not dealt with by conditions	Yes
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7. Environmental Planning and Assessment Act 1979

The matters for consideration in the evaluation of a development application are addressed at **Attachment A**. The following table summarises compliance with any other related provisions of the Act.

Table 3

Does Section 1.7 (Significant effect on threatened species) apply ?	No
Does Section 4.10 (Designated Development) apply ?	No
Does Section 4.46 (Integrated Development) apply ?	No
Are submission requirements within the Regulations satisfied ?	Yes

8. Consideration of SEPPs

Consideration of the requirements of applicable SEPPs are addressed at section 2 of **Attachment A**. The following table identified key issues from that element of the assessment:

Table 4

Key issues arising from evaluation against SEPPs	<ul style="list-style-type: none"> • ISEPP provisions not satisfied <p>Refer to detailed discussion at Attachment A</p>
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9. Parramatta LEP 2011

The table below presents a summary assessment against the terms of this LEP. A detailed evaluation is provided at section 2.8 of **Attachment A**.

Table 5: Summary of PLEP 2011 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 zone objectives
Part 3 Exempt and complying development	Not applicable

Part 4 Principle development standards	Satisfied
Part 5 Miscellaneous provisions	All relevant provisions satisfied
Part 6 Additional local provisions	Satisfied
Part 7 Parramatta City Centre	Design excellence provisions not satisfied

10. Parramatta Development Control Plan 2011

The proposal is generally consistent with the provisions of the DCP. A detailed evaluation is provided at section 3 of **Attachment A**.

11. Planning Agreements and Contributions Plans

Two Planning Agreements operate in relation to this site, being:

- In connection with DA 852/2013 for the base building, which as noted is partially constructed; and
- In connection with the site-specific PP for significant uplift, which was finalised in September 2020

Council's section 94A Plan [section 7.12] Plan continues to operate despite those Agreements.

All matters are satisfied as discussed at section 4.1 of **Attachment A**.

12. Response to SCCPP briefing minutes

The Panel was briefed on this application at its meeting on 3 March 2020. The 'Record of Briefing' provides a list of the key issues discussed. Those matters which relate to the assessment of the application are addressed below:

Table 6: Response to SCCPP issues

<i>Issue</i>	<i>Comment</i>
<ul style="list-style-type: none"> • Groundwater matters 	Resolved via approval to DA 356/2020
<ul style="list-style-type: none"> • Location of substations (Energy Australia) 	Resolved - refer to section 6.7
<ul style="list-style-type: none"> • Sydney Water has concerns regarding wet weather sewage disposal in this location considering the demand that this size development will drive 	Resolved - refer to section 6.7
<ul style="list-style-type: none"> • Between the original approval in 2015 and now, the Parramatta Light Rail has been 	Not resolved - refer to section 2.6

<p>approved and runs adjacent to the site, affecting approved access ways</p> <ul style="list-style-type: none"> • Encroachments of architectural elements over the railway corridor • Wind impacts, requiring greater testing and rigour in the approach from the applicant • Technical issues related to the BASIX • Probably maximum flood impacts at the ground / podium / basement levels • Architectural roof feature • Reflectivity. 	<p>Not resolved - refer to section 2.6</p> <p>Not resolved - refer to section 6.5.</p> <p>Resolved - refer to section 2.4</p> <p>Resolved – refer to section 6.9</p> <p>Resolved</p> <p>Not resolved - refer to section 6.5</p>
<p>Panel notes that solar access is 26% below target while cross ventilation is 20% below target. The Panel considers both factors could be improved.</p>	<p>Solar access resolved – refer to section 6.5. Cross ventilation resolved – refer section 6.5</p>
<p>Panel notes that there is a high degree of reliance on elevated outdoor space, which has the potential to be impacted by winds.</p>	<p>Wind impacts for outdoor areas and terraces meets relevant target criteria.</p>
<p>Solar access impacts should be considered also for Robin Thomas and James Ruse Reserves, including playgrounds on these sites.</p>	<p>Resolved – refer to section 6.6</p>

Conclusion

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

Multiple issues remain outstanding despite detailed advice being provide to the applicant on what is required to resolve those matters. Noting that, and given the application has been under assessment now for 15 months, this report recommends that the application be refused for the reasons nominated at **Attachment B**.

It is acknowledged that a commitment to improve the scheme to address the identified shortcomings may possibly result in a different conclusion. Should the Panel endorse this report the applicant has various options available to revisit the proposal, notably via the review process at 8.3 of the Act.

RECOMMENDATION

- A. That pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979 the Sydney Central City Planning Panel refuse to grant development consent to Development Application DA/493/2020 for the reasons shown at **Attachment B**.
- B. That those persons who made a submission be advised of the Panel's decision.

ATTACHMENT A - PLANNING ASSESSMENT

SWCCP reference	PPSSCC-135
DA No.	493/2020

1. Overview

The sections of the Environmental Planning and Assessment Act 1979 which require consideration are addressed below:

1.1 Section 1.7: Biodiversity Conservation Act 2016 & Fisheries Management Act 1994

The application is not captured by the Biodiversity Conservation Act 2016 as the scope of works is not likely to significantly affect threatened species given:

- The current condition of the site, and its location in an established CBD area
- No biodiversity offsets scheme applies; and
- The site is not in a declared area of outstanding biodiversity value.

The application is not captured by the Fisheries Management Act 1994.

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

The Panel is the consent authority as the proposal has a CIV of more than \$30 million.

1.3 Section 4.15(1): Evaluation

The relevant matters for consideration under this section of the Act noted in the table below:

Table 7: Matters for consideration

Provision	Comment
Section 4.15(1)(a)(i) - Environmental planning instruments	Refer to section 2 below
Section 4.15(1)(a)(ii) - Draft planning instruments	Refer to section 2.9 below
Section 4.15(1)(a)(iii) - Development control plans	Refer to section 3 below
Section 4.15(1)(a)(iia) - Planning agreements	Refer to section 4.1 below
Section 4.15(1)(a)(iv) - The Regulations	Refer to section 5 below
Section 4.15(1)(b) - Likely impacts	Refer to section 6 below
Section 4.15(1)(c) - Site suitability	Refer to section 7 below

Section 4.15(1)(d) - Submissions	Refer section 8 below
Section 4.15(1)(e) - The public interest	Refer to section 9 below

1.4 Referrals

The following internal and external referrals were undertaken:

Table 8: Referrals

<i>INTERNAL</i>	
Landscape	No objections – conditions provided
Development Engineer	No objections – conditions provided
Traffic	No objections – conditions provided
Waste Services Supervisor	No objections – conditions provided
Environmental Health (Waste)	No objections – conditions provided
Environmental Health (Acoustic)	No objections – conditions provided
Social Outcomes	No objections
Accessibility	No objections – conditions provided
Public Art	Concerns resolved - see section 6.4
Crime Prevention	No objections – conditions provided
BCA	No objections – conditions provided
Quantity Surveyor consultant	Cost of works confirmed, and relevant fees paid.
External ESD consultant	No objections – conditions provided
Reflectivity	Concerns raised - see section 6.5
External wind consultant	Concerns raised – see section 6.5
<i>EXTERNAL</i>	
Sydney Water	Concerns resolved - see section 6.7
Endeavour Energy	Concerns resolved - see section 6.7
TfNSW	Concerns raised - see section 2.6
Federal Department Infrastructure, Transport, Regional Development and Communications	Controlled activity approval granted

2. Environmental planning instruments

2.1 Overview

The instruments applicable to this application comprise:

- SEPP No. 55 (Remediation)
- State Environmental Planning Policy No. 65
- State Environmental Planning Policy (BASIX) 2004
- SEPP (Infrastructure) 2007

- SEPP (State and Regional Development) 2011
- SEPP (Sydney Harbour Catchment) 2005
- Parramatta Local Environmental Plan 2011

Compliance is addressed below.

2.2 State Environmental Planning Policy 55 – Remediation of land

Clause 7 of SEPP 55 requires the consent authority to consider if land is contaminated and, if so, whether it is suitable, or can be made suitable, for a proposed use.

This issue was addressed and resolved in conjunction with the assessment of DA/852/2013, and the 7 storey podium of that development is now largely complete. Given those circumstances:

- Consideration has been given to whether the land is contaminated;
- No contamination report is warranted particularly as consent is not being sought for a change in land use of a type nominated in clause 7(4) of the Plan; therefore
- The site is suitable for the land use proposed by this application.

That said, the applicant's failure to tank the constructed basements created a circumstance not contemplated during the assessment of prior DA/852/2013. The groundwater penetrating all basement levels of the partially completed base building is contaminated. Resolution of that issue is inexorably linked to the Stop Work Order noted on Table 1 above, and consequently was the subject of two separate DAs (283/2019 and 356/2020 - also referenced in Table 1 above) which proposed the installation and operation of a permanent groundwater capture, treatment and reuse system. That treated groundwater would serve the residential component of the development for the purposes of toilet flushing and landscape irrigation.

DA/356/2020 was approved, in part due to demonstrating that all relevant water quality issues for the permanent groundwater capture, treatment and reuse system were properly addressed. The applicant has since confirmed its intention to implement that consent.

Noting the above, the requirements of clause 7 of this Policy have been satisfied.

2.3 State Environmental Planning Policy 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 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. A response to those design principles, prepared by the project architect, supports the application as required by the Environmental Planning and Assessment Regulation.

