



## SYDNEY CENTRAL CITY PLANNING PANEL

### COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSSCC-170
<b>DA Number</b>	DA/716/2020
<b>LGA</b>	City of Parramatta Council
<b>Proposed Development</b>	Lot consolidation, demolition and construction of a 26 storey mixed-use development comprising 2 retail tenancies on the ground floor, 3 levels of podium car parking comprising 86 car spaces and 114 residential units above. The application is Nominated Integrated Development under the provisions of the Water Management Act 2000. The application will be determined by the Sydney Central City Planning Panel.
<b>Street Address</b>	38-42 East Street, GRANVILLE NSW 2142
<b>Applicant/Owner</b>	Toplace Pty Ltd
<b>Date of DA lodgement</b>	18 November 2020
<b>Number of Submissions</b>	One (1) submission
<b>Recommendation</b>	Refusal
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	General Development Over \$30 Million Cost of Construction proposed = \$40,479,152.00
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"><li>• Environmental Planning and Assessment Act and Regulations</li><li>• State Environmental Planning Policy (Sydney Harbour Catchment) 2005</li><li>• State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development</li><li>• State Environmental Planning Policy (BASIX) 2004</li><li>• Parramatta Local Environmental Plan 2011</li><li>• Parramatta Development Control Plan 2011</li></ul>
<b>Report prepared by</b>	Denise Fernandez, Senior Development Assessment Officer
<b>Report date</b>	23 June 2021

#### Summary of s4.15 matters

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

Yes

#### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

Yes

#### Clause 4.6 Exceptions to development standards

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

Yes

#### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?  
*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

Not  
Applicable

**Conditions**

Have draft conditions been provided to the applicant for comment?

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

**Not  
Applicable**

## **1. Executive Summary**

This report considers a proposal for lot consolidation, demolition and construction of a 26 storey mixed use development comprising 2 retail tenancies on the ground floor, 3 levels of podium car parking comprising 86 car spaces and 114 residential units above.

Assessment of the application against the relevant planning framework, consideration of matters by Council's technical departments and external departments has identified fundamental issues of concerns. These concerns relate to non-compliance with the maximum FSR and height for the site in accordance with Parramatta Local Environmental Plan 2011. The departures to these development standards were not accompanied with a Clause 4.6 Variation. Further, Sydney Trains raises concerns that the development encroaches on railway land.

The application is therefore unsatisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979.

This report recommends that the Panel to refuse the development proposal subject of this application, due to the reasons contained in the Assessment Report.

## **2. Key Issues**

- Variation to Height;
- Variation to FSR
- Encroachment on Sydney Trains/railway land.

## **3. The Site and Surrounds**

The subject site is known as Nos.38 – 42 East Street, Granville NSW 2142 and comprises 3 allotments (Lot 1 DP 1009146, Lot 1 DP 195784 and Lot 1 DP 996285).

The site is located on the southern side of East Street and has a frontage to East Street with a total area of 1577m<sup>2</sup>.

The land currently accommodates a mixture of one and two storey residential buildings. The site adjoins the railway corridor to the rear and adjoins railway land to the north-west. The site immediately to the south-east and directly opposite the site are a multi-storey mixed use development. Heritage items are also located opposite the site at 19 and 21 - 23 East Street.

The site is also approximately 170m from Duck Creek to the south-east of the site.

The wider locality has a mix of commercial, industrial and residential land uses of varying ages and architectural styles.

The site is located 130 metres from Granville Transport Interchange and Granville Town Centre. The western railway line is located to the south of the site and the M4 Motorway is located to the north of the site. The site is located in close proximity to the Parramatta City Centre. Several key arterial road networks are also in close proximity to the site. These include Parramatta Road and the M4

Motorway connecting to Western Sydney and the Sydney CBD; Woodville Road, connecting South Western Sydney to Parramatta; and James Ruse Drive, connecting North Western Sydney to Parramatta.



Figure 1: Aerial map with subject site outlined in yellow (Nearmap)

## 4. Development History

### Planning Proposal

A Planning Proposal was lodged with Council on April 2017 (RZ/8/2017) and sought the following changes to the site controls contained within PLEP 2011:

- Increasing the maximum height of buildings on the site from 52m to 82m;
- Increasing the site's Floor Space Ratio from 3.5:1 to 6:1;
- Including a site specific provision that excludes enclosed balconies on the building façade facing the railway line from the Gross Floor Space calculation used for determining the Floor Space Ratio of a proposed building on the site;
- Requiring an appropriate design competition.

It is noted that no additional FSR or Height bonus is applicable for achieving design excellence under the amendments.

The Planning Proposal was considered and endorsed by Council on 26 November 2018. The amendment to the Parramatta Local Environmental Plan 2011 was gazetted on 8 November 2019.

The intention of the Planning Proposal is to apply the recommendations of the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS) to address the current 'mismatch' of the existing height and FSR controls permitted in the B4 Mixed Use zone in Granville that do not allow the maximum FSR to be achieved within the height limit by increasing the Maximum Height of Building control. The proposed increase of height is consistent with the recommended height controls under the PRCUTS, meeting the recommended 80m height limit with a 2m variation, which is considered minor and still in keeping with the objectives of the PRCUTS.

The Parramatta Development Control Plan 2011 was also amended to include site specific controls to guide the detailed development of the land in accordance with the Planning Proposal to deliver appropriate building and urban design outcomes. Guidance on the following building and design elements include:

- Desired future character;
- Built form and massing;
- Design controls (podium, ground level and public domain, communal open space, substations, wintergarden balconies);
- Car parking; and
- Flooding.

### Architectural Design Competition

A design competition (DC/8/2018) was undertaken via an invitational architectural design competition.

