

SYDNEY CENTRAL CITY PLANNING PANEL

TO: Sydney Central City Planning Panel – 11 December 2019

SUBJECT: 69 - 71 Pegler Avenue, South Granville NSW 2142

FILE No: DA-171/2019

Application lodged	5 June 2019
Applicant	Land & Housing Corporation (LAHC)
Owner	NSW Land & Housing Corporation
Application No.	DA-171/2019
Description of Land	69 - 71 Pegler Avenue, SOUTH GRANVILLE NSW 2142 Lot 17 DP 36280, LOT 41 SEC 2 DP 5121
Proposed Development	Demolition of existing dwellings and construction of a 3 storey residential flat building comprising 18 units over one level of basement car parking for 11 vehicles, associated landscaping and land consolidation pursuant to SEPP (Affordable Rental Housing) 2009 on 69-71 Pegler Avenue, South Granville and associated stormwater works on 70 Gordon Avenue, South Granville
Site Area	1,413.4m ²
Zoning	R4 High Density Residential
Disclosure of political donations and gifts	Nil disclosure
Heritage	No
Principal Development Standards	N/A
Issues	Submissions, overshadowing

SUMMARY

1. *Development Application No.DA-171/2019 was received on 5 June 2019 for the demolition of existing dwellings and construction of a 3 storey residential flat building comprising 18 units over one level of basement car parking for 11 vehicles, associated landscaping and land consolidation pursuant to SEPP (Affordable Rental Housing) 2009 on 69-71 Pegler Avenue, South Granville and associated stormwater works on 70 Gordon Avenue, South Granville.*
2. *The application was publicly notified to occupants and owners of the adjoining properties for a period of twenty one (21) days between 9 July 2019 and 30 July 2019. In response, three (3) submissions were received.*
3. *The application is recommended for consent subject to the conditions as provided in the attached schedule.*
4. *The application is referred to the Panel as the proposal is a Crown development with a Capital Investment Value (CIV) in excess of \$5 million.*
5. *Pursuant to the provisions of Section 4.33(1)(b) of the Environmental Planning and Assessment Act 1979, the conditions of consent have been approved by NSW LAHC.*

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REPORT

SUBJECT SITE AND SURROUNDING AREA

The site forms Lot 17 in DP 36280 and Lot 41 Section 2 in DP 5121 and is known as 69 – 71 Pegler Avenue, South Granville, NSW 2142 (the site). The site has a total area of 1413.4m² and a frontage to Pegler Avenue of 27.28metres. The site has a gradual fall to the rear.

Current improvements on the site comprise two (2) single storey clad and tile roof dwellings and associated outbuildings. There are two vehicular crossings off Pegler Avenue which currently provide vehicular access to each of the dwellings. There is a tree within the front property setback of 71 Pegler Avenue and a street tree along the site's frontage.

Stormwater works are also proposed across Lot 43 in DP 36280, 70 Gordon Avenue, South Granville. The stormwater works proposed on this site comprise a 1.5 metre wide drainage easement traversing part of the property's western rear boundary and the site's northern side boundary.

Existing development adjoining and surrounding the site include a mix of low to medium density residential development, with the area being in the process of transitioning to higher density land uses.

The following table identifies existing development immediately adjoining the site.

Figure 1 – Adjoining development

ADDRESS	EXISTING DEVELOPMENT
67 Pegler Road, South Granville Adjoining to the north (side)	Single storey clad and tile roof dwelling.
73 Pegler Avenue, South Granville Adjoining to the south (side)	Double storey brick and tile roof dwelling.
70 Gordon Avenue, South Granville Adjoining to the east (rear)	Single storey clad and tile roof dwelling, owned by NSW LAHC.
72 Gordon Avenue, South Granville Adjoining to the east (rear)	Single storey clad and tile roof dwelling, owned by NSW LAHC.

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Figure 2 – Aerial view of land the subject of this application – the subject site outlined red and the property the subject of the proposed drainage easement outlined yellow (Nearmap)



Figure 3 – Street view of subject site, street tree along site's frontage and tree within front setback of property behind, adjoining properties to the north and south shown

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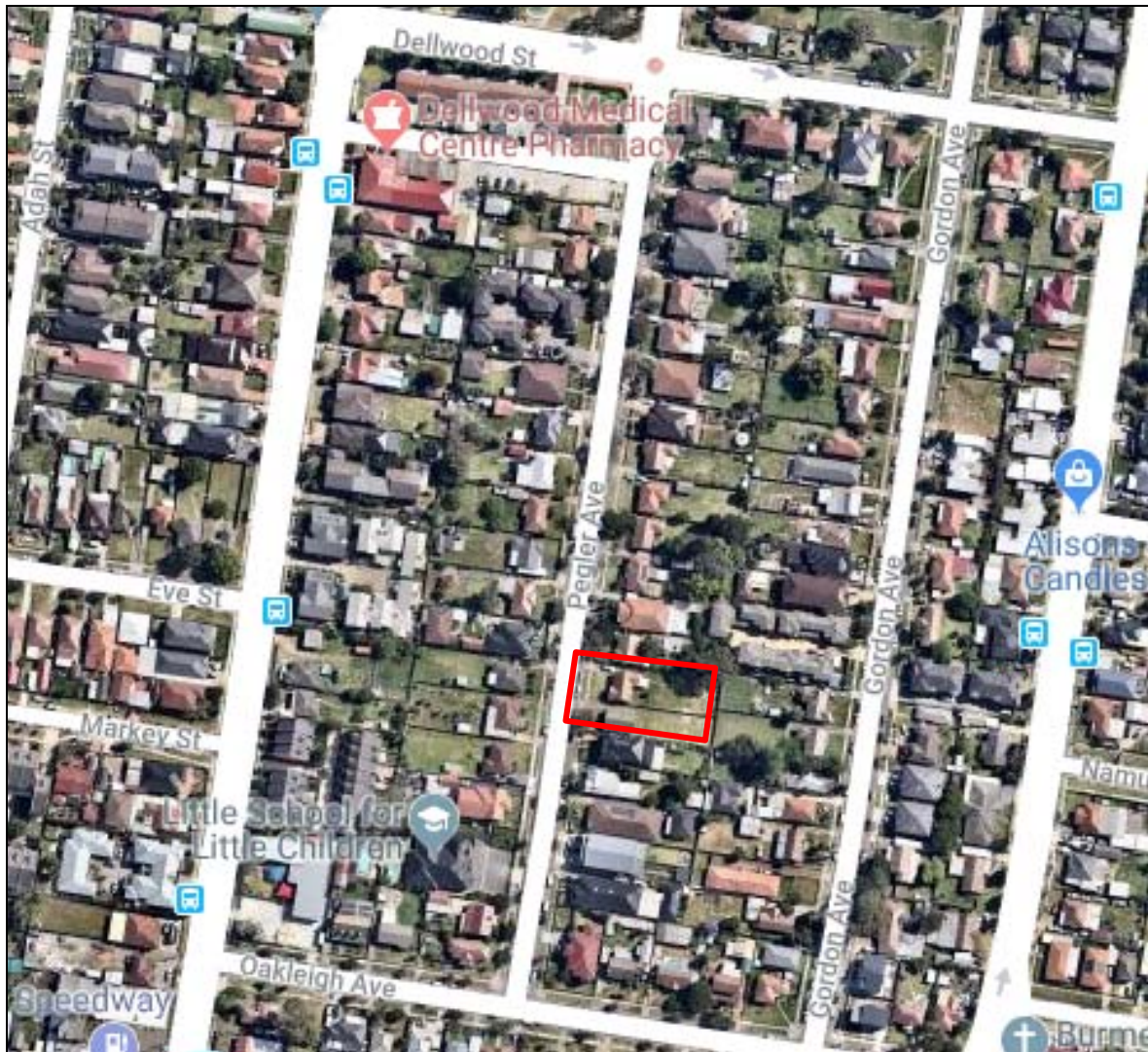