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

Table 9: Response to SEPP 65 design principles

Principle	Comment
Context and neighbourhood character	The locality is transforming to a high density residential/mixed use precinct. The development generally accords with the desired future character nominated by the LEP and DCP.
Built form and scale	The bulk and scale of the proposal is acceptable given its consistency with the LEP controls.
Density	Density is consistent with the specific controls in the LEP. Those controls were developed with regard to the context of the site in terms of availability of infrastructure, public transport, community facilities and environmental quality.
Sustainability	Details provided regarding compliance with energy and water efficiency targets under SEPP (Basix) 2004 are achieved. Allowing for acknowledged constraints, the design is consistent with best practice criteria for cross ventilation under the ADG. Solar access outcomes relative to the ADG are less than the best practice target but are acceptable on merit as discussed elsewhere in this report.
Landscape	The landscape treatment is satisfactory.
Amenity	Amenity for some apartments is not satisfactory when tested against best practice design criteria in the ADG, even allowing for exceptions noted elsewhere in this report.
Safety	Appropriate outcomes achieved through the design generally, and otherwise by conditions of consent.
Housing diversity and social interaction	An appropriate mix of unit sizes has been provided. The required number of adaptable housing units is provided.
Aesthetics	The composition of building elements and materials is generally satisfactory, however various design issues remain unresolved. The development has not met the threshold for 'design excellence' required by PLEP 2011. Building encroachments over the Macquarie Street boundary must be resolved which will alter the northern façade of Tower A

Apartment Design Guide (ADG)

The SEPP requires consideration of the ADG, which supports the 9 design quality principles by providing greater detail on how proposals can meet those principles through good design and planning practice. The table below considers this proposal against key ADG matters:

Table 10: Response to ADG

Element	Comment	Complies
Building separation	Separation distances between Towers A and B are achieved	Yes

Element	Comment	Complies
	<p>Tower A separation distances with adjacent sites are about 3m less than preferred for a building of this height. However, setbacks are consistent with site specific masterplan.</p> <p>Tower B separation distances to the western boundary comply</p> <p>Tower B setbacks to the eastern boundary are up to 5.5m less than the nominated criteria. Again, however the setbacks are generally consistent with site specific masterplan.</p>	<p>No, but acceptable on merit</p> <p>Yes</p> <p>No, but acceptable on merit</p>
Apartment size and layout	<ul style="list-style-type: none"> • Minimum unit sizes are achieved • Apartment layouts are efficient 	Yes
Balconies	Minimum areas and dimensions are generally achieved, and the provision of an excess of good quality and evenly spaced communal open space areas is sufficient to ensure the amenity of future applicants.	Yes
Common open space	<ul style="list-style-type: none"> • Common open space provided is about 1,850m², or 36% of site area, inclusive of podium, sky gardens and rooftop terraces. The criterion is 25% • Min 50% of COS to receive 2hrs sunlight at midwinter, 	<p>Yes</p> <p>Yes</p>
Ceiling heights	Minimum internal heights are achieved	Yes
Storage	Required supply of storage for each unit is achieved	Yes
Solar access and daylight	<ul style="list-style-type: none"> • Design criteria is at least 70% of units and POS to receive >2hrs solar access at midwinter between 9am and 3pm <ul style="list-style-type: none"> - 54% of units comply • 11.5% get no solar access (Max criteria is 15%) 	<p>No – see discussion at section 6.5</p> <p>Yes</p>
Natural ventilation	<ul style="list-style-type: none"> • Design criteria is min 60% of units in first 9 storeys to be naturally ventilated <ul style="list-style-type: none"> - Claimed at 63.4% but considered to only be 54% 	No – see discussion at section 6.5
Visual privacy	Satisfactory despite side boundary separation distances	Yes
Common circulation	<ul style="list-style-type: none"> • Design criteria of maximum 8 units off a circulation core <ul style="list-style-type: none"> - Building A: 11 - 13 - Building B: 5 - 8 	<p>No</p> <p>Yes</p>

Element	Comment	Complies
	<ul style="list-style-type: none"> Number of units per lift (criteria is 40/lift) <ul style="list-style-type: none"> - Building A: 97 units/lift - Building B: 81 units/lift 	No - but a satisfactory level of service could be achieved
Common open space	<ul style="list-style-type: none"> Common open space provided is about 1,850m², or 36% of site area, inclusive of podium, sky gardens and rooftop terraces. The criterion is 25% Min 50% of COS to receive 2hrs sunlight at midwinter, 	Yes Yes
Deep soil	Design criteria for sites greater than 1,500m ² is 7% of site area (363m ²) with 15% desirable. The proposal achieves 3% or 155m ² .	No - This is a legacy of DA 853/2013
Apartment mix	<ul style="list-style-type: none"> 122 x 1 bedroom apartments (17%) 541 x 2 bedroom apartments (75%) 55 x 3 bedroom apartments (8%) 	Yes

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

The purpose of this Policy to reduce household electricity and water use by setting minimum sustainability targets for new and renovated homes. Evidence of compliance is to be demonstrated through the provision of a Certificate.

Consistent with the provisions of the Regulations and this Policy, the application as lodged was supported by the required Certificate and associated supporting plans and reports.

Review of that information by Council's sustainability consultant identified multiple errors or omissions triggering the need for revised documentation. Additional information was received in May, September and November 2021, and ultimately was confirmed as satisfactory.

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

This Policy applies to all of the City of Parramatta local government area. It aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing principles and controls for the whole catchment.

The nature of this project and the location of the site are such that there are no specific controls which directly apply, except for the objective of improved water quality. That outcome would be achieved through the imposition of suitable conditions to address the collection and discharge of stormwater water during construction, and upon completion.

2.6 State Environmental Planning Policy (Infrastructure) 2011

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State. Part 3 of the Policy (Development controls) is applicable as follows:

Division 15 – Railways

The site immediately adjoins the route of the Parramatta Light Rail, and consequently the following provision apply:

- Clause 85 – Development adjacent to rail corridors

This clause requires a consent authority to take into consideration the comments of the rail authority where a development would:

- likely have an adverse effect on rail safety, or
- involve the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or
- involve the use of a crane in air space above any rail corridor, or
- be located within 5 metres of an exposed overhead electricity power line that is used for the railways or rail infrastructure facilities.

The application was therefore referred to Transport for NSW (TfNSW) who raised no objections, relative to this clause of the ISEPP, subject to any consent including the conditions it nominated.

- Clause 87 – Impact of rail noise or vibration on non-rail development

This clause requires that consent for residential development must not be granted unless nominated interior noise criteria are demonstrated as able to be achieved.

The application is supported by an acoustic report which nominates mitigation measures (glazing specifications and various construction requirements) that will enable the ISEPP internal noise criteria to be achieved. The report has been evaluated and confirmed as satisfactory by council's Environmental Health Officer.

Division 17 – Roads

This section of Macquarie Street is a classified road due to it being categorised as a 'transitway' for the Parramatta Light Rail. The following provisions therefore apply:

- Clause 101 – Development with a frontage to classified roads

This clause requires a consent authority must be satisfied that:

- Access is achieved other than via the classified road where possible;
- The safety, efficiency and operation of the classified road is not adversely affected by the design of the access, the activities of the proposal and the type/volume of traffic attending the site; and
- The development is not sensitive to noise or vehicle emissions

- Clause 104 – Traffic generating development

This clause requires that a consent authority must not determine a development application of a type nominated in Schedule 3 of this policy unless:

- TfNSW has been advised and its comments taken into consideration.
- The accessibility of the site has been evaluated with regard to the efficiency of movement to and from the site, the extent of multi-purpose trips, potential to minimise travel by car and to maximise movement of freight;
- Any potential traffic safety, road congestion or parking implications.

An initial referral response was received from TfNSW in September 2020, advising that:

- the application failed to demonstrate that traffic movements associated with the site would not adversely impact on the operational requirements of the PLR; and
- building encroachments beyond the Macquarie Street frontage into the classified road would not be supported

The applicant subsequently submitted a further three technical reports to address the concerns of TfNSW, the final submission being informed by a meeting with Transport, and with that agency providing technical data to assist the applicant in its modelling work. At no point however were the architectural plans altered to remove the building encroachment, of 200mm-450mm for all of Tower A, at the Macquarie Street frontage.

In response to the most recent submission from the proponent TfNSW advises that its concerns from July 2021 have not been addressed. Specifically, TfNSW advises:

1. Current practice is to limit the number of vehicular conflict points along the arterial road network to maintain network efficiency and road safety, as per Section 6.2.1 of TfNSW of the *Guide to Traffic Generating Developments*, which states ‘access across the boundary with a major road is to be avoided wherever possible’.

Macquarie Street in this location has been declared a transitway pursuant to section 52A of the *Roads Act 1993* where transport efficiency of through traffic is of great importance. Further, clause 101(2a) of *ISEPP*, states: “The consent authority must not grant consent to development on land that has frontage to a classified road unless it is satisfied that:

“where practicable, vehicular access to the land is provided by a road other than the classified road”.

TfNSW needs to be satisfied that the existing driveway access can safely accommodate the proposed increase in usage by the additional units. Swept paths reviewed by TfNSW indicate that the proposed service vehicles that would ingress and egress the subject development cannot do this concurrently when the driveway is occupied by another vehicle. In addition, swept paths indicate encroachments into the building structure and adjacent travel lanes.