Krikis Tayler Architects were the winners of the competition and the proposal was awarded design excellence subject to a number of design amendments. It is noted that the proposal does not benefit from any FSR or height bonuses. The development features of this winning entry included:

- The resolution of the ground floor and should retain the single vehicular entrance located on the north west corner of the site, maximised East Street frontage, Pocket Park concept design and outdoor dining opportunities;
- Above ground parking;
- Podium expression;
- Extensive use of curved glass on the podium tower facades;
- Pocket Park design and relocation of the existing padmount substation;
- Well resolved apartment layouts;
- Design of the tower form into 2 distinct components

The Jury recommended that the following aspects be further explored during design development:

- Building Height - The top of building height is above the maximum 82m. Prior to the lodgement of a DA, this non-compliance should be discussed with Council's Development Assessment Officers. The Jury supports the architectural roof feature provided no additional FSR is approved.
- Communal Open Space - The provision of a range of indoor and outdoor communal open spaces on level 4 (podium rooftop) and level 25 (tower rooftop) provide a high level of amenity to residents and their visitors. The design development of these spaces should ensure:
  - Visual/acoustic privacy impacts to apartments are minimised, and
  - Wind downdraft impacts are addressed.
- South-Eastern Apartments - The layouts of all south-eastern corner apartments should be reconsidered to improve the location of kitchens, dining and living areas. Central island kitchens are not considered an optimal configuration. The Jury would recommend further design development is undertaken to improve these layouts.
- Solar shading / Sunhoods - Consider increasing the depth and colour/reflectivity of the tower façade sunhoods to assist in better articulating/animating the facades while also maximising solar shading.
- Southern Facade - Further consideration and design development of the southern podium elevation is required. This is a highly visible component of the building (along the railway

corridor), and there is the potential for a public art component which may relate the sites history both Indigenous and European to be integrated into the developed design.

- Flood Transition - It is acknowledged that step free thresholds are established at suitable levels to facilitate access for those with disabilities and to protect from overland flooding. It is recommended that the design team consult with Council's flood engineer and public domain officers to ensure that the proposal is consistent with Council's vision for development along East Street.
- Environmentally Sustainable Design - The Jury recommend that the design team addresses the comments and improvement opportunities identified by Council's Independent ESD advisor.

It is noted that the Design Jury recommended that the amendments be returned to the Jury for review prior to the lodgement of the Development Application. Council's records do not indicate that this process was undertaken prior to the lodgement of the current application.

Whilst the documentation with the application indicate that the applicant has reasonably addressed the abovementioned recommendations from the Design Jury, due to the outstanding planning and land encroachment issues with the proposal, the application was not reviewed by the Design Jury within the current application process.

## **5. The Proposal**

The subject Development Application seeks development consent for lot consolidation, demolition and construction of a 26 storey mixed-use development comprising 2 retail tenancies on the ground floor, 3 levels of podium car parking comprising 86 car spaces and 114 residential units above.

The proposed development includes the following components:

- Lot consolidation of Lot 1 DP 996285, Lot 1 DP 1009146 and Lot 1 DP 195784;
- Demolition of existing structures;
- Construction of a 26 storey mixed-use development comprising 2 retail tenancies on the ground floor. Tenancy 1 is to have a floor area of 224m<sup>2</sup>, and Tenancy 2 will have a floor area of 33m<sup>2</sup>.
- 3 levels of podium car parking comprising of 86 car spaces
  - Levels 1 is to comprise of 29 car spaces including 4 accessible car spaces
  - Level 2 is to comprise of 29 car spaces including 4 accessible car spaces.
  - Level 3 is to comprise 32 car parking spaces including 4 accessible car spaces.
- 114 residential units in the tower above. The unit mix are as follows:
  - 22 x 1 bedroom
  - 83 x 2 bedroom
  - 9 x 3 bedroom
- Site works and landscaping including a Pocket Park located to the north-western corner of the site.



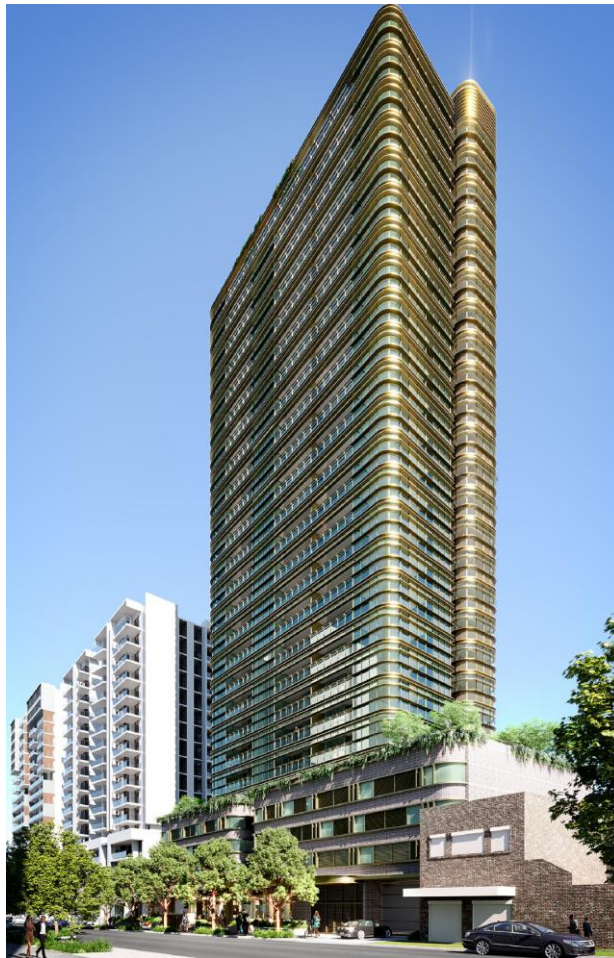


Figure 2: 3D perspective of proposed development as viewed from the north (Krikis Tayler Architects)

The development has a total gross floor area of 10,277m<sup>2</sup>. The proposed building height is 86.01m.

## 6. SCCP Panel Briefing and Response

A briefing to the panel of the application was undertaken on 3 March 2021. Panel made the following comments with regards to the proposal.