Figure 4 – Locality Plan of subject site, outlined red (Exponare)

DESCRIPTION OF THE PROPOSED DEVELOPMENT

Council has received a development application for the demolition of existing dwellings and construction of a three (3) storey residential flat building comprising 18 dwellings over one level of basement car parking for 11 vehicles, associated landscaping and land consolidation pursuant to SEPP Affordable Rental Housing 2009.

All 18 dwellings are proposed as affordable housing, pursuant to the provisions of SEPP Affordable Rental Housing 2009.

Demolition

The development involves the demolition of the two (2) single storey dwellings and ancillary structures on the site as well as the removal of one (1) tree within the front property boundary.

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Stormwater Works

As part of the stormwater design for the development, a 1.5 metre wide drainage easement is proposed along the northern boundary of 70 Gordon Avenue, Lot 43 in DP 36280, which adjoins the subject site to the rear.

A review of the potential impacts of the development, namely, the stormwater works on a tree in proximity to the site's northern boundary, on the adjoining 67 Pegler Avenue was undertaken by the Arborist, who advised the following:

*For your records it's a mature specimen *Corymbia maculata* – Spotted Gum with good vigour and health. With the measurements the Tree Protection Zone (TPZ) for this specimen is 13.2 metres and the Structural Root Zone (SRZ) is 3.4 metres. With this in mind, I believe the pits need to be well outside the SRZ and any excavation for the trenching needs to be undertaken by hand with non-motorised machinery. This specimen is approx. 4.5 metres of the dividing fence line.*

The stormwater drawings submitted with the application have denoted the locations of the pits and demonstrate that all proposed pits are located outside the SRZ of the tree.

The adjoining property, i.e. 70 Gordon Avenue, South Granville is also owned by the Applicant and an easement has already been registered with the Land and Property Management Authority.

It is acknowledged that the easement has been registered at a 1 metre width, as a result of amendments to the stormwater design during the assessment process, the easement is required to maintain a minimum 1.5 metre width. A condition of consent has been recommended to ensure that the easement is amended to a minimum 1.5 metre width.

Construction

Construction works comprise excavation to facilitate the construction of an eleven (11) car basement, including the provision of two (2) accessible car parking spaces and the construction of a three storey residential flat building.

The residential flat building comprises a total of 18 dwellings; 8 x 1 bedroom dwellings and 10 x 2 bedroom dwellings. Each dwelling is provided with private open space, in the form of terraces on the ground floor and balconies on the upper levels.

The development is also provided with a communal private open space area on the ground level, within the rear building setback.

Pedestrian and vehicular access to the development is gained via the site's Pegler Avenue frontage, with the provision of a separate pedestrian footpath to the building entrance and a driveway along the site's northern boundary.

An enclosed bin room is provided on the ground level along the site's southern elevation. There is a path from the bin room to the site's frontage, to facilitate the transport of bins for collection.

Landscaping is proposed along the front, side and rear setbacks, comprising a mix of endemic and drought resistant species.

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Land Consolidation

As part of the development it is proposed to consolidate Lots 17 and 18 in DP 36280, i.e. 69-71 Pegler Avenue, South Granville, to create a single lot with an area of 1,413.4sqm.

APPLICANTS SUPPORTING STATEMENT

The applicant has provided a Statement of Environmental Effects prepared by NSW Land & Housing Corporation dated June 2019 and was received by Council on 5 June 2019 in support of the application.

CONTACT WITH RELEVANT PARTIES

The assessing officer has undertaken a site inspection of the subject site and surrounding properties and has been in regular contact with the applicant throughout the assessment process.

INTERNAL REFERRALS

Development Engineer

The development application was referred to Council's Development Engineer for comment who has advised that the development proposal is satisfactory having regard to stormwater, traffic and car parking and therefore can be supported subject to recommended conditions of consent.

Tree Management

The development application was referred to Council's Tree Officer for comment who has advised that the development proposal is satisfactory having regard to tree protection and retention and therefore can be supported subject to recommended conditions of consent.

Environment and Health

The development application was referred to Council's Environment and Health Officer for comment who has advised that the development proposal is satisfactory having regard to land contamination and acoustic impacts and therefore can be supported subject to recommended conditions of consent.

Waste Management

The development application was referred to Council's Waste Management Officer for comment who has advised that the development proposal is satisfactory having regard to waste management and therefore can be supported subject to recommended conditions of consent.

EXTERNAL REFERRALS

The application was referred to the following external authorities for comment:

NSW Police

The development application was referred to the Cumberland Police Area Command for comment who advised that, following a risk assessment process, the proposal has been rated as Low Risk

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and due to this assessment rating, no further comment is required regarding associated safety recommendations.

Endeavour Energy

The development application was referred to Endeavour Energy for comment who advised that subject to recommendations and comments, Endeavour Energy has no objection to the development application.