2. A review of the SIDRA file and the Transport Impact Assessment (TIA) indicates that the increased vehicle movements and access arrangements of the proposal impact the operation of the transitway. In this regard any additional vehicle access to the proposed site via Macquarie Street cannot be supported.
3. The architectural plans indicate that there is encroachment of the building over the property boundary, which TfNSW does not support. It is advised Macquarie Street in this

location has been declared a transitway pursuant to section 52A of the *Roads Act 1993*.

TfNSW concludes that it cannot support the application in its current form, noting it is questionable as to whether the Applicant can demonstrate compliance with clause 101 (2 (a) and (b) of the *ISEPP*.

TfNSW therefore recommends that Council not grant any consent to this development until the above matters are addressed.

Every opportunity has been provided to allow the applicant to address these issues. Transport's position that it will not support any boundary encroachment would trigger significant redesign of the façade of Tower A, which may also provide an opportunity to resolve wind impacts in the public domain, discussed at section 6.5 below. However, such façade changes would require the review and approval of the Design Excellence Jury.

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

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

2.8 Parramatta Local Environmental Plan 2011

Zoning and permissibility

The site is zoned R4 'High Density Residential'. The use is defined as a '*residential flat building*', which is permissible within that zone.

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.*
- *Provide a variety of housing types within a high density residential environment.*
- *Enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *Provide opportunity for high density residential development close to major transport nodes, services and employment opportunities.*
- *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 proposal is consistent with those objectives.

Remaining provisions

Consideration of the remaining provisions of the Plan that may be relevant to this application are addressed in the following table:

Table 11: PLEP 2011 compliance table

Clause	Comment	Complies
Clause 4.3 Building height	<ul style="list-style-type: none"> • Mapped control is 54m, which is superseded by clause 7.9 	N/A
Clause 4.4 Floor space ratio	<ul style="list-style-type: none"> • Mapped control is 6:1, which is superseded by clause 7.9 	N/A
Clause 5.6 Architectural roof features	The design of the roof feature satisfies the terms of this clause and therefore does not contribute to building height	Yes
Clause 5.10 Heritage	<ul style="list-style-type: none"> • Not a listed heritage item, nor within a conservation area. • Numerous heritage items are in the immediate locality. • The application is supported by a HIS. [clause 5.10(5)]. • Not a listed archaeological site [Clause 5.10(7)] • Not a place of aboriginal significance [Clause 5.10(8)] <p>See further assessment at section 6.6</p>	Yes
Clause 5.21 Flood planning	The relevant matters for consideration in subclause (2) are satisfactorily addressed as discussed at section 6.9 below.	Yes
Clause 6.1 Acid sulphate soils	<ul style="list-style-type: none"> • The site comprises “Class 4” acid sulphate soils (ASS) • Works associated with this application will not disturb, expose or drain acid sulfate soils noting that all basement levels are already constructed. • Consent is not triggered noting subclause (6) 	N/A
Clause 6.2 Earthworks	<ul style="list-style-type: none"> • Consent is not triggered noting the scope of the application 	Yes
Clause 7.2 Floor space ratio	The controls in this clause are superseded by clause 7.9.	N/A
Clause 7.3 Car parking	The controls in this cause are a superseded by clause 7.9	N/A
Clause 7.4 Sun access	This clause aims to protect solar access to key areas of the public domain. The proposal complies - see section 6.6.	Yes
Clause 7.6 Air space operations	<p>This clause aims to protect airspace around airports and provides that consent must not be granted to a DA unless the applicant has obtained approval for the controlled activity within the meaning of Division 4 of Part 12 of the Airports Act 1996.</p> <p>All relevant agencies were consulted and approval was granted by the Federal Department of Infrastructure, Transport, Regional Development and Communications by Notice dated 14 January 2021.</p>	Yes

<p>Clause 7.9 Land at 189 Macquarie Street</p>	<p><i>Design Excellence</i></p> <ul style="list-style-type: none"> • The scheme is the subject of a design excellence competition as required subclause (2) • The building is to meet the qualitative design excellence criteria in clause 7.10(4) <p>Refer to section 6.4 for further comment</p> <p><i>Public carpark</i></p> <ul style="list-style-type: none"> • The scheme includes a public carpark as required, which is already constructed via DA 852/2013 <p><i>Building height</i></p> <ul style="list-style-type: none"> • The maximum height is 167m above natural ground level. Tower A complies, and Tower B is significantly less than that. <p><i>Gross floor area</i></p> <ul style="list-style-type: none"> • Maximum GFA is 60,000m² excluding enclosed communal areas and enclosed private balconies to a maximum of 2,750m². <p>Refer to section 6.4 for further comment</p> <p><i>Parking supply</i></p> <ul style="list-style-type: none"> • Maximum residential parking supply is exceeded by 1 space • Maximum commercial parking supply is satisfied • No residential visitor parking provided <p>Refer to section 6.8 for further comment</p>	<p>Yes No</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>Yes Yes Yes</p>
<p>Clause 7.10 Design Excellence</p>	<p>The terms of this clause are incorporated into clause 7.9, except in relation to the potential for bonus FSR and building heights, which do not apply.</p>	<p>N/A</p>

2.9 Draft planning instruments

Design and Place SEPP

The new Design and Place State Environmental Planning Policy (SEPP) aims to simplify and consolidate how to deliver good design in NSW, by putting place and design quality at the forefront of development.

The draft SEPP will use a principle-based approach, with each of the 5 principles supported by design and planning considerations – some of them mandatory. The SEPP will be supported by new and existing policies as follows:

- *SEPP No 65 - Design Quality of Residential Apartment Development and SEPP Basix*

- 2004 will be repealed and their content relocated into this new SEPP
- The 2015 *Apartment Design Guide* will be revised
 - A new *Urban Design Guide* will provide design guidance and standards for place-based design of high-quality neighbourhoods and precincts. This design guidance will complement the revised Apartment Design Guide
 - A new *Design Review Guide* will establish consistent terms of reference and robust requirements for design review panels and design quality evaluation, addressing industry concern.

Public exhibition of the Design and Place SEPP Explanation of Intended Effect (EIE) closed in April 2021. The EIE is therefore a matter for consideration for the purposes of section 4.15 of the Act. That said, the EIE has been given limited weight because:

- This DA was lodged well before the EIS was exhibited;
- The actual draft Design and Place SEPP will not be exhibited until later in 2021.

Draft Consolidated City of Parramatta Local Environmental Plan

This Planning Proposal (PP) applies to all land within the Parramatta LGA. It has been publicly exhibited and is therefore a matter for consideration for the purposes of section 4.15 of the Act. Indeed, the PP has been endorsed by Council for finalisation and it is expected the PP will be finalised later this year.

The primary purpose of this PP is to consolidate the various planning controls which apply across the City of Parramatta following the LGA amalgamations in 2016. It does not propose major changes to zoning or increases to density controls. However, to create a single LEP various changes are proposed to the planning controls in certain parts of the LGA. For this site however no changes are nominated.

Parramatta CBD Planning Proposal

This site is subject to the Parramatta CBD Planning Proposal. The primary focus of the PP is to strengthen the economic function of the Parramatta CBD and increase its capacity for new housing, employment, business, recreation and cultural opportunities.

The PP has received a Gateway determination, has been publicly exhibited, and in June this year was endorsed by Council for finalisation. It is therefore a matter for consideration for the purposes of section 4.15 of the Act.

The site specific PP noted in Table 1, gazetted in September 2020, and contained within clause 7.9 of PLEP 2011, was to essentially to bring forward the primary aspects of the CBD PP. Accordingly, this application is therefore not inconsistent with this draft PP noting that under this draft Plan, site specific clause 7.9 of PLEP 2011 is retained.

3. Parramatta Development Control Plan 2011

An assessment against the relevant controls in this Plan is provided below:

Table 12: PDCP 2011 compliance table

Part 2 – Site planning		Complies
2.4.1 Views and vistas	The towers will not impact upon visually significant topographical features, sites of historical significance or any nominated views and vistas	Yes
2.4.2 Water management	<ul style="list-style-type: none"> • Flooding risk (1% ARI and PMF) satisfactorily managed by passive and active design measures. • Waterways protected through control of stormwater and water quality during and post construction 	Yes
2.4.3. Soil management	<ul style="list-style-type: none"> • Sedimentation would be addressed by conditions • ASS – refer to LEP above. 	Yes
2.4.4 Land Contamination	<ul style="list-style-type: none"> • Defer to SEPP 55 assessment above 	Yes
2.4.5 Air Quality	<ul style="list-style-type: none"> • Would be addressed by conditions 	Yes
2.4.8 Public Domain	Public domain treatment already completed via base building approval – DA 852/2013.	Yes
Part 3 – Development principles		Complies
3.1 Building envelope	Envelope controls determined by Design Competition Brief, and the LEP and DCP provisions for City Centre.	N/A
3.2 Building elements	<ul style="list-style-type: none"> • Defer to design excellence process 	N/A
3.3 Environmental amenity	<ul style="list-style-type: none"> • Onsite landscape treatment satisfactory • Visual and acoustic privacy satisfactory. • ESD partially satisfactory • Arrangements for stormwater disposal are satisfactory 	Yes
3.4. Social amenity	<ul style="list-style-type: none"> • Public art strategy is satisfactory • Equitable access and facilities ensured via compliance with BCA, DDA and relevant standards. Can be addressed by conditions. • Assessment against CPTED considerations is satisfactory. Could be addressed by conditions 	Yes
3.5 Heritage	<ul style="list-style-type: none"> • Satisfactory - refer to section 6.6 below. 	Yes
3.6 Movement & circulation	<ul style="list-style-type: none"> • Parking supply and geometry of basement parking is generally satisfactory - refer to section 6.8 below. 	Yes