- The Panel supports Council requiring the proposal to stay within the height and FSR controls set by the Planning Proposal.
- The Panel has concerns regarding the podium parking as this is not sleeved on any elevation despite its exposure to the public domain.
- The Panel notes that the proposal does not currently provide a flexible floor to floor height, which would enable later conversion to other uses.
- The Panel queried how acoustics and cross ventilation were going to be handled on the site considering proximity to the rail station and railway line.
- Clarification was requested regarding the privacy interface between the eastern portion of the building and 10 -32 East St, given the proposed non-compliant separation.

The following response to the above are provided.

- Council has requested the applicant address the variation to the height and FSR and that compliance with the maximum height and FSR for the site is to be achieved. However, to date, plans have not been amended to comply and therefore Council cannot support the proposal.

- The site does not have sufficient depth to accommodate a functional car parking layout and provide sleeving of residential apartments fronting East Street. The Planning Proposal and Site Specific DCP anticipated above ground car parking in the podium. Council's Urban Design team considered this the most appropriate interface to the rail corridor. The Design Excellence Jury included the following comment in the Jury Recommendations (Jury Report) – *The Jury considered the “façade resolution of the above ground parking to be well executed”. The materials and detailing of the podium must be retained through to construction.* Further, the adopted Site Specific DCP states that the Desired Future Character is for a *“tall slender tower form is encouraged with a podium of above ground parking to buffer the adjacent rail corridor”*.
- The applicant has noted that, *“The proposed ground floor, floor to ceiling height is circa 5m. This allows for a flexible approach to the use of this space in the future. The remaining levels of the development are afforded floor to ceiling heights as required by the Apartment Design Guide”*.
- With regards to the acoustics and cross ventilation, the applicant noted that, *“The acoustic report provided with the DA addresses any potential acoustic amenity issues. Noting the LEP allows for some additional winter gardens to ensure that residents can make use of their balconies when there are busy/peak times on the trainline. There are also cross ventilation details provided with this application that you can review. These were provided with this original DA submission demonstrating compliance with the ADG”*.
- If Council had recommended the application for approval, Council would have recommended that the applicant explore privacy measures to attenuate any privacy impacts between the development and the adjoining site. Notwithstanding, the development complies with the boundary setbacks contained within the Site Specific controls detailed in PDGP 2011.

## 7. Outstanding Issues

### FSR and Height

The proposal exceeds the maximum height and FSR for the site. The applicant has proposed that the portion of the development that exceeds the maximum height is an architectural roof feature pursuant to Clause 5.6 of PLEP 2011. The exceedance with the FSR in this instance relates to the bike storage area located on Level 25 of the development which was included in the calculation of floor area. It is noted that only the variation to the FSR was accompanied by a Clause 4.6 statement from the applicant.

Given that the site specific amendments to the PLEP 2011 were recently enforced, it is unreasonable for a development to vary the FSR and height controls in this instance. For these reasons, Council cannot recommend the application for approval.

### Sydney Trains

Sydney Trains have raised concerns over a discrepancy between the applicant's survey plan and information from Sydney Trains. Sydney Trains notes that a portion of the subject site that is shared by the railway land to the north-west is part of the Sydney Trains asset site. See image below.

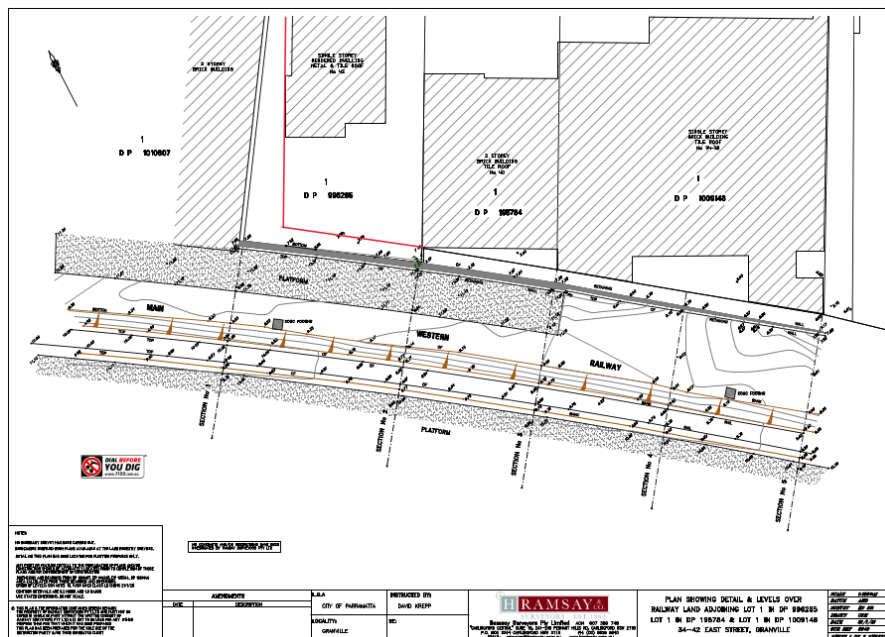


Figure 3: Survey Plan – red notation denotes railway land/asset

Sydney Trains has requested the applicant's surveyor review and properly survey any encroachments and prepare a new survey plan that can be relied upon and included on all DA drawings.

Given the extent of the encroachment on railway land, it is likely that the proposal would require a significant redesign.

In addition to the above concern, the following issues also remain outstanding:

- The Geotech report dated 2014 indicates that only a single bore hole was undertaken on the subject site. Given the adjoining site (to the south-east) required additional boreholes and the fact that access to the rear of the site is not restricted, additional boreholes are required and is to be located closest to the rail boundary (upon review of the encroachment/legal boundary).
- Whilst it is acknowledged that no basement is proposed as part of the application, Clause 86 of the ISEPP relates to ground penetrations and as deep piles are proposed, details of pile loads and whether piles will be under tension is required.
- Submission of a structural report to confirm compliance with (AS 5100 and ASA standard T HR CI12080 ST).
- Confirmation that all drainage is to be discharged to the street/Council system.
- Submission of drawings that contain accurate distances from the rail boundary and closest rail assets (and confirmed by a surveyor).
- Confirmation that the proposed development will not introduce electro-magnetic interference to the railway signalling and telecommunications systems.