PLANNING COMMENTS

The provisions of any Environmental Planning Instruments (EP&A Act s4.15 (1)(a)(i))

State Environmental Planning Policies

The proposed development is affected by the following State Environmental Planning Policies:

(a) **State Environmental Planning Policy (State and Regional Development) 2011 (SEPP State and Regional Development 2011)**

Development of a type that is listed in Schedule 7 of SEPP State and Regional Development 2011 is defined as 'regional significant development'. Such applications require a referral to a Sydney District Panel for determination as constituted by Part 3 of Schedule 2 under the *Environmental Planning and Assessment Act 1979* (the Act). The proposed development constitutes 'Regional Development' as it has a Capital Investment Value (CIV) of \$6,731,970.00 which exceeds the \$5 million threshold for Crown development, within the meaning of Division 4.6 of the Act. While Council is responsible for the assessment of the DA, determination of the Application will be made by the Sydney Central City Planning Panel.

(b) **State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)**

Clause 7 of SEPP 55 requires Council to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development. The matters listed within Clause 7 have been considered in the assessment of the development application.

Figure 5 – SEPP 55 Assessment Table

Matter for Consideration	Yes/No
Does the application involve re-development of the site or a change of land use?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
In the development going to be used for a sensitive land use (e.g.: residential, educational, recreational, childcare or hospital)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

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Matter for Consideration	Yes/No
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrap yards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site listed on Council's Contaminated Land database?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site subject to EPA clean-up order or other EPA restrictions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the site been the subject of known pollution incidents or illegal dumping?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the site adjoin any contaminated land/previously contaminated land?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
The site is not identified in Council's records as being contaminated. A site inspection reveals the site does not have any obvious history of a previous land use that may have caused contamination and there is no specific evidence that indicates the site is contaminated. The subject site is currently used for residential purposes and contamination is not expected. Notwithstanding, a condition of development consent has been recommended to address any unexpected finds during the demolition and construction phases of the development.	

(c) **Statement Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65)**

SEPP 65 applies to the development as the building is 3 storeys or more, and contains more than 4 dwellings. A design statement addressing the design quality principles prescribed by SEPP 65 was prepared by the project architect. Integral to SEPP 65 is the Apartment Design Guide (ADG), which sets benchmarks for the appearance, acceptable impacts and residential amenity of the development.

The proposal is generally compliant with the provisions of SEPP 65 and the ADG, with the exception of building separation distances and communal open space. These variations are discussed below:

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Objective 3F-1

Building Separation

The ADG relevantly provides:

Design Criteria

Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:

Figure 6: Extract of ADG

Building height	Habitable rooms and balconies	Non-habitable rooms
up to 12m (4 storeys)	6m	3m
up to 25m (5-8 storeys)	9m	4.5m
over 25m (9+ storeys)	12m	6m

The building is three (3) storeys in height and maintains the following separation distances:

Figure 7: ADG Non-compliance Table

Building Elevation	Level	Separation Distance	Complies
North (side)	G	4.52m – 6m	No
	01	4.52m – 6m	
	02	4.52m – 6m	
South (side)	G	3.078m – 6.078m	No
	01	6.078m	
	02	6.078m	
East (rear)	G	8.301m	Yes
	01	6.101m	
	02	6.101m	

The variations to the building separation distances along the northern and southern elevations are considered acceptable, for the following reasons:

- The ground floor, first and second floor building elevations, with a setback of 4.52m to the northern boundary, comprise the bedroom elevations of Units 4, 10 and 16. The bedrooms do not have any openings on the northern elevation. The windows to these bedrooms have been oriented east and west, so as to mitigate any overlooking impacts generated by the reduced separation distance. The remainder of the northern building elevation maintains a compliant 6m separation distance for habitable rooms.
- The southern building elevation of ground floor, which maintains a minimum separation distance of 3.078m, does not have any openings to the habitable rooms. There is a bathroom and laundry window to Unit 6, however this window comprises a highlight window configuration. The remainder of the southern elevation maintains a minimum compliant separation distance of 6.078m to habitable rooms.

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The northern elevation encroachment only applies to a portion of the building elevation and there are no windows where the reduced setback is applied. The windows to the bedrooms of Units 4, 10 and 16 have been oriented east and west, to mitigate any overlooking and privacy impacts on the adjoining property to the north. The bedrooms of Unit 6 at the ground floor southern building elevation do not have windows; windows have been located on the eastern and western facades to mitigate any privacy impacts generated by the non-compliance. It is acknowledged that the bathroom/laundry window along the southern elevation is of highlight configuration and complies with the minimum 3m separation distance for non-habitable rooms.

On this basis, the proposed variations to the minimum habitable room separation distances on the northern building elevation are considered to be acceptable.

It is also acknowledged that Objective 3F-1 includes the following design criteria, relating to adjoining land use zones:

Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping.

The land immediately to the east and south of the subject site is zoned R3 Medium Density Residential. Whilst this is a lower density land use to the R4 High Density Residential zoning of the site, it is noted that a maximum building height of 11 metres is also maintained for the adjoining R3 zoned land. A reduced FSR of 0.6:1 is applicable to the R3 zoned land.

The development provides a southern boundary side setback in excess of the 6 metre building separation required by the ADG, with the exception of a minor encroachment of 3.078 metres at the ground level for Unit 6. The development also provides a rear eastern building setback of 8 metres, with the exception of the balconies on the upper levels, which encroach 2 metres into this setback. The Landscape Plan submitted with the application identifies plantings along the southern and eastern boundaries which will assist to provide a buffer between the adjoining R3 zoned land. A condition of consent has been recommended for an amended Landscape Plan demonstrating that species with a minimum mature height of between 3 metres and 5 metres are planted along the eastern and southern property boundaries.

The proposed building separation distances, the landscaping to the communal open space area to the rear and along the southern boundary as well as the 11 metre building height which is consistent across the R3 and R4 land use zones, results in the development as proposed being acceptable, without the need for the application of an additional 3 metre separation to the eastern and southern boundaries.

Objective 3D-1

Communal Open Space

The ADG requires communal open space to be provided at a minimum area equal to 25% of the site.

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The site maintains an area of 1,413.4sqm, which requires a total communal open space area of 353.35sqm.

The development provides a total communal open space area of 230sqm, within the rear setback, this equates to a total percentage of 16.27% of the site area.