Part 4.3.3 – Strategic Precincts - Parramatta City Centre		Complies
4.3.3.1 Building form	<ul style="list-style-type: none"> • Site has at least one frontage >20m • On building alignment to street boundary achieved. • Street wall heights and tower setbacks consistent with DA 852/2013 and reference scheme for design competition • Building separation - refer to ADG discussion at section 2.3 • Building depth and bulk satisfactory on merit • Wind impacts not satisfactory – see further comments at section 6.5 below. • Façade composition schedule of external materials satisfactory via design excellence process. Note however need to revise northern façade to address TfNSW and Design Excellence Jury concerns 	Partial
4.3.3.2 Mixed use buildings	<ul style="list-style-type: none"> • Retail uses provided at ground level • Ceiling heights comply • Active facades provided at all ground floor frontages • Service facilities located in basement or otherwise arranged to minimise disruption to public domain 	Partial
4.3.3.3 Public domain and pedestrian amenity	<ul style="list-style-type: none"> • Through site link already provided at west edge of the site • Active frontages to streets • Awning already provided to Macquarie Street frontage 	Yes
4.3.3.4 Views and Corridors	<ul style="list-style-type: none"> • No view corridors to be considered 	N/A
4.3.3.5 Access and parking	<p><i>Location of Vehicle access</i></p> <ul style="list-style-type: none"> • Access points already provided per DA 852/2013 • Design of vehicle access satisfies nominated criteria <p><i>Pedestrian access and mobility</i></p> <ul style="list-style-type: none"> • Pedestrian entry points clearly defined and highly visible within street frontages • Entry points provide barrier free access to the ground floor • Compliance with AS/BCA/DDA to be achieved by conditions <p><i>Vehicle driveways and manoeuvring</i></p> <p>Existing and satisfactory</p> <p><i>Onsite parking</i></p> <ul style="list-style-type: none"> • Defer to LEP assessment above <p><i>Above ground car parking</i></p> <ul style="list-style-type: none"> • Already constructed per DA 852/2013 	Yes
4.3.3.6 Environmental Management	<p><i>Landscape design</i></p> <ul style="list-style-type: none"> • On site landscaping treatment satisfactory via design excellence process and as confirmed by Landscape and Tree Officer. 	Yes

	<p><i>Energy and Water Efficient Design</i></p> <p>See further comments at section 6.4 below.</p>	
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4. Planning Agreements or Contributions Plans

4.1 Planning Agreements

PA linked to DA 852/2013

A Planning Agreement (PA) exists between Council and the applicant relative to the base building consent, DA 852/2013, which requires the applicant to:

- Design, finance, construct and deliver to Council a public car park; and
- Deliver Road Works, Streetscape Works and Public Thoroughfare Works

Those works have been delivered however the matter was complicated by:

- Council's decision to no longer retain ownership of the public car park and the public thoroughfare (through site link);
- The fact that the constructed public car park only provided 695 spaces, and not the 715 spaces as approved; and
- The PA provided an incentive for additional public parking by reducing the required developer contributions by \$38,000 for each additional space above 650. The applicant therefore obtained concessions which it was not entitled to, based on the actual number of spaces constructed.

Those circumstances were resolved by:

- An amended PA which incorporated a mechanism to facilitate the repayment of the relevant developer levy concession; and
- A modification to DA 852/2013 to confirm the actual number of public parking spaces.

The current plans provided with this DA maintain 695 public parking spaces. The DA is therefore consistent with that PA, as required by Section 4.15(1)(a)(iii) of the EPA Act.

PA linked to Site Specific PP

A second PA, which has been executed, applies to this site as a consequence of the site specific PP. That agreement requires a cash contribution, part of which has been paid. The balance is to be paid in stages linked to construction and occupation certificates.

4.2 Parramatta City Centre Development Contributions Plan

The PA's specifically do not exclude the operation of section 7.12 of the Act. Any consent would therefore, include a condition requiring payment of the required levy.

5. Environmental Planning and Assessment Regulation 2000

This application satisfies relevant clauses of the Regulation as follows:

Table 13: Relevant EPA Regulations

Clause 50(1)(a)	The nominated documentation is provided being: <ul style="list-style-type: none">○ A design verification statement;○ An explanation of the design in terms of the principles in SEPP 65○ Relevant drawings and montages
Clause 98	All building work will be carried out in accordance with the provisions of the Building Code of Australia.

6. Likely impacts

6.1 Context and setting

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

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

Response

This proposal will not result in any adverse physical impacts as follows:

- Appropriate arrangements will be made for the collection and disposal of stormwater;
- The design and location of the building will not preclude surrounding land from being developed in accordance with planning controls; and
- The proposal will not generate noise, cast shadows or diminish views that would be detrimental to adjacent and surrounding sites.

However, the following aspects of the proposal's physical impacts are not acceptable:

- Traffic and related matters as identified for the purposes of clauses 101 and 104 of the ISEPP – refer to section 2.6 above
- Encroachment of the north façade of Tower A over the Macquarie Street boundary
- Wind impacts – refer to section 6.4 below
- Reflectivity impacts – refer to section 6.5 below

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

Response

This proposal will have a satisfactory relationship with its context for the following reasons:

specific controls in clause 7.9 of the PLEP 2011. That same clause requires 'design excellence' be tested against the qualitative controls in clause 7.10 (4) of that Plan.

In this instance no height or FSR bonus is possible, as the site-specific controls turn off the 'bonus' provisions of clause 7.10(8) because the potential maximum outcomes are already prescribed in the site-specific clause.

This project is the subject of Design Competition DC/3/2016. The competition Brief was not endorsed until July 2019, with the presentations to the Jury conducted on 19 September 2019.

The Jury was unanimous that none of the schemes achieved Design Excellence, but also agreed the entry by CD Architects had the potential to do so. The scheme subsequently underwent refinement through an iterative review process, and by January 2020 the Jury had concluded most of its preliminary comments had been addressed, and that the final outcome could be assessed in detail at DA stage.

The proponent elected not to participate in the preDA process, at which time Council would have requested the Jury to undertake a further review of the scheme to ensure it remained faithful to the competition scheme and had otherwise addressed any outstanding design matters.

The Jury considered the revised DA architectural plans lodged in May and September 2021 against its recommendations from the design competition stage, and noted multiple shortcomings, such that the scheme could not satisfy clauses 7.9(2)(a) and (b) of PLEP 2011.

The decision to allow the applicant further opportunities to address the issues of concern resulted in further amended plans received in November 2021. In its review of those plans the Jury notes that the scheme remains inadequate for the following reasons:

- Failure to provide toilet and associated facilities at all communal open space areas
- Inadequate detailing of the blank eastern and western tower facades
- The detailing and level of information provided for primary tower facades is not at the standard expected for 'design excellence' for a development of this size and scale.

Gross floor area

The application contends that compliance with the site-specific GFA controls is achieved as follows:

- Building GFA is 59,774.9m² which is 226m² less than the 60,000m² maximum; and
- GFA of enclosed communal areas and enclosed private balconies is 2,355m² which is less than the 2,750m² maximum.

However, compliance with the building GFA is questionable for the following reasons:

- End of Trip facilities (EoT) on the lower first floor have, up until the plans received in November 2021, been excluded from GFA calculations which showed the scheme was at the maximum limit prescribed by the site specific LEP provisions. The most recent plans include GFA calculations which suggest the EoT has now been counted in the GFA, yet at the same time overall GFA is shown to reduce by 225m².

It is unclear how that outcome has been achieved, given that no design modifications to remove GFA elsewhere have been stated by the applicant. Therefore, the figures provided are dubious.

As a related matter, the Design Excellence Jury's requirements for toilet facilities at all four communal terrace areas further threatens the scheme's compliance with the FSR control.

- Substantial parts of the common corridors in both Towers A and B, as shown in the following figures

The justification for excluding these corridors from a GFA calculation is a design whereby the end of a corridor is "open to the weather" to allow for a semantic compliance with the LEP definition of 'gross floor area'. That treatment comprises fixed vertical louvres, independent from which sits a 1m glass balustrade, as shown below:

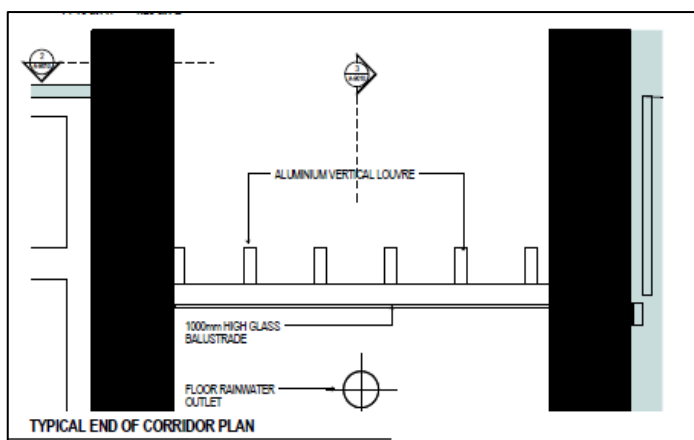


Figure 8: Plan view of corridor treatment

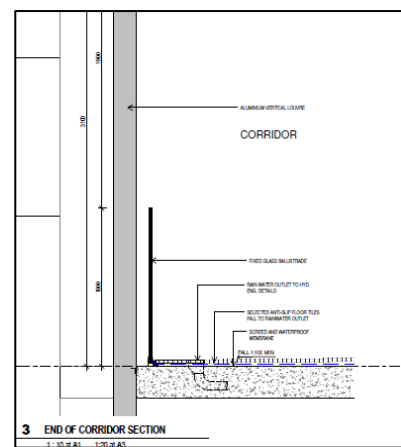


Figure 9: Section view of treatment

While it is acknowledged there would be certain genuine examples of where an external circulation corridor should be excluded from a GFA calculation, adopting that same approach for corridors which are essentially internal and proportionally insignificant within the overall façade, like those of this scheme, is a disingenuous design exercise which does affect building bulk, and provides a poor amenity outcome for residents.