Due to the abovementioned outstanding matters, Sydney Trains are unable to complete its assessment of the proposal pursuant to the provisions under the ISEPP and therefore cannot issue its concurrence.

As Sydney Trains have not issued its concurrence, Council cannot recommend the approval of the application.

#### Encroachment on railway land



In addition to the issues raised by Sydney Trains, the encroachment on railway land results in the inability to ascertain the correct boundaries and site area. As such, development and built form requirements (in addition to FSR) such as setbacks, solar impacts, parking and traffic, common open space, unit mix, landscaping and deep soil zones cannot be calculated and assessed. For this reason, the proposal cannot be supported.

## 8. Referrals

The following internal and external referrals were undertaken:

Landscape	<p>No objections, subject to conditions of consent.</p> <p>The landscape plans for the ground level, podium level 4 and level 25 have been reviewed and are adequate. There have been no details provided however for the typical planting arrangements to show proposed soil depths and soil volumes. However, this could be conditioned accordingly.</p> <p>There is only one large Bottlebrush tree in excellent condition located in the front garden of 42 East St. This tree is approved to be removed to facilitate the development.</p>
Traffic	<p>No objections, subject to conditions of consent.</p> <p>The proposed development has a car parking shortfall of 43 spaces. However, the proposed development is located within the immediate vicinity of bus services along Bridge Street in addition to Granville Railway Station. It is accordingly expected that a proportion of the future residents within the subject development will utilise the surrounding public transport infrastructure to access destinations throughout the Sydney metropolitan area.</p> <p>Maximum parking rates are also applied to some of the uses within the Granville Town Centre. For this reason, it is considered that lower parking provision will help to mitigate traffic and parking implications of the proposed development on the surrounding road network. As a result, the provision of 86 car parking spaces is considered adequate for the proposed development.</p> <p>It is noted that this parking provision is in line with the proposed parking rates based on the <i>Paramatta Road Corridor Urban Transformation</i> which considers maximum parking rates for Granville Town Centre.</p> <p>The submitted Site Access, Parking &amp; Internal Circulation Assessment report estimates that the proposed development results in a traffic generating capability of 38 weekday commuter peak hour vehicle trips.</p> <p>The report also states that the estimated traffic generation is significant comparable to the previously assessed and approved traffic generating capacity (under DA/738/2014) for the site of 35 weekday commuter peak hour vehicle trips.</p> <p>The report, finally, concludes that the traffic generating capacity of the subject development is comparable or less than that previously assessed and approved and, therefore, is not anticipated to result in any noticeable impact on the overall operational performance of the surrounding road network.</p> <p>Based on the analysis and information submitted by the applicant, the proposed development is not expected to have a significant traffic impact on the surrounding road network. The proposal can be supported on traffic and parking grounds subject to the following traffic related conditions.</p>
Waste	<p>No objections, subject to conditions of consent.</p>

	<p>It is noted that only the operational waste management plan was submitted. Notwithstanding, Council's Waste Officer were satisfied that the waste details during demolition or construction can be provided as a condition of consent to be submitted to the Certifier.</p>
Acoustics	<p>No objections, subject to conditions of consent.</p> <p>The application was accompanied by an Acoustic Report which measured train noise and vibration and road traffic noise from the proposed site.</p> <p>When all recommendations contained in the report are completed, it is considered that the intrusive noise level will conform with the Department of Planning's Development Near Rail Corridors and Busy Roads – Interim Guideline.</p> <p>The report concludes that provided the recommendations are implemented, the noise level emitted by the approved development will be able to meet acceptable noise level requirements.</p>
Health	<p>No objections, subject to conditions of consent.</p> <p>A review of the proposal was undertaken by Council's Health Officer with regards to the environmental health of the proposal. Upon review, Council's Health Officer found the proposal to be satisfactory and imposed conditions relating to erosion and sediment control, air emissions (use of premises), soil and water management, nuisance lighting and dust control.</p>
Contamination	<p>No objections, subject to conditions of consent.</p> <p>Council's Contamination / Health Officer reviewed the proposal and was satisfied with the application and the PSI submitted. A condition is imposed to ensure that the recommendations of the PSI are carried out as per the report.</p>
Public Art	<p>No objections, subject to conditions of consent.</p> <p>The applicant proposes public art consisting of background imagery of natural landscape being applied as a linear graphic onto blades to create a composite imagery to the southern façade facing the railway line. The potential of the imagery to be contrasting is identified, with suggestions for exploration being railway lines / bush tracks / watercourse on alternate sides of blades.</p> <p>Renders in the Public Art Strategy show integration with the Architectural Drawings, and responds to comments by the Panel in the Design Excellence Report:</p> <p><i>"Further consideration and design development of the southern podium elevation is required. This is a highly visible component of the building (along the railway corridor), and there is the potential for a public art component which may relate the sites history both indigenous and European to be integrated into the developed design".</i></p> <p>The architectural drawings indicate the integration of the public art into the southern façade which will be highly visible to rail transport users and can become an iconic landmark along the rail line.</p> <p>While the location and the early integration of a concept is encouraged, further exploration of the conceptual underpinnings and design development of the public art proposed will be required prior to any construction certificate. Further budget information will also be required.</p> <p>Notwithstanding, the Public Art Strategy for 38 – 42 East Street Granville satisfies the requirements of Council's public art controls and is supported. Further documentation and referral are required prior to construction certificate.</p>
Social Outcomes	No objections