A variation to the minimum requirement is proposed, with an 8.73% deficit in communal open space. The Applicant has acknowledged that in accordance with Objective 3D-1 of the ADG, *where developments are unable to achieve the design criteria, they should provide larger balconies or increased private open space for apartments.*

In response to the deficit in communal open space area, the development provides courtyards at the ground level which range in area from 25sqm to 49sqm, with the exception of Unit 2, which provides the minimum 8sqm of POS (due to constraints related to the basement driveway entrance). These areas are well above the minimum 8sqm-10sqm requirement stipulated in Objective 4E-1 of the ADG.

Further, the upper dwellings provide POS in accordance with the minimum 8sqm and 10sqm requirements for 1 bedroom and 2 bedroom dwellings, respectively.

The compliant POS areas proposed at the upper levels, in conjunction with the terrace areas proposed at the ground level, which are well in excess of the minimum ADG requirement, results in the proposed communal open space area being adequate. The proposed landscaping of the communal open space area enhances the residential amenity of the development and the minimum dimension of 8 metres provides a useable area for the residents of the development.

On this basis, the variation to the communal open space requirement is considered acceptable.

A comprehensive assessment against SEPP 65 and the ADG is contained in **Appendix A**.

(d) **State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)**

The provisions of the ISEPP 2007 have been considered in the assessment of the development application.

Clause 45 - Development likely to affect an electricity transmission or distribution network

The subject development occurs within 5 metres of an overhead electricity power line. As such, the Consent Authority is required to give written notice to an electricity supply authority.

In accordance with the provisions of Clause 45, the development application was referred to Endeavour Energy for comment, who advised that, subject to recommendations and comments, Endeavour Energy has no objection to the development application.

Endeavour Energy further acknowledged that provision has been made for a padmount substation at the site's Pegler Avenue frontage and that in due course, the Applicant for the proposed development of the site will need to submit an application for connection of load via

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Endeavour Energy's Network Connections Branch to carry out the final load assessment and the method of supply will be determined.

Clause 85 – Development adjacent to railway corridors

The application is not subject to clause 85 of the ISEPP, because the subject site is in or adjacent to a railway corridor.

Clause 86 – Excavation in, above, below or adjacent to rail corridors

The application is not subject to clause 86 of the ISEPP as the proposed development does not involve any excavation works on land within, below or above a rail corridor, or within 25m (measured horizontally) of a rail corridor.

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

The application is not subject to clause 87 of the ISEPP as the site is not in or adjacent to a rail corridor, nor is it likely to be adversely affected by rail noise or vibration.

Clause 101 – Frontage to classified road

Pegler Avenue is not identified as a classified road; the provisions of Clause 101 are therefore not applicable.

Clause 102 – Impact of road noise or vibration on non-road development

The application is not subject to clause 102 of the ISEPP as the annual average daily traffic volume of Pegler Avenue is not greater than 40,000 vehicles.

Clause 104 – Traffic generation developments

The application is not subject to clause 104 as the proposal does not trigger the requirements for traffic generating developments listed in Schedule 3 of the ISEPP.

(e) State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)

The proposal is subject to the provisions of Part 2 (New affordable rental housing) Division 1 (In-fill affordable housing) of the ARH SEPP.

Following is a discussion of the relevant Clauses, a detailed assessment is provided at **Appendix B**.

13 Floor space ratios

- (1) *This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.*

Based on the total proposed GFA of 1,452sqm, a minimum GFA of 290.4sqm is required to be used for the purpose of affordable housing to meet the minimum 20 per cent requirement of Clause

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13. The Applicant has nominated the whole development for use as affordable housing, i.e. GFA of 1,452sqm to comprise affordable housing.

A maximum floor space ration (FSR) of 0.8:1 is applicable to the subject site, pursuant to the provisions of ALEP 2010. This equates to a maximum gross floor area (GFA) of 1,130.72sqm.

As the existing maximum FSR is less than 2.5:1 and the percentage of GFA of the development that is used for affordable housing is greater than 50 per cent, a FSR bonus of 0.5:1 is applicable to the development.

This equates to a maximum permissible FSR of 1.3: 1, or 1,837.42sqm.

The development proposes a total GFA of 1,452sqm, which equates to a total FSR of 1.03:1. The proposal is compliant with the maximum FSR, subject to the ARH SEPP bonus.

It should be noted that the proposal fully complies with the key planning controls contained within the ARH SEPP including site area, landscaped area, parking, accommodation size and prescribed standards for in-fill affordable housing.

16A Character of local area

A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area. The SEPP (ARH) does not contain any guidance for assessing whether a proposal is compatible with the character of the local area. However, a planning principle for assessing compatibility in the urban environment was established by Senior Commissioner Roseth of the Land and Environment Court in the judgement for Project Venture Developments Pty Ltd v Pittwater Council [\[2005\] NSWLEC 191](#). This involves asking the following two questions:

- *Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
- *Is the proposal's appearance in harmony with the buildings around it and the character of the street?*

A merit assessment of the character of the local area should consider the following 3 steps:

- Step 1 – Identify the 'local area'.
- Step 2 – Determine the character of the 'local area'.
- Step 3 – Determine whether the design of the proposed development is compatible with the character of the 'local area'.

An assessment against each step is provided below:

Step 1 – Identify the local area.

This assessment identifies the local area as primarily the visual catchment of the site as viewed from within the site and directly adjacent to the site on the street which is defined by the blue outline in Figure 7 and the white line in Figure 8.