That said:

- There are various decisions of the Land and Environment Court to support this approach;
- The application is supported by a desktop wind analysis which concludes conditions within the corridors will meet applicable comfort and safety criteria.

Therefore, it is accepted that those corridors can be excluded from the GFA calculation.

External materials

The schedule of external materials has been the subject of scrutiny by the Design Jury and ESD consultant, and are satisfactory.

Accessibility

The application is supported by a technical report which concludes the proposal can comply with the relevant objectives and design code requirements of the BCA, DDA Premises Standards, SEPP 65 and the Parramatta City Centre DCP 2011 subject to resolution of nominated design matters. Those matters are minor and can be addressed at the time of the Construction Certificate.

Council's Project Officer Universal Access has reviewed and accepted that technical report.

Sustainability

Parramatta DCP 2011 nominates the following sustainability outcomes for residential buildings:

- Compliance with Basix; and
- For development within the City Centre –
 - Residential developments with 4 or more floors should be built with energy and water saving technologies equivalent to a 5 Green Star Office Design
 - New developments should be connected to a source of recycled or reuse water wherever possible.

However consistent with obligations associated with the 'design excellence' provisions of the PLEP, the design competition imposed more stringent ESD objectives for this project, as follows:

- Building envelopes and façade articulation that are expressive and achieve high levels of solar protection and minimise reflected heat into public areas.
- Planning and facades that provide high levels of natural light and offer high levels of amenity to occupants.
- Planning and designs that provide optimal natural ventilation and winter sun access.

Those primary objectives were supported by more detailed aims, particularly focused around:

- Integration of solar power in area(s) of high sun exposure.
- Best practice energy and water efficient building services.
- Integration of Water Sensitive Urban Design with building architectural and landscape design and functions.
- Detailed requirements for façade objectives to minimise reflected heat to the public domain

The application is supported by an Energy Efficiency & Ecologically Sustainable Design Report which nominates various ESD measures seeking to achieve significant reductions in the energy and water required by the development both in building and operation, as well as ensuring that the residential units are more pleasant spaces to reside. Key features include:

- Central hot water boiler for residential apartments.
- Efficient individual reverse cycle 1-phase air-conditioning systems
- Solar PV systems
- Requirements for efficient electrical appliances, lighting and water fittings, and appliances
- Motion sensors for lighting in suitable locations

The report has been evaluated and confirmed as satisfactory by Council's Sustainability consultant.

It is to be noted however that the evaluation of sustainability overlaps with wider ESD obligations noted in the Design Competition brief, such as SEPP (Basix), SEPP 65 and the ADG. Those matters are discussed elsewhere in this report.

Landscaping

The proposal includes landscape areas at the podium and the various communal sky gardens. Council's Tree Management and Landscape Officer is satisfied with the landscape treatment.

Public Art

Parramatta DCP 2011 provides that new development having a capital value of more than \$5,000,000 in the Parramatta CBD is required to provide and public art as part of the overall development. The DCP provisions are supported by Council's Interim Public Art Guidelines for Developers.

The Public Art plan originally provided with the application was unsatisfactory, as was a revised plan received in May 2021. A further submission received in September 2021 however resolved relevant concerns and is therefore satisfactory.

6.5 Amenity considerations

Solar access

The best practice ADG design criterion is for a minimum of 70% of apartments to receive a minimum of 2 hours solar access to a living room and balcony, at midwinter, between 9am and 3pm. Details provided indicate the following for the existing built form context:

- 54% of units will meet that target – a shortfall of 43 units; or
- 76% of units will meet the target if the hours are extended to 8am – 4pm.

Given that number of units which receive no solar access at mid-winter is below the maximum 15% ADG criterion and noting the high compliance for solar access at the slightly expanded period of 8am-4pm, the outcomes achieved are acceptable.

The application also provides solar access outcomes for a future context situation which considers the redevelopment of a nearby site based upon an existing approval. That information notes the solar access outcomes will be reduced as follows: 49% for 9am-3pm or 54% for the expanded period of 8am-4pm. Those outcomes reflect the reality of the future character for CBD based upon the impending new controls noted at section 2.9 above.

Cross ventilation

The best practice ADG design criterion is for a minimum of 60% of apartments in the first 9 storeys of a building to be naturally cross ventilated. The application as lodged claimed compliance at 63.4% being 33 out of 52 units. Council's ESD consultant advised however that:

- Only 42% of apartments could properly be considered as naturally cross ventilated; and
- While the ADG states that units at 10 storeys or greater can be deemed as being naturally cross ventilated units, that is only possible where the design allows for adequate ventilation and where the balconies cannot be fully enclosed. The design details for the proposed wintergardens is contrary to that ADG criteria.

Design amendments and the provision of additional supporting information has resulted in 54% of units achieving cross ventilation requirements. While still short of the ADG best practice target, that outcome is satisfactory given the limitation arising from retrofitting this tower into the existing podium with its fixed core positions. Some further improvements for ventilation in relation to the boxed window detail have been identified and could be achieved by condition if the DA was supported.

Wind impacts

The applicant has submitted five separate technical reports to address issues of concern identified by Council's independent wind expert.

The initial report at the time of DA lodgement was incomplete and could not be assessed. The subsequent report provided in October 2020 considered comfort and safety criteria impacts at 52 locations, both within the site and at relevant points within the adjoining public domain. That report was identified as containing multiple technical inadequacies, leading to a further report in May 2021.

A review of that revised report by Council's independent expert accepted that the effectiveness of wind mitigation strategies for the upper level outdoor areas and terraces in satisfying the target criteria. However, concerns regarding public domain impacts remain unresolved, as follows:

- The previously raised concern regarding the lack of sufficient study locations in the surrounding streetscapes has not been resolved. While several additional study locations have been added these are mostly located close to the minimum study radius defined by the AWES Guidelines but haven't increased the density of the study locations between the development site and the minimum radius. Study locations on both sides of Macquarie and Hassell Streets would be expected at regular intervals out to the minimum study radius. So, while the current report is an improvement it is still not a comprehensive study.
- To satisfy target comfort criteria on both the northern and southern sides of Macquarie Street, all of the following mitigation measures are required:
 - Outside the Macquarie Street property boundary:
 - a 3m wide canopy (the current canopy is 2m wide)
 - Large densely foliated trees planted along the footpath on the southern side of Macquarie Street
 - Within the site
 - An impermeable upturn screen from the level 1 slab to the level 3 slab of part of

- the existing podium is required to mitigate wind conditions along Macquarie Street (at locations 12,13,14 and 18 – refer Figure 10 below)

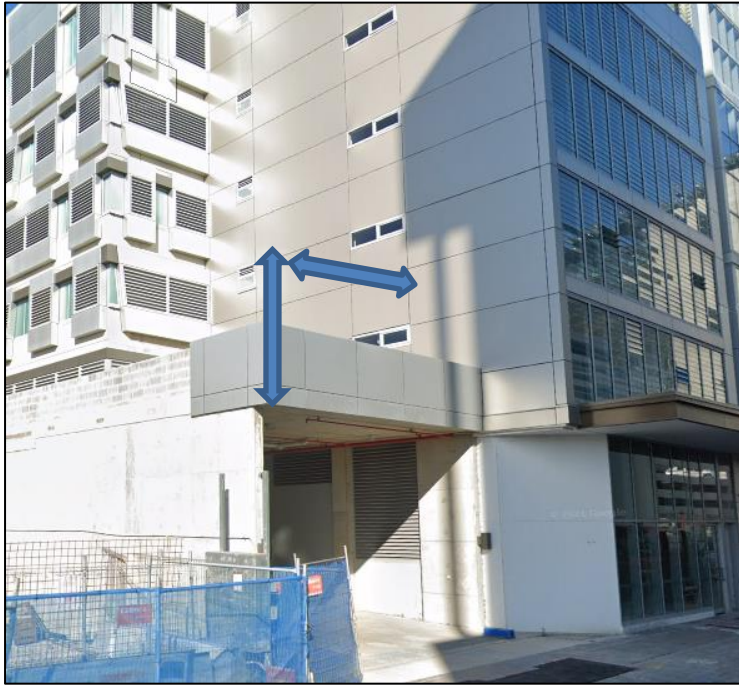


Figure 10: Location of upturn screen

In considering the efficacy of those mitigation measures:

- Council's expert notes, in relation to the street trees:
 - previous advice by the applicant stated those street trees were a supplementary mitigation strategy, but the data presented demonstrates these trees are not supplementary, instead they are necessary with other mitigation strategies to satisfy the target wind criteria.
 - Council will need to decide if the reliance on public realm street trees for wind mitigation would be acceptable.
- In relation to the impermeable upturn screen, the report indicates it is required at the north east corner of the existing podium structure, around an exposed non-trafficable roof above the driveway entry. That non trafficable roof is shown to be landscaped on the base building consent, but as yet those works are not completed. The upturned screen, about 6m high, is not included on the architectural plans.