	<p>Upon review of the proposal, Council's Social Outcomes Officer raised the following concerns:</p> <ul style="list-style-type: none"> <li>- Decreasing the proportion of 1 bedroom units and increasing the proportion of 3 bedroom units</li> <li>- The proponent considers inclusion of affordable housing in current apartment offerings</li> <li>- The proponent provides communal facilities such as BBQs and play equipment</li> <li>- The proponent ensures all units have access to cross-ventilation.</li> </ul> <p>The applicant has provided information that addresses the abovementioned concerns. Upon review of this information by Council's Social Outcomes Officer, no further objections are raised.</p>
Heritage	<p>No objections</p> <p>The subject site is located opposite heritage listed items at 19 and 21 – 23 East Street. These sites contain a single storey dwelling and semi-detached dwellings. It is unlikely that the proposal will result in any significant impacts on the heritage items given the distance between the subject site and the heritage items. Further, the site adjoining these items (to the north-west) is a multi-storey mixed-use development.</p>
Quantity Surveyor	<p>No objections</p> <p>Due to cost of works involved with the proposal, the applicant's Quantity Surveyor's report was reviewed by Council's external QS consultant. Whilst there were initial concerns regarding the proposed cost of works, changes to the materials and a more competitive trade letting achieved by the developer were made to the QS report that resulted in the cost of works being more appropriate for the proposed development.</p>
Water NSW	Supported, General Terms of Agreement (GTA) issued
RMS	Supported, subject to conditions of consent.
Endeavour Energy	Supported, subject to conditions of consent.
Sydney Trains	<p>Not supported, additional/amended information required.</p> <p>The following comments were provided by Sydney Trains:</p> <p><i>"At this stage Sydney Trains is not in a position to issue concurrence for this DA.</i></p> <p><i>The main reasons are that we don't have adequate documentation needed for our review and also the proposal is designed to occupy rail land owned by TAHE (to which Sydney Trains acts as agent for). As no land owner's consent has been issued for this to occur then Council cannot approve the development as currently designed. Also, as a redesign is required we are also then unable to review the documentation as provided as any redesign will require these documents to be amended.</i></p> <p><i>Crown plans and supporting gazettes were reviewed which support TAHE ownership and the boundary shown in DP996285 which confirms our common boundary and the fact the development as designed is on TAHE land without permission.</i></p> <p><i>We can't advise on any disposal of this land at this stage as we haven't obtained any clearance from within ST and TAHE that the land is surplus and can be disposed of. If the developer wants to acquire the land, then they will have to go through the NSW Government's unsolicited proposal process".</i></p>
Development Engineer	<p>Not supported, additional/amended information required.</p> <p>Council's Development Engineer has reviewed the proposal and raised the following concerns:</p>

	<ol style="list-style-type: none"> <li>Given the size of the proposed building, the OSD calculations shall be amended to allow for wind driven rain</li> <li>The OSD shall be shown on the building sections</li> <li>Roof and L4 drainage plan detail shall be provided on the stormwater plans</li> <li>OSD tank 1 is conflicting with the Bin storage area. In this regard, the stormwater and architectural plans shall be amended to be consistent.</li> <li>The proposed piped overflow is considered satisfactory however no contingency has been provided for emergency overflow. In this regard, the OSD tank shall have a clear emergency overflow that drains to the street without impacting any services or retail space</li> </ol> <p>Note: it is suggested that the OSD tanks be relocated in front of the residential lobby / front setback to resolve most of the stormwater concerns raised by Council</p> <p><b><u>Water Sensitive Urban Design</u></b></p> <p>The outflow (bottom outlet) from the filtration system to be directed into the OSD system. If it is bypassed OSD system and directed into overflow pit past OSD, then equivalent flow to be reduced from the PSD in the OSD calculation.</p> <p>The above concerns were not relayed to the applicant as the issues with the FSR, height and Sydney Trains concerns remain unresolved. Accordingly, Council cannot recommend approval of the application due to insufficient information.</p>
Environmentally Sustainable Development (ESD)	<p>Not supported</p> <p>Council's external ESD consultant requested the following information:</p> <ul style="list-style-type: none"> <li>The Class 2 certificate supplied is a type that has been superseded and is no longer permitted due to changes in the software, rules, and detail on the certificate. The following is an extract from the NatHERS administrator website which advises that the old certificate provided is not permitted after 31 July 2020:</li> </ul> <p><i>The new NatHERS Certificate will come into use as software tools transition to Chenath Engine version 3.21. While the new certificate represents an improvement on the current certificate and will completely replace it after 31 July 2020m there will be a period to that time where both certificates will be in circulation. Either certificate can be used to demonstrate compliance to NCC 2016 or NCC 2019. After 31 July 2020, only the new NatHERS certificate will be permitted and it is to be used in associated with the new accredited software using the Chenath Engine version 3.21.</i></p> <p>Whilst the applicant has submitted information that addresses the abovementioned issue, this was not forwarded to Council's consultant given that FSR, height and Sydney Trains issues remain a concern. As final comments from Council's external ESD consultant have not been received, Council cannot consider approval of the application.</p>
Design Excellence Jury (DEJ)	<p>The application has not been reviewed by the Jury as it has not resolved the FSR, height and Sydney Trains issues which require significant redesign. As the proposal has not been endorsed by the Jury, Council cannot recommend approval of the application.</p>

## 9. Assessment under Environmental Planning and Assessment Act 1979

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

### Section 4.15: Evaluation

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

Provision	Comment
Section 4.15(1)(a)(i) - Environmental planning instruments	Refer to section 9.
Section 4.15 (1)(a)(ii) - Draft environmental planning instruments	Refer to section 10.
Section 4.15 (1)(a)(iii) - Development control plans	Refer to section 11.
Section 4.15 (1)(a)(iia) - Planning agreement	Refer to section 12.
Section 4.15 (1)(a)(iv) - The Regulations	Refer to section 13.
Section 4.15 (1)(b) - The likely impacts of the development	Refer to section 14.
Section 4.15 (1)(c) - The suitability of the site for development	Refer to section 15.
Section 4.15 (1)(d) - Any submissions	Refer to section 16.
Section 4.15 (1)(e) - The public interest	Refer to section 17.