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The local area

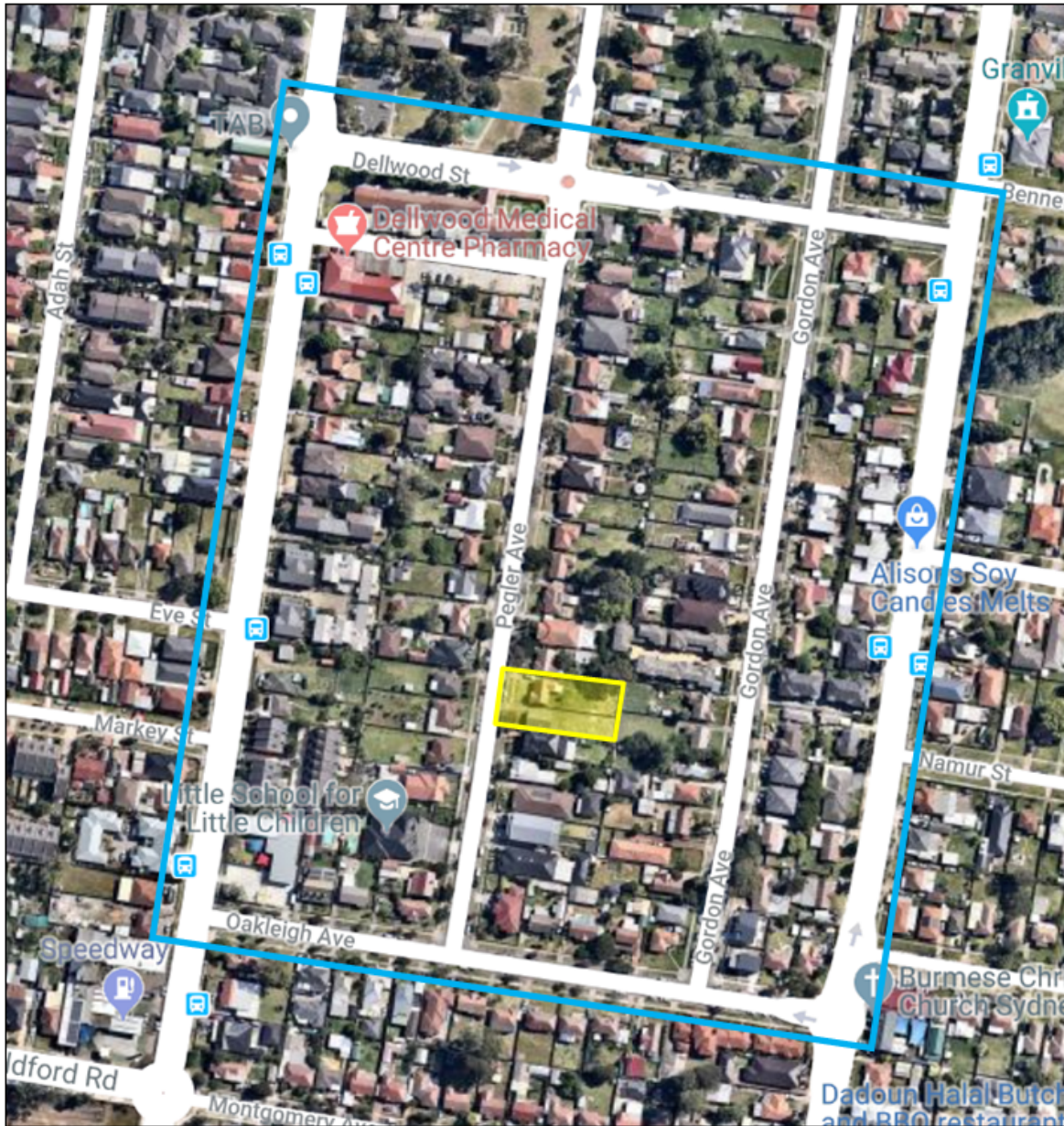


Figure 8 – Local Area catchment as identified on Aerial Map (Nearmap)

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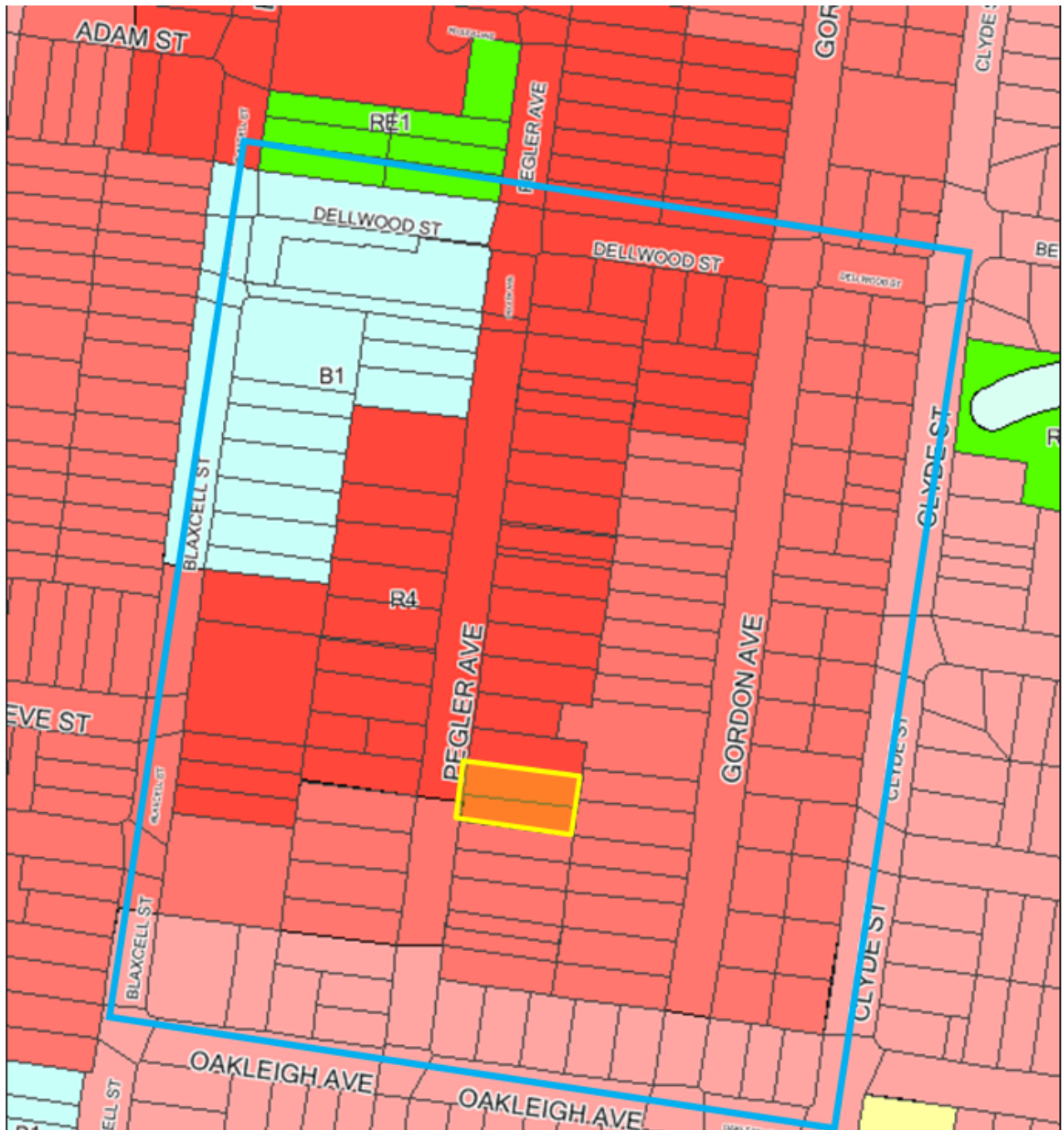


Figure 9 – Local Area catchment as identified on Zoning Map (Exponare)

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

The zoning of the broader locality and immediate area comprises R4 High Density Residential, R3 Medium Density Residential, R2 Low Density Residential, B1 Neighbourhood Centre and RE1 Public Recreation under the Parramatta Local Environmental Plan 2011 (PLEP 2011).