The subsequent report from the applicant in September 2021 was confirmed as adequately addressing the additional study locations and showing that the pedestrian safety and target comfort criteria for those locations were satisfied. However, the following matters were unresolved:

- Public domain locations along Macquarie Street have been tested with the existing awning, and existing street trees on the northern side of the street, raising the following concerns:

- Study locations 12 to 14, it is unclear how trees on the north side of the street would mitigate study locations on the south side of the street. It would be expected trees are required on the south side of Macquarie Street to mitigate wind conditions at those study locations, however such is not possible as a consequence of the position of the PLR infrastructure.
- Further, the street trees on the northern side of Macquarie Street have been removed, leaving only trees on private property.
- Study location 12 is shown to be on, but not over, the safety criteria. While there is debate as to whether such should be considered a pass or a fail, it is appropriate to err on the side of caution and categorise the outcome as a 'fail', consistent with relevant professional guidelines.
- The proposed mitigation strategies for study location 12 clearly involve a reliance on street trees for wind mitigation. Without those trees, using only the awning and upturn screen, the criteria is not satisfied. A similar outcome would be expected for locations 13 and 14.

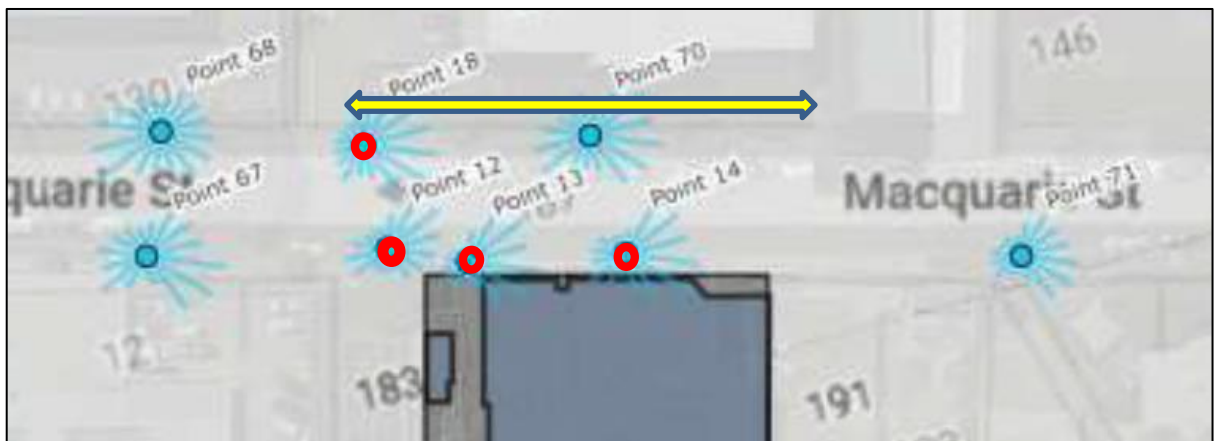


Figure 11: Study locations 12,13,14 and 18 in red. Private property landscaping shown in yellow.

In response to those issues a further report was received in November 2021. A review by Council's expert, in summary concludes:

- It still remains unclear how easterly and westerly winds affecting the southern side of Macquarie Street are mitigated by landscaping on private property at the northern side of the street opposite the site;
- The contention that all mitigation in the public domain is otherwise achieved by the awning, without a reliance on supplementary street trees is not borne out by the data provided.

Wind impacts in the public domain are a critical consideration, particularly for a 53 storey building which does not provide a tower setback relative to the podium levels.

Every opportunity has been provided to the applicant to address this issue. Regardless of whether TfNSW would facilitate street trees in this location, Council does not accept landscaping in the public domain to mitigate instances where safety criteria are exceeded, such as at location 12.

Reflectivity

The application is supported by a Reflectivity report which considers the potential glare impact on traffic and pedestrians based upon an analysis at 8 locations around the site. That report concluded the development would not cause traffic disability glare nor pedestrian discomfort glare on surrounding public areas, provided the following mitigation measures were implemented at northern, Macquarie Street, facade:

Table 14: Reflectivity mitigation measures

Ground level	200mm protruding façade fins, every 3.5m
Podium levels 2 - 6	100mm privacy fins in nominated locations
Tower A	200mm blade wall projections or, alternately, 200mm glazing recess

That report was peer reviewed by Council's consultant who was satisfied it provided a rigorous assessment.

Then as part of its submission in May 2021, the applicant provided a revised reflectivity report which:

- Retracted its original recommendations for the podium; and
- Confirmed its original recommendations for Tower A.

No discussion is given explaining why the podium level recommendations were deleted, other than to note the podium was already approved under a prior DA. While that is correct, circumstances have altered since that time, notably the construction of PLR, which will be located immediately adjacent to the Macquarie Street frontage of this site. The opportunity to retrofit podium level mitigation measures should not be ignored.

In terms of Tower A, the revised architectural plans also provided in May 2021 show:

- Level 7: Blade walls projecting 200mm over the Macquarie Street boundary
- All other levels: Blade walls projecting 200-450mm over the Macquarie Street boundary

As noted at section 2.6 TfNSW will not permit any building encroachments over the Macquarie Street boundary into the transitway corridor for PLR. On the information provided the application therefore does not demonstrate how it will mitigate reflectivity impacts, noting that any revision of the Tower A façade will require endorsement by the Design Jury.

Noise generation

The application is supported by an acoustic report which considers likely noise emissions from various elements mechanical elements of the development upon the amenity of the nearest sensitive receivers.

That report concludes the level of noise emitted by the operations of the development will meet the relevant criteria subject to the implementation of nominated mitigation measures, and a further detailed acoustic assessment of the selected mechanical plant prior to the issue of relevant construction certificates.

That report has been evaluated and confirmed as satisfactory by Council’s Environmental Health Officer. Any consent would include conditions requiring compliance with recommendations at that report.

6.6 Relationship with adjacent sites

Solar access to neighbouring buildings

The application is supported by solar studies illustrating the impact of the proposal on existing residential buildings immediately to the south of the site at 21 and 23 Hassall Street. Those plans also provide a comparison relative to the towers already approved for this site under the base building consent, DA 852/213.

While the built form of this current proposal does not neatly overlap with the envelope of the previously approved towers, the analysis nevertheless demonstrates that the degree of impact from this current proposal is not materially different to that of the base building.

Shadow impacts on the public domain

Clause 7.4 of the PLEP 2011 addresses sun access to 3 key public spaces, including Jubilee Park. The controls provide that if development is likely to cause excessive overshadowing of Jubilee Park, it must take into consideration the relevant sun access plane controls in Parramatta DCP 2011. The application is supported by shadow diagrams assumed to be at midwinter but not stated, which show the following:

Table 15: Shadow impacts on Jubilee Park

8am	Building will impact park, but is within shadow profiles of existing buildings
9am	Building will impact park, but is within shadow profiles of existing buildings
10am-3pm	No impacts

The terms of clause 7.4 of the LEP are therefore satisfied.

Those same shadow diagram also detail the following midwinter outcomes for Robin Thomas Reserve and James Ruse Reserve, significant public open spaces at the eastern edge of the CBD, but which are not subject to clause 7.4:

Table 16: Shadow impacts on Robin Thomas Reserve and James Ruse Reserve

8am – 3pm	
Robin Thomas Reserve	No impacts 8am- 3pm
James Ruse Reserve	No impacts until after 2pm

Heritage

Although the wider Parramatta CBD includes multiple heritage items, the two closest to this site are the following, listed as being of ‘local’ significant in Schedule 5 of the Parramatta Local Environmental Plan (LEP) 2011:

- 23 and 25 Hassall Street, Parramatta (Semi-detached cottages) – Item No: I708; and
- 113 and 115 Wigram Street, Parramatta (Attached houses) – Item No: I750.



Figure 12: 23 and 25 Hassall Street

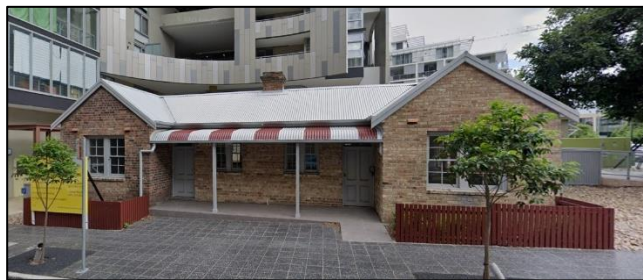


Figure 13: 113 and 115 Wigram Street

The Heritage Impact Statement supporting the applicant provides the following conclusion:

The proposed development..... will have an acceptable impact on the heritage significance of the heritage items in the vicinity. The proposed towers above the existing podium on the site will not affect the identified historic views which characterise Parramatta. The established heritage significance of the nearby heritage items identified in this report will be retained and their significant qualities will continue to contribute to the character of the area.

That conclusion is accepted, noting in particular:

- The extent of development on the site of those heritage items; and
- The development already approved for this site, and secured, under DA/852/2013.