## 10. Environmental Planning Instruments

### Overview

The instruments applicable to this application comprise:

- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy (Sydney Harbour Catchment) 2005;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (State and Regional Development) 2011;
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; and
- Parramatta Local Environmental Plan 2011.

Compliance with these instruments is addressed below.

### STATE ENVIRONMENTAL PLANNING POLICY 55 – REMEDIATION OF LAND

Clause 7 of this Policy requires that the consent authority must consider if land is contaminated and, if so, whether it is suitable, or can be made suitable, for a proposed use.

In considering this matter it is noted:

- The site is not identified in Council's records as being contaminated. The site appears to have been largely residential premises until the 1950s where the site was used for various commercial / industrial land uses. Since then, the site has been used for activities such as mechanical repairs, car wash, warehouse and storage facilities.
- No areas of the site or directly neighbouring properties are listed on 'Contaminated Land Record of Notices' or 'List of NSW contaminated sites notified to the EPA'.
- A Preliminary Site Investigation (PSI) was submitted with the application and notes that the key areas of concern for this site relate to potential impact of soil and groundwater from the previous commercial / industrial land use, the adjacent railway corridor, and the presence of fill (which may contain former building demolition rubble).
- However, as no basement works are proposed, further investigations to soil and groundwater would not be required in this instance.
- As demolition of the existing structures are proposed, the following associated works were recommended:

- A pre demolition hazardous building material survey to identify the location and nature of hazardous building materials
- Removal and disposal of the identified hazardous materials by an appropriately qualified and licensed contractor at an appropriately licensed disposal facility.
- Validation / clearance of the site area by a qualified occupational hygienist upon completion of demolition and removal of the buildings confirming that there are no residual asbestos containing materials and other hazardous materials remaining on the site.

Therefore, in accordance with Clause 7 of the State Environmental Planning Policy No 55 - Remediation of Land, the land is suitable for the proposed development being a mixed use development, which includes a residential component.

Notwithstanding, the application is recommended for refusal for reasons stated throughout this report.

### **SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005 (DEEMED SEPP)**

The site is not located on the foreshore or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development.

The development is consistent with the controls contained within the deemed SEPP.

### **STATE ENVIRONMENTAL PLANNING POLICY – BASIX 2004**

The application is accompanied by a BASIX certificate that lists commitments by the applicant as to the manner in which the development will be carried out.

However, final comments and support from Council's ESD consultant have not been received due to the outstanding issues with the development that is unresolved.

### **STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007**

The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

The application is subject to clause 45 of the SEPP as the development proposes works within the vicinity of electricity infrastructure. A padmount substation is currently located within the site and is proposed to be removed to accommodate a pocket park along the north-east corner. Provisions of a new substation to service the development will be accommodated within the built form. Endeavour Energy has reviewed this proposal and raised no objections subject to conditions of consent.

The application is subject to Clause 85 as the site adjoins the railway corridor to the south. The proposal was referred to Sydney Trains for review. As previously discussed, Sydney Trains has requested additional information regarding confirmation that the development will not introduce electro-magnetic interference to the railway signaling and telecommunications systems. As this information has not been received, the proposal does not satisfy the provisions under Clause 85 of the ISEPP.

The application is subject to Clause 86 where ground penetration is required. Whilst the proposal does not accommodate a basement, it does require deep piles. The application has not provided information that details pile loads and whether piles will be under tension. Given this, the proposal has failed to satisfy the provisions under Clause 86 and as such, Sydney Trains cannot issue their concurrence.



The application is subject to Clause 87 as the proposal involves residential accommodation. An Acoustic Report was submitted reviewing the proposal in accordance with the LAeq levels specified under Clause 87 (3) of the ISEPP. The Acoustic Report recommends noise attenuating measures to protect and achieve the acoustic levels appropriate for a residential development. Council's Health Officer reviewed the application and the Acoustic Report and raised no objections to the proposal subject to conditions of consent. If the application had been recommended for approval, the Acoustic Report would have been included in the consent.

The application is not subject to Clause 101 of the SEPP as the site does not have frontage to a classified road.

The application is not subject to Clause 102 of the SEPP as the average daily traffic volume of East Street is less than 40,000 vehicles.

Consistent with clause 104 of this Policy (Traffic Generating Development) the application was referred to Roads and Maritime Services (RMS), who did not raise any objection to the proposed development subject to recommended conditions of consent.

#### **STATE ENVIRONMENTAL PLANNING POLICY (VEGETATION IN NON-RURAL AREAS) 2017**

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

The application proposes the removal of **one** tree from the site identified as:

<b>Tree No.</b>	<b>Name</b>	<b>Common Name</b>	<b>Location</b>	<b>Condition/Height</b>	<b>Reason</b>
1	<i>Callistemon viminalis</i>	Weeping Bottlebrush	Outside 42 East St	Excellent / 8m	Driveway

Council's Tree and Landscape Officer has reviewed the application and raise no objections to the removal of the vegetation from the subject site subject to conditions.

#### **STATE ENVIRONMENTAL PLANNING POLICY (STATE AND REGIONAL DEVELOPMENT) 2011**

As this proposal has a Capital Investment Value of more than \$30 million, Part 4 of this Policy provides that the Sydney Central City Planning Panel is the consent authority for this application.

#### **STATE ENVIRONMENTAL PLANNING POLICY NO. 65 (DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT)**

SEPP 65 applies to the development as the proposal is for a new building, is more than 3 storeys in height and will have more than 4 units. SEPP 65 requires that residential flat buildings satisfactorily address 9 design quality principles, be reviewed by a Design Review Panel, and consider the recommendations in the Apartment Design Guide.