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Present Character of the area

The character of the local area comprises the visual catchment of predominantly regular shaped allotments viewed from and surrounding the subject site, which includes:

1. Existing low to medium density built forms, including dwellings, multi-dwelling development and dual occupancy development opposite on the western side of Pegler Avenue, to the east of the site along Gordon Avenue and to the south of the site along Oakleigh Avenue.
2. There is a child care centre located to the south of the site on the western side of Pegler Avenue at 76 Pegler Avenue, South Granville, also within the R4 land use zone. This development includes an attic component.
3. There is a terrace style multi-dwelling Strata development to the west of the site at 335-339 Blaxcell Street, South Granville.
4. There is an approved child care centre development at 331 Blaxcell Street, South Granville, to the west of the site.
5. There is a neighbourhood shop including a post office, newsagency, pharmacy and medical centre, dental surgery and bottle shop at the corner of Dellwood Street and Blaxcell Street, which corresponds with the B1 land use zone.



Figure 10 – View of existing established development along Pegler Avenue



Figure 11 - View of existing established development along Pegler Avenue



Figure 12 – Existing child care centre at 76 Pegler Avenue



Figure 13 – Multi dwelling development at 335-339 Blaxcell Street

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Figure 14 – Child care centre under construction at 331 Blaxcell Street



Figure 15 – View of neighbourhood shops located at corner of Dellwood Street and Blaxcell Street, with William Lamb Park in the foreground

Future Character of the area

Given the proximity of the subject site to the neighbourhood shops to the north-west and the R4 land use zoning of the site and surrounding land to the north and west, it is considered that the height, bulk and scale of the proposed development is not out of character with the intended future character of the area. The proposed scale and design of the development is considered to be consistent with the desired future character of the locality, having regard to the R4 land use zoning.

The R3 Medium Density Residential land immediately to the east and south of the site presents a transition from the higher density built forms envisaged to the north and west; in proximity to the neighbourhood shops, through to the R2 Low Density Residential land further south along Oakleigh Avenue and on the eastern side of Blaxcell Street.

Step 3 - Determine if the development is compatible with the character of the local area.

In accordance with the Land and Environment Court's 'Planning Principle' and case law compatibility is best defined as 'capable of existing together in harmony'. In order to test compatibility two questions are to be considered. These questions, as well as a response to each, are provided below:

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

The building height, FSR, building setbacks and landscaping of the proposed development are designed to maintain the harmony within the streetscape, whilst contributing to the site context and constraints. The proposal being a permissible land use, meets the FSR requirement (in accordance with ARH SEPP) and contributes to the provision of affordable housing within the close proximity of public transport and the neighbourhood centre. Appropriate setbacks and privacy treatments are provided to minimise any adverse impacts to the adjoining properties.

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

To be compatible, a development should contain, or at least respond to the key aesthetic elements that make up the character of the surrounding area. The size of the basement maximises landscaping and deep soil zones on site. The front setback proposed is consistent with the existing streetscape and the retention of the street tree at the site's Pegler Avenue frontage ensures the continuity of the established street tree pattern lining Pegler Avenue. The proposal is considered to maintain an appropriate residential character which is consistent with the streetscape. As indicated, the local area is in the process of transitioning to a high density residential built form, as such, the proposed development is not considered to be inconsistent with the existing streetscape character of the immediate area surrounding the subject site.

In conclusion, the proposal will maintain the harmony within the general streetscape, and suitably fits in the local character of the locality.

- (f) **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)**

BASIX Certificate No. 997042M dated issued on 20 May 2019 prepared by Energy Rating Australia Pty Ltd has been submitted with Council and is considered to be satisfactory.

Regional Environmental Plans

The proposed development is affected by the following Regional Environmental Plans:

- (a) **Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP 2005)**

The subject site is identified as being located within the area affected by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development raises no issues as no impact on the catchment is envisaged.

(Note: - the subject site is not identified in the relevant map as 'land within the 'Foreshores and Waterways Area' or 'Wetland Protection zone', is not a 'Strategic Foreshore Site' and does not contain any heritage items. Hence the majority of the SREP is not directly relevant to the proposed development).

Local Environmental Plans

- (b) **Parramatta Local Environmental Plan 2011 (PLEP 2011)**

The provisions of the PLEP 2011 are applicable to the development proposal. It is noted that the development achieves compliance with the key statutory requirements of the PLEP 2011 and the objectives of the R4 High Density Residential land use zone.

- (a) **Permissibility:-**

The proposed development is defined as a "residential flat building" and is permissible in the R4 High Density Residential land use zone with consent:

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residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

The relevant matters to be considered under the PLEP 2011 and the applicable clauses for the proposed development are detailed below.