Relationship to public domain

The public domain treatment in both Hassall and Macquarie Streets is already complete by virtue of the partial implementation of DA 852/2013. Restoration of the Macquarie Street public domain arising from works associated with PLR will be undertaken by TfNSW.

6.7 Utilities

Endeavour Energy

Tower A includes an electrical substation at level 17 which would be served by an extendable monorail crane to allow for servicing from Macquarie Street.

This was not part of the scheme at the design competition stage and is an uncommon proposition generally as the 'standard' Endeavour Energy (EE) requirement is for an indoor substation at the ground floor with 24/7 direct access from the public road.

EE's initial advice was that it had no objection to a substation at Level 17. Further investigation as part of the assessment process confirmed that EE would not support that arrangement until it had received and considered a Dispensation Application. That process was subsequently completed, and in November 2021 EE confirmed it had no objection to the level 17 substation.

Sydney Water

Sydney Water (SW) has provided the following advice:

- For potable water, the main in Macquarie Street requires amplification;

- Investigations are underway regarding the provision of recycled water to Parramatta and Sydney Olympic Park
- For wastewater:
 - Due to constraints within the wastewater system during wet weather, Sydney Water cannot accept wastewater flows into its sewers from this development during wet weather.
 - The development is located upstream of an overflow structure that is spilling outside the acceptable threshold. The additional flow from the development will have impact to this overflow structure with additional discharge to the environment.

In subsequent inquiries SW confirmed:

- It has no objection to the DA in principle.
- However, given the servicing constraints noted regarding the wastewater, the servicing solution may include either:
 - onsite wastewater storage prior to discharging to our it's system
 - or offsite system augmentation.
- If the onsite solution is the preferred option, the developer may need to modify their development proposal to accommodate this final requirement.
- In order that the applicant can make an informed decision it is recommended that a Feasibility Application is lodged. The outcome of that will shape the requirements under a future section 73 application and inform the conditions to be imposed by SW for this DA

That Feasibility Application was subsequently lodged, with SW providing the following further advice in relation to the servicing of wastewater:

- The development can connect to an existing main in Hassall St, or an alternate main (location not specified) provided it is amplified to SW requirements
- There is a high-risk of overflows in the wastewater system downstream of the development. To protect the environment and receiving waterways, EPA has requirements to limit the volume and frequency of high-risk overflows. To meet EPA requirements, the volume and frequency of overflows should not be increased in the wastewater system due to any growth and development activities in the catchment.
- The applicant is therefore required to engage a hydraulic consultant to develop a wastewater servicing solution that serves this development, whilst ensuring that the performance of the wastewater system is not deteriorated in both dry and wet weather conditions.
- SW Notice of Requirements will be issued via a section 73 Certificate application, should DA consent be granted.

It was Council's understanding that the Feasibility Application process would clarify whether there was a need for an onsite wastewater storage system. It seems however that a final position will not be reached until a section 73 application is lodged with SW. Consequently, if that option is required, design amendments will be necessary which will trigger a Modification application.

6.8 Access, transport and traffic

Car parking supply

Clause 7.9 of the PLEP 2011 prescribes maximum parking supply rates for this site as follows:

- Residential: Max 470 spaces - 471 provided. This non-compliance could be readily resolved
- Commercial: Maximum 4 spaces which are provided

Clause 7.9, which prevails over other parking provisions in the LEP, does not require any supply of visitor parking, which is appropriate given the large public car park co-located on this site.

Bicycle and motorcycle parking supply

Bike and motorcycle parking, at 361 spaces and 10 spaces respectively, satisfies the requirements of Parramatta DCP 2011.

Parking access and design

The design and geometry of parking and service areas is fixed, as the podium levels have already been constructed.

Construction Traffic

A Construction and Pedestrian Traffic Management Plan, endorsed by both Council and TfNSW, would be required prior to works commencing.

Operational Traffic

The application is supported by a technical report which concludes that:

- The traffic generation of the development is expected to increase by approximately 35 and 7 vehicle movements above that approved to be generated during weekday morning and evening peak hours, with reference to DA 852/103;
- Such a minor level of additional traffic, representing approximately one additional vehicle movement every two minutes during the morning peak, is not expected to result in any noticeable impacts on the overall performance of the surrounding road network over and above that previously assessed and approved.

Those assumptions are derived without any SIDRA analysis, however Council's Traffic team is satisfied the proposal is not expected to compromise the function of the surrounding road network.

Note however the concerns raised by TfNSW – refer to section 2.6.

Service vehicle access

Council's Waste Services Supervisor is happy with arrangements for the storage and collection

of residential waste, including access by service vehicles.

Commercial tenancies will need to appoint a contractor to manage waste collection, however arrangements for storage area acceptable.

6.9 Water management

Flooding

Almost the entire site is impacted by the 1% AEP flood event as shown at Figure 14, and completely inundated under a Probable Maximum Flood (PMF) event. The hazard level for the 1% ARI is categorised as 'high'. Flood impacts therefore represent a significant site constraint.

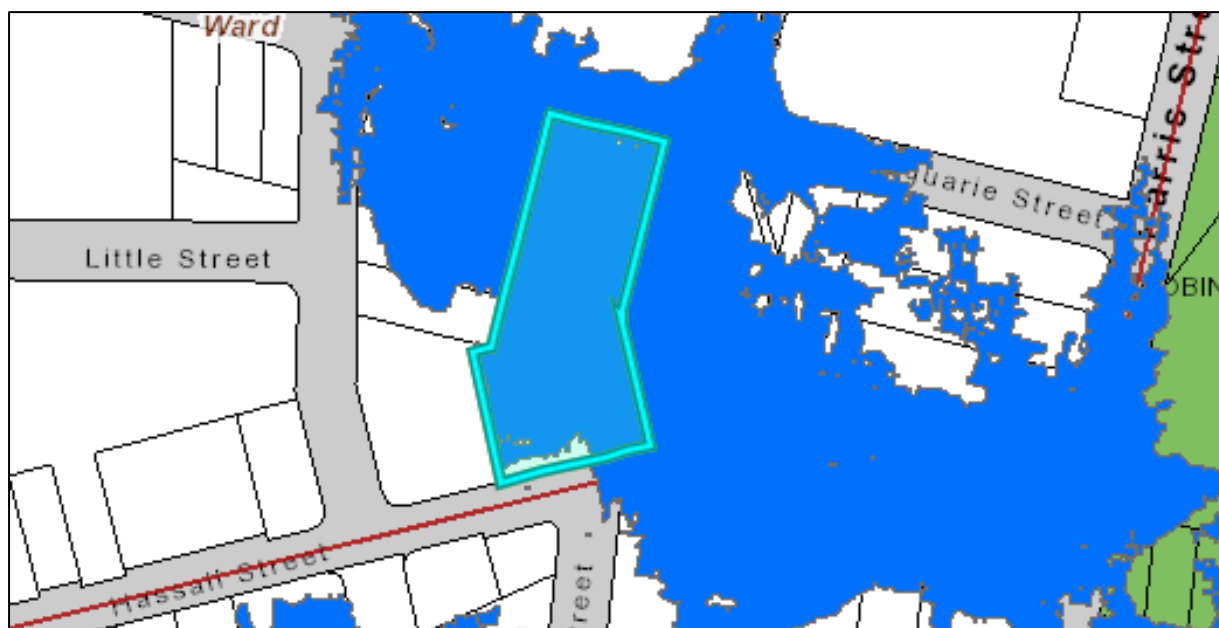


Figure 14: Extent of 1% AEP flood event

It is acknowledged that the mitigation of flood impacts was addressed via the approval granted for the base building (DA/852/2013) and that consent has been partially realised by the construction of the basement and podium elements. However, it remains appropriate for Council to revisit this matter, even for existing parts of the current building, given:

- The application seeks consent for use of basement levels 4, 5 and 6 – those are not part of the previously approved works under DA 852/2013 (i.e., the base building consent)
- The application also seeks consent to make changes to approved basement levels 1-3
- The application seeks consent to modify parts of the existing constructed ground floor
- The existing building is not constructed in manner consistent with the base building consent – that is - the Macquarie Street ground floor retail levels vary from the approved plans. The approved levels were to managing flooding
- The proposal significantly increases the number of occupants and intensity of use of the whole development, including the ground floor and basement levels, and therefore increases the risk to all persons on the site, both residents and visitors.
- In accordance with the EPA Act and the Local Government Act, Council adopts a risk management approach to flooding consistent with the NSW Floodplain Development Manual, NSW Flood Policy, Australian Disaster Relief Handbook and Council's Local

Flood Risk Management Policy. Council's DCP 2011 states:

P. 14 Council strongly discourages basement car parks on properties within the floodplain. Where site conditions require a basement car park on a property within the floodplain, development applications must provide a detailed hydraulic flood study and design demonstrating that the proposed basement car park has been protected from all flooding up to and including the PMF event. An adequate emergency response and evacuation plan must also be provided where basement car parks are proposed in the floodplain (DCP 2011 p 2-8)

- For the last five years, this requirement has been consistently implemented by Council for all development with multi-storey basement car parking in the flood plain in the CBD and throughout the LGA.
- In keeping with changes in national and state-wide floodplain risk management practices, there have been substantial improvements in Council's approaches to flood risk management since the original consent was granted. There is no justification for continuing with superseded and inadequate flood protection standards that do not comply with Council's DCP 2011.