##### ***Design Quality Principles***

The proposal is considered to be inconsistent with the design principles for the reasons outlined below:

<b>Requirement</b>	<b>Comment</b>
<b>Principle 1: Context and Neighbourhood Character</b>	Whilst the proposal provides a high density mixed use development within proximity to a transport interchange, the built form does not comply with the maximum height and FSR for the site. Also, due to the unresolved discrepancy regarding encroachments on railway land and that significant redesign is required, the development as proposed is not considered to have responded to the site context or the local character.
<b>Principle 2: Built Form and Scale</b>	The built form is inappropriate for the site and is inconsistent with the building envelope and footprint controls prescribed by the Parramatta LEP 2011. The proposal has also not been designed with respect to adjoining neighbouring sites, in particular the railway asset to the south-west as the development encroaches on this land.
<b>Principle 3: Density</b>	The proposal is not of a density appropriate for the site and its context in terms of floor space yield.
<b>Principle 4: Sustainability</b>	A BASIX Certificate has been submitted with the application and the required design measures are incorporated into the design of the building. However, final comments and support from Council's ESD consultant have not been received due to the outstanding issues with the development that is unresolved.
<b>Principle 5: Landscape</b>	<p>The proposed landscaping on the site is located on primarily on the ground level, podium level 4 and level 25 and provides amenity for the communal open spaces on these levels. The landscaping is consistent with the landscape character of the locality.</p> <p>However, due to the concerns with the encroachment on railway land and that this results in the correct site area, the amount of landscaping required under the ADG cannot be ascertained.</p>
<b>Principle 6: Amenity</b>	Whilst the development in its current form appear to result in satisfactory amenity to optimise internal amenity through orientation, visual and acoustic privacy, solar access, natural ventilation, apartment layout, storage areas and service areas, the unresolved issue with the encroachment on railway land create uncertainty and whether the correct calculations have been carried out to allow for a proper assessment of the development.
<b>Principle 7: Safety</b>	The current proposal satisfactorily addresses safety and provides opportunities for passive surveillance to the street frontage and communal areas of the site through the use of balconies addressing the street frontage and glazed openings. The car park area has been designed for secure access to ensure that the area remains accessible to only the building occupants and their visitors.
<b>Principle 8: Housing Diversity and Social Interaction</b>	<p>The proposal comprises a mix of apartments ranging in type, size and affordability in order to provide housing choice for different demographics, living needs and budgets in close proximity to public transport. The development provides housing which suits the existing and future social mix and provide for the desired future community.</p> <p>Notwithstanding, the unit mix is dictated by the number of units within a specified density which due to the unresolved issues with the encroachment on railway land cannot at this time be ascertained. As such, the correct unit mix cannot be calculated and properly assessed.</p>
<b>Principle 9: Aesthetics</b>	<p>The current built form is appropriate with regard to the composition of building elements, textures, materials and colours which reflect the use, internal design and structure of the building. The building responds aesthetically to the environment and context, and appropriately contributes to the desired future character of the area.</p> <p>Despite this, due to the issues with FSR, height and encroachment on railway land, the development may require a redesign. As such, the assessment of the aesthetics of the development cannot be undertaken.</p>

## ***Architectural Design Excellence Jury***

An Architectural Design Excellence Competition was held for this site and the development proposal subject of this application. However, as the issues with the FSR, height and encroachments on railway land remain unresolved, the application was not reviewed by Design Excellence Jury. As this review process was not undertaken, the application cannot be considered for approval.

## ***Apartment Design Guide***

The ADG is a publication by the State Government which further expands on the design quality principles by providing some detailed practical guidance for the design of residential flat buildings.

The proposal has been assessed against the 32 topic area provisions within Parts 3 & 4 of the ADG and the relevant provisions of note are as follows:

Clause	Design Criteria	Comments	Comply
<b>Part 3 – Siting the Development</b>			
3A Site Analysis	Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	A site analysis has been submitted.	Yes.
3B Orientation	Buildings along the street frontage define the street, by facing it and incorporating direct access from the street.	Pedestrian entry is provided off East Street.	Yes.
	Where the street frontage is to the east or west, the rear buildings should be orientated to the north.	The Street frontage is oriented to the north.	Yes.
	Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west.	East Street is oriented to the north. There is one building proposed on the site.	Yes.
3C Public Domain interface	Transition between private and public domain is achieved without compromising safety and security.	The proposal provides a transition between the private and public domain interface. Apartments are located above the ground level and provide passive surveillance to the ground level.	Yes.
	Amenity of the public domain is retained and enhanced.	Public domain plans have been submitted and the public domain is retained and enhanced.	Yes.
3D Communal and public open space	Communal open space (COS) has a minimum area equal to 25% of the site, with minimum 3m dimensions.	Required: 394.25m <sup>2</sup> Proposed: 426.72m <sup>2</sup>  Notwithstanding, the issues with the encroachment on railway land remains unresolved and therefore the correct site area cannot be ascertained. Given this, the amount of COS for the site cannot be accurately calculated.	<b>NO</b>