Figure 16 – Parramatta LEP 2011 Compliance Table

DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
4.3 Height of Buildings Maximum 11 metres	Y	The development maintains a maximum building height of 10.95 metres at the highest point, being the ridge line at the eastern rear portion of the site (RL 30.100m) and the natural ground level below that point (RL 19.150m).
4.4 Floor Space Ratio (FSR) Maximum 0.8:1	N (but complies with the ARH SEPP)	The development maintains a total FSR of 1.02:1, which is below the maximum FSR permissible under the ARH SEPP, which provides a bonus for development which provides affordable rental housing. Refer to the discussion in the ARH SEPP section of this report.
5.10 Heritage conservation	N/A	The site is not identified as a heritage item, is not within a heritage conservation area and is not in the vicinity of any heritage items. The site is located in proximity to the Blaxcell Estate Conservation Area to the south, however the development is considered sufficiently removed so as not to have an impact on this conservation area.
6.1 Acid Sulfate soils Class 5 Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	Y	The site is classified as comprising Class 5 acid sulfate soils and is approximately 450-470 metres from Class 4 classified land. A Geotechnical Investigation Report prepared by STS GeoEnvironmental determined that in accordance with AS 2159-2009, the exposure classification for the onsite soils is non-aggressive for both steel and concrete and the soils are classified as A1 in accordance with AS 2870-2011.
6.2 Earthworks	Y	The development includes earthworks, including excavation to facilitate the construction of the basement. Conditions of consent have been recommended to address erosion and sediment impacts generated by earthworks as well as a dilapidation condition to address the impact of the earthworks on the adjoining properties.
6.3 Flood planning	N/A	The site is not flood affected.

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The provisions of any proposed instrument that is or has been the subject (EP&A Act s4.15 (1)(a)(ii))

(a) Draft State Environmental Planning Policy (Environment)

The draft SEPP relates to the protection and management of our natural environment with the aim of simplifying the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. The changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

The draft policy will repeal the above existing SEPPs and certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

Changes are also proposed to the Standard Instrument – Principal Local Environmental Plan. Some provisions of the existing policies will be transferred to new Section 117 Local Planning Directions where appropriate.

The proposed development is not affected by any relevant Draft Environmental Planning Instruments.

The provisions of any Development Control Plans (EP&A Act s4.15 (1)(a)(iii))

The Parramatta DCP 2011 provides guidance for the design and operation of development to achieve the aims and objectives of the PLEP 2011.

A comprehensive assessment and compliance table is contained in **Appendix C**.

The following table highlights non-compliances with the DCP, which relate primarily to setbacks and building separation, deep soil, landscaping, solar access, car parking and the provision of a pedestrian path, and the variations sought are considered satisfactory on merit, in this instance:

Figure 17 –Parramatta DCP 2011 Compliance Table

Clause	Control	Proposed	Complies
3.1.3	Side setback to demonstrate compliance with Section 3F 'Visual privacy' of the ADG	The ground floor, first and second floor building elevations, with a setback of 4.52m to the northern boundary, comprise the bedroom elevations of Units 4, 10 and 16. The bedrooms do not have any openings on the	No – refer to discussion at SEPP 65 section of this Report

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		<p>northern elevation. The windows to these bedrooms have been oriented east and west, so as to mitigate any overlooking impacts generated by the reduced separation distance. The remainder of the northern building elevation maintains a compliant 6m separation distance for habitable rooms.</p> <p>The southern building elevation of ground floor, which maintains a minimum separation distance of 3.078m, does not have any openings to the habitable rooms. There is a bathroom and laundry window to Unit 6, however this window comprises a highlight window configuration. The remainder of the southern elevation maintains a minimum compliant separation distance of 6.078m to habitable rooms.</p>	
	Rear setback – minimum 15% of length of site 7.7m	<p>The development maintains a minimum rear building setback of 8.301m, with the exception of the balconies at the upper levels which encroach on this setback by 2.2m.</p> <p>Given that the balconies maintain a minimum 6m setback to the rear boundary, which is consistent with the building separation requirements at 3F-1 of the ADG, this variation is considered acceptable.</p>	No – but justified
	Deep soil zone – minimum 30% of which at least 50% is to be located at the rear of the site Minimum dimensions 4m x 4m	<p>The development provides a deep soil figure of 115sqm which equates to a percentage of 8.1%. Despite the non-compliance with this DCP control, the deep soil zone provided complies with the minimum 7% requirement at 3E-1 of the ADG. On this basis, the variation is considered</p>	No – but justified

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		acceptable	
	Landscaped area – minimum 40% (including deep soil zone)	The development provides a total landscape area of 338sqm, which equates to 24%. Given the compliance of the development with the deep soil requirements of the ADG and the siting and landscaping proposed, a variation to the landscape requirement is considered acceptable.	No – but justified
3.3.5	Detached single and two storey, dual occupancy and townhouse dwellings within the development site and adjoining properties are to receive a minimum of 3 hours sunlight in the primary living area, and in at least 50% of the private open space between 9am and 3pm on 21 June. Where existing development currently receives less sunlight than this requirement, this should not be unreasonably reduced.	<p>The proposed development overshadows the double storey dwelling on the adjoining 73 Pegler Avenue, South Granville, owing to the orientation of the site and siting of the development on 73 Pegler Avenue.</p> <p>A shadow analysis conducted by the Applicant demonstrates that the adjoining dwelling maintains a total POS area of 240sqm. Between 9am and 12pm, a minimum 50% of this POS area receives 4 hours solar access.</p> <p>Further, Elevational Shadow Diagrams provided demonstrate that the development does not overshadow the solar collectors on the dwelling at any time.</p> <p>The living areas of the adjoining dwelling are overshadowed and do not receive the minimum 3 hours solar access between 9am and 3pm. In order to justify this non-compliance, the Applicant prepared a Shadow Massing Diagram, which demonstrates that even with a fully ADG compliant building separation of 9m to the southern building elevation, the living spaces of the adjoining dwelling would still be overshadowed. This is due to the east-west orientation of the</p>	No – but justified

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		lots. Given the compliance with the POS solar access requirements and the lot orientation, this variation is considered acceptable.	
3.6.2	Residential flat buildings 1 space per 1 or 2 bedroom unit Plus 0.25 space per dwelling for visitor parking A car wash bay which may also be a visitor space Total – 18 spaces for residents 4.5 visitor spaces	The development provides a total of 11 car parking spaces within the basement. SEPP ARH requires the provision of a minimum 9 car parking spaces. The provisions of SEPP ARH take precedent over the provisions of the PDCP 2011. On this basis, the parking provided is acceptable.	N/A
4.1.10	New pedestrian connections should be provided in accordance with Figure 4.1.10.2. Where a development provides for public access connections, a variation to Council's floor space ratio control can be sought in accordance with Principle 1 in Section 4.1 of this DCP. New pedestrian links are to have a minimum width of 3 metres, being consistent in width for its full length.	Figure 4.1.10.2 identifies a section of a desired new pedestrian link along the northern side boundary of 69 Pegler Avenue. The link provides an east-west pedestrian linkage from Clyde Street through to Blaxcell Street, where there is an existing bus stop. Whilst the strategic intention of this control is appreciated, given that there is no legal mechanism, i.e. the 3m wide strip of land is not identified as land for acquisition in the PLEP 2011, the provision of this pedestrian link is not feasible. Further, a child care centre development has recently been approved by the Land and Environment Court at 331 Blaxcell Street, South Granville, without the provision of the 3m wide pedestrian path. The approval of this development prevents the provision of the link through to the bus stop at Blaxcell Street and negates the strategic intention of the control. On this basis, a variation to this	No – but justified

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		control is considered acceptable.	
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Irrespective of these departures, for the reasons discussed above, it is considered that the proposal performs adequately from an environmental planning viewpoint and may be supported.