Council's position on its approach to assessing flood impacts has been the subject of debate with the applicant, but ultimately it has provided a Flood Risk Management Plan which nominates the following measures to address flood proofing of the building:

- Retrofitting of flood gates operating to the PMF of RL 9.5 AHD at the Macquarie Street driveway to protect the basement levels
- Retrofitting of flood gates operating to the PMF of RL 9.5 AHD at nominated locations on internal basement ramps
- Retro fitting Internal flood doors at the upper and lower ground floors constructed from flood compatible building materials to withstand floodwater forces up to RL 9.5m AHD
- To ensure that the proposed flood protection doors/gates will perform properly, undertake structural modifications to nominated parts of the already completed base building

To address the issue of flood safety for occupants of the site, the Flood Risk Management Plan nominates the following measures:

- A refuge area for 'shelter in place' will be provided above the PMF which will be provided with required facilities:
 - Emergency electricity supply;
 - Clean water for drinking, washing and toilet flushing;
 - Working kitchen/ simple food preparation areas, bathroom and toilets;
 - Suitable food;
 - Personal washing facilities;
 - Medical equipment including a first aid kit;
 - A battery-powered radio and relevant communications equipment;

Although not stated, this is expected to be the common room on Level 7 of the podium

- Flood proof stairwells provided to connect all levels of the basement to that refuge.

- A flood alarm system will be installed
- Flood warning signage will be installed in appropriate locations
- A back-up power supply will be installed in case of disruption of the main supply. This backup is to only operate to provide power for the flood alarm system and refuge area.

Council's Senior Catchment and Development Engineer is satisfied with those measures.

On site stormwater collection and disposal

Given that the podium levels are constructed the arrangements for stormwater collection address only from podium level 7 to the rooftop of Towers A and A. The required new stormwater drainage from those towers will connect to the existing stormwater system below the Level 7, which includes the previously approved OSD and water quality systems.

The applicant advises that as this proposal does not result in an increase of the building footprint the existing approved detention and water quality systems are sufficient.

Council's Development and Catchment Engineer is satisfied with the proposed stormwater arrangements subject to conditions.

Water quality during construction

This matter would be addressed by conditions if the application is to be supported.

Ground water reuse

As explained at Table 1 above, there is extensive prior history around this building in terms of the way certain basement levels were constructed, and further, that all basement levels are not watertight as required. Those circumstances informed the decision of Council to issue a Stop Work Order in July 20107. That Order remains in place at the time of preparing this report.

To resolve that matter the applicant has secured approval for DA 356/2020, being the installation and operation of a permanent groundwater reuse system. That system allows for treated groundwater to be used for the irrigation of common landscape areas, and for toilet flushing in any apartments this site.

Any consent for this application would include conditions requiring that groundwater reuse system to be operational for those purposes prior to the issue of any Occupation Certificate.

6.10 Waste management

Construction phase

Preliminary information regarding the management of construction waste is inadequate, however Council's Environmental Health Officer is satisfied this matter can be satisfactorily addressed by conditions in any consent.

Operation phase

The application is supported by an operational Waste Management Plan addressing arrangements for the storage and collection of general waste/recyclables and trade waste. The residential component of the development will be serviced by council, noting that the existing constructed retail tenancies would be served by contractors. Council's Waste services Supervisor has no objection to the proposal. Relevant conditions would be included in any consent.

6.11 Construction

Structural integrity

Noting the prior history of this building around the way certain basement levels were constructed and that all basement levels are not watertight as required (refer to table 1 above) Council requested the applicant to provide a Structural Engineering Report which:

- Demonstrates that the existing podium structure is capable, or can be made capable, of supporting the proposed new residential towers
- Confirms that the structural integrity of the development will not be compromised in the long term because of the absence of tanked basement levels, that is, whether the permanent penetration of groundwater poses any risk or threat to the structure over time.

In response the applicant submitted a Structural Adequacy Statement which included the following key commentary:

..... hereby confirm that I have reviewed the structural integrity of the proposed development supporting the new proposed residential towers. In saying this I can confirm the following:

- The existing podium structure will be designed to support the proposed new residential towers above.*
- The structural integrity of the development will not be compromised in the long – term as the basements have been designed to be drained basements. Moreover, the permanent penetration of the groundwater will not pose any risk or threat to the structure over time.*
- The access ramp has been designed to be able to withstand imposed loads of up to 20kPa.*

Notwithstanding that advice, there is a clear public interest issue to ensure that buildings are structurally sound, particularly in a unique circumstance such as this where a podium has been partially completed, and where basement levels were either not completed in accordance with approvals, or were constructed without prior consent. Given that, were this application to be supported, a condition would be recommended requiring that prior to the commencement of any works, and the release of any relevant CC, an independent structural engineer must peer review the project and provide written advice identifying all structural design issues be addressed to ensure the project is structurally sound.

Building Code of Australia

The application is supported by a technical report which provides an assessment of the

proposal against the deemed-to-satisfy (DTS) provisions of the National Construction Code – Building Code of Australia Volume 1-2019. The purpose of that report is to identify the areas of non-compliance with those DTS provisions.

The report does not provide any overall conclusion in terms of compliance, or ability to achieve compliance, with the NCC-BCA. Instead, its purpose is to identify the areas of non-compliance with those DTS provisions.

The report also notes the following:

It is important to note that the existing structure has been constructed to the requirements of BCA – 2015. The consideration of this and the integration with the new structures will need to be addressed in the assessment of the Construction Certificate Application by the Certifying Authority. The current report details compliance for the new works to comply with BCA – 2019. The Construction Certificate Application may be submitted at a time that may require compliance with a subsequent version of the Code that needs to be complied with as detailed by statutory requirements.

The report has been reviewed by Council's Certification Team, who advises:

- The design will rely on multiple performance based solutions to overcome departures from the DTS provisions of the NCC - BCA
- Some of the proposed performance solutions are of concern however:
 - Those will be matters for the appointed PCA, which is unlikely to be Council; and
 - Council cannot force the applicant to strictly comply with the DTS BCA provisions

Construction Management

Any consent would include requirements of the preparation of various management plans to ensure construction works proceeded in a safe and orderly manner to maximise public safety and minimise public nuisance. Management plans would also need to address co-ordination with the requirements of the Parramatta Light Rail project.

6.12 Safety, security and crime prevention

Crime Prevention Through Environmental Design (CPTED) is a recognised model that 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 by Council's City Safety and Security Team with consideration of the principles which underpin CPTED (surveillance; access control; territorial reinforcement and space management) indicates the design has given due regard to those considerations, noting that specific measures could be implemented by conditions as required.

6.13 Social and economic impacts

No adverse impacts have been identified.

7. Site suitability

7.1 Does the proposal fit the locality

Broadly the scheme would be an appropriate “fit” however as outlined there are matters which have not been adequately addressed.

8. Submissions

As noted, nine submissions were received, all raising objections to the proposal. Those matters are summarised below:

- *Ongoing development is saturating the residential market thereby lowering property values and reducing rental incomes for investors*
- *PLR construction is driving away rental tenants*
- *Increased traffic and noise is adding to the unattractive nature of the CBD*
- *Adverse impacts from overshadowing, loss of privacy and loss of views*
- *Object to retail shops in this location, particularly at Hassall Street, which is a residential area*
- *The tower at Hassall Street should only be 25 storeys*
- *Toplace defied original development application and dug 2 levels below development approved 4 levels when the car park was built which gave them 704 car park spaces. Just the amount of carparks needed for their original application for a 54 & 45 level towers. I think council has been duplicitous in allowing Toplace to be able to get away with this travesty to build what they wanted. Who in council got a backhander to allow this to be built. Originally Macquarie St. Carpark was owned by Parramatta residents and council sold to the developers under the stipulation that a 700 car space carpark was given back to Parramatta residents but because Toplace built 2 levels below the flood table council sold our car park back to Toplace giving them the 704 car spaces they needed to build the original 54&45 story towers they wanted to build. Please see their internet advertising 2 -3 years ago. What a rot. Who in council is getting a free unit!!!!*

In relation to the final matter, the history associated with the unauthorised basement levels is summarised at Table 1 above. The site remains the subject of a Stop Work Order issued by Council as a consequence of actions by the proponent. Should the submitter continue to believe there has been any improper conduct on the part of Council, they should raise their concerns and provide their substantiation directly with the Council’s Chief Executive Officer or the Internal Ombudsman Shared Service

9. Public interest

Noting the issues raised within this report it is not in the public interest to support this application.



ATTACHMENT B – REASONS FOR REFUSAL

SCCPP reference	PPSSCC-135
DA No.	493/2020

1. The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the requirements of clauses 101 and 104 of State Environmental Planning Policy (Infrastructure) 2007 are not satisfied.
2. The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that there is insufficient information to demonstrate the compliance with the gross floor area provisions of clause 7.9 of Parramatta LEP 2011.
3. The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposal has not satisfied the design excellence provisions of clause 7.9 of Parramatta Local Environmental Plan 2011.
4. The application is not satisfactory for the purposes of section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the following elements of the proposal are not satisfactory:
 - a) The proper assessment of wind impacts and the identification and provision of appropriate mitigation measures.
 - b) The provision of appropriate mitigation measures to manage reflectivity impacts.
 - c) Transport for NSW will not permit any element of Tower A to encroach over the boundary with Macquarie Street.