The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 (EP&A Act s4.15(1)(a)(iia))

There is no draft planning agreement associated with the subject Development Application.

The provisions of the Regulations (EP&A Act s4.15 (1)(a)(iv))

The proposed development raises no concerns as to the relevant matters arising from the Environmental Planning and Assessment Regulations 2000 (EP&A Reg).

The Likely Environmental, Social or Economic Impacts (EP&A Act s4.15 (1)(b))

It is considered that the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

The suitability of the site for the development (EP&A Act s4.15 (1)(c))

The subject site and locality is not known to be affected by any natural hazards or other site constraints likely to have a significant adverse impact on the proposed development. Accordingly, it is considered that the development is suitable in the context of the site and surrounding locality.

Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))

Advertised (newspaper) Mail Sign Not Required

In accordance with Council's Notification requirements contained within the Parramatta DCP 2011, the proposal was publicly notified for a period of twenty one (21) days between 9 July 2019 and 30 July 2019. The notification generated three (3) submissions in respect of the proposal with none disclosing a political donation or gift. The issues raised in the public submissions are summarised and commented on as follows:

Figure 18 – Submissions summary table

Issue	Planner's Comment
<i>Insufficient number of car parking spaces provided for the development</i>	The development provides a total of eleven (11) car parking spaces within the basement level. The provisions of ARH SEPP require a minimum of nine (9) car parking spaces to be provided.
<i>Traffic congestion increased by the development</i>	Council's Development Engineer has assessed the traffic impacts of the development and they are deemed to be satisfactory. Further, the development provides in excess of the minimum car parking requirement stipulated by SEPP ARH.
<i>Heavy commercial vehicles parking in</i>	This is not a matter for consideration pursuant to Section

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<i>the street overnight together with a number of boats on trailers creating difficulties for the refuse collection</i>	4.15 of the Act. This is a compliance matter, independent of this development.
<i>The location of the balconies/terraces may be inappropriately intrusive upon the neighbourhood</i>	The locations of the terraces and balconies and the proposed building separation distances, as well as the implementation of privacy screens are considered to adequately address privacy impacts.
<i>Privacy impacts of the multitude of windows on the southern side of the building</i>	Privacy impacts generated by the windows along the southern building elevation have been considered as part of this assessment. Where habitable room windows are proposed, these form highlight windows, with a raised sill height, to mitigate privacy impacts. A condition of consent has been recommended to ensure that the corridor and stairwell windows along this elevation are constructed of obscure glazing, to mitigate any overlooking impacts.
<i>The land is too small to accommodate the number of dwellings proposed and the change will be one that is demanding and difficult to adjust to</i>	Pursuant to the provisions of ARH SEPP, a minimum lot size of 450sqm is applicable to development for the purpose of in-fill affordable housing. The site maintains a total area of 1,413.4sqm, which is considered an appropriate area to accommodate the proposed residential flat building development.
<i>The three storey development is not consistent with the immediate area, which only consists of 2 storey, uniform residences</i>	A maximum building height of 11 metres is applicable to the site, this translates to a three (3) storey built form, in accordance with the provisions of the PDCP 2011. Further, the development maintains a maximum building height of 10.95 metres.
<i>The economic value of the neighbouring houses will be negatively affected</i>	This is not a matter for consideration pursuant to Section 4.15 of the Act.
<i>The placement of 22 bins in one area on the southern side should be placed elsewhere to dispersed appropriately around the land to mitigate odour impacts</i>	The bin room along the site's southern boundary is enclosed and conditions of consent have been recommended to ensure that the bin room is maintained and kept in a hygienic state at all times.

The public interest (EP&A Act s4.15(1)(e))

In view of the foregoing analysis it is considered that the development, if carried out subject to the conditions set out in the recommendation below, is in the public interest, as the development is providing affordable housing to meet the needs of the local community.

SECTION 7.12 (FORMERLY S94A) FIXED DEVELOPMENT CONSENT LEVIES

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure.

As the development is for the sole purpose of providing affordable housing, the development is exempt from the payment of development contributions under the plan.

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DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

The applicant and notification process did not result in any disclosure of Political Donations and Gifts.

CONCLUSION

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*, SEPP State and Regional Development 2011, SEPP 55, SEPP 65, ISEPP, ARH SEPP, BASIX SEPP, SREP 2005, PLEP 2011 and PDCP 2011 and is considered to be satisfactory for approval subject to conditions.

Having regard to the assessment of the proposal from a merit perspective, Council may be satisfied that the development has been responsibly designed and provides for acceptable levels of amenity for future residents. It is considered that the proposal successfully minimises adverse impacts on the amenity of neighbouring properties. Hence the development, irrespective of the departures from the ADG and PDCP 2011, is consistent with the intentions of Council's planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land.

For these reasons, it is considered that the proposal is satisfactory having regard to the matters of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and the development may be approved subject to conditions.

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RECOMMENDATION

1. That Development Application No. DA-171/2019 for the demolition of existing dwellings and construction of a 3 storey residential flat building comprising 18 units over one level of basement car parking for 11 vehicles, associated landscaping and land consolidation pursuant to SEPP (Affordable Rental Housing) 2009 on 69-71 Pegler Avenue, South Granville and associated stormwater works on 70 Gordon Avenue, South Granville be granted approval subject to attached conditions.
2. Persons whom have lodged a submission in respect to the application be notified of the determination of the application.

ATTACHMENTS

1. Draft Notice of Determination
2. Architectural Plans
3. Shadow Diagrams
4. Stormwater/Engineering Plans
5. Submissions Received
6. Appendix A - ADG Assessment
7. Appendix B – SEPP ARH Assessment
8. Appendix C – PDCP 2011 Assessment