	<p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm mid-winter.</p> <p>Facilities are provided within communal open spaces and common spaces for a range of age groups (see also 4F Common circulation and spaces), incorporating some of the following elements:</p> <ul style="list-style-type: none"><li>• seating for individuals or groups</li><li>• barbecue areas</li><li>• play equipment or play areas</li><li>• swimming pools, gyms, tennis courts or common rooms</li></ul>	<p>The submitted shadow diagrams indicate that the proposed communal open space, which is north facing, achieves minimum of 50% direct sunlight to the usable part of the communal open space for a minimum of 2 hours between 9am and 3pm mid-winter.</p> <p>It is noted however that the encroachment on railway land remains unresolved and as such, may impact on the design of the development and therefore any solar impacts.</p> <p>Outdoor seating areas and communal areas are provided on the podium level.</p>	<p><b>NO</b></p> <p>Yes.</p>												
3E Deep soil zones	<p>Deep soil zones are to meet the following minimum requirements:</p> <table><tr><th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr><tr><td>Less than 650m<sup>2</sup></td><td>-</td><td rowspan="4">7%</td></tr><tr><td>650m<sup>2</sup> – 1,500m<sup>2</sup></td><td>3m</td></tr><tr><td>Greater than 1,500m<sup>2</sup></td><td>6m</td></tr><tr><td>Greater than 1,500m<sup>2</sup> with significant existing tree cover</td><td>6m</td></tr></table> <p>Required: 110.39m<sup>2</sup></p>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m <sup>2</sup>	-	7%	650m <sup>2</sup> – 1,500m <sup>2</sup>	3m	Greater than 1,500m <sup>2</sup>	6m	Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	<p>Proposed: Nil that meets minimum dimensions.</p> <p>Deep soil areas are provided at the podium level and to the rear of the site (on the ground floor) along the boundary with the railway corridor.</p> <p>The issues with the encroachment on railway land remain unresolved. As such, the correct site area cannot be ascertained and therefore the amount of deep soil zones for the site cannot be calculated.</p>	<p><b>NO</b></p>
Site area	Minimum dimensions	Deep soil zone (% of site area)													
Less than 650m <sup>2</sup>	-	7%													
650m <sup>2</sup> – 1,500m <sup>2</sup>	3m														
Greater than 1,500m <sup>2</sup>	6m														
Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m														
3F Visual Privacy	<p>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:</p> <table><tr><th>Building Height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr></table>	Building Height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	<p>Ground (Non-habitable) – 7.1m</p> <p>Levels 1 to 3 (Non –habitable) – 3m</p> <p>Level 4 (Habitable) – 10m</p> <p>Level 5 to 8 (habitable) – 9m</p> <p>Level 9 to 25 – Min. 9m and Max of 12m.</p>	<p><b>NO – refer to discussion below.</b></p>						
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		
<p><u>Non-compliance discussion – Building separation</u></p> <p>The non-compliance relates to the building separation from Levels 9 to 25 where the closest balcony to the boundary is a minimum of 9m and the ADGs require a minimum of 12m. If the application had been considered for approval, at the Design July review, a recommendation would have been proposed to include screening / privacy measures to ensure that the non-compliant building separation protects privacy to and from the site.</p>					
3G Pedestrian access and entries	Building entries and pedestrian access connects to and addressed the public domain.  Access, entries and pathways are accessible and easy to identify.	Pedestrian entries are located off East Street.  Pedestrian access through the site is satisfactory. The entry achieves equitable access to all parts of the development.		Yes.  Yes.	
3H Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	Vehicular access from East Street is provided. Separate pedestrian access is provided.		Yes.	
3J Bicycle and car parking	For development in the following locations: - on sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area: or - on land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre.  The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.	A maximum parking rate applicable for this site is contained within the site specific DCP. Based on the rates contained within the DCP, a maximum of 113 car parking, 4 motorcycle parking and 59 bicycle spaces are stipulated.  86 car parking spaces, 4 motorbike spaces and 57 bicycle spaces are proposed.  The proposal does not exceed the maximum rate.  Despite the above, due to the issues with FSR and encroachment on railway land which dictates the site area and density of the development, the amount of car, motorbike and bicycle spaces cannot be calculated correctly and therefore cannot be properly assessed.		<b>NO</b>	

Part 4 - Amenity				
4A Solar and daylight access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.	70% of units comply  Despite this, due to the outstanding issues with FSR, height and encroachment on railway land which dictate the overall design of the units within the development, a proper assessment of the development cannot be undertaken.		<b>NO</b>

4B Natural ventilation	Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	71% of all apartments are cross ventilated.	Yes.													
	Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	The balconies of the apartments at 10 storeys or greater allow adequate natural ventilation and cannot be enclosed.	Yes.													
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	No cross over or cross through apartments exceed 18m in depth.	Yes.													
4C Ceiling heights	<div>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</div> <table><tr><th colspan="2">Minimum Ceiling Height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td rowspan="2">For 2 storey apartments</td><td>2.7m main living area</td></tr><tr><td>2.4m second floor where it does not exceed 50% of the apartment area.</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope.</td></tr><tr><td>Located in mixed use areas</td><td>3.3m for ground and first floor to promote future flexibility of use.</td></tr></table>	Minimum Ceiling Height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m main living area	2.4m second floor where it does not exceed 50% of the apartment area.	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope.	Located in mixed use areas	3.3m for ground and first floor to promote future flexibility of use.	3.1m floor to floor with slab thickness no greater than 300mm are provided throughout the development.	Yes.
Minimum Ceiling Height																
Habitable rooms	2.7m															
Non-habitable	2.4m															
For 2 storey apartments	2.7m main living area															
	2.4m second floor where it does not exceed 50% of the apartment area.															
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope.															
Located in mixed use areas	3.3m for ground and first floor to promote future flexibility of use.															
4D Apartment Size and Layout	Studio 35m <sup>2</sup> 1 bedroom 50m <sup>2</sup> 2 bedroom 70m <sup>2</sup> 3 bedroom 90m <sup>2</sup>	Studio N/A 1 bedroom 50m <sup>2</sup> (min.) 2 bedroom 70m <sup>2</sup> (min.) 3 bedroom 90m <sup>2</sup> (min.)	Yes.													
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.	Complies.	Yes.													
	Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry)	Complies.	Yes.													
	Habitable room depths are limited to a maximum of 2.5 x ceiling height. 2.5 x 2.7 = 6.75m	Refer to below as units have open plan layouts.	N/A.													
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Complies.	Yes.													
	Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space).	Complies.	Yes.													
	Bedrooms have a minimum dimension of 3m.	Complies.	Yes.													
	Living rooms or combined living/dining rooms have a minimum width of: - 3.6m for studio and 1 bedroom apartments. - 4m for 2 and 3 bedroom apartments.	Complies.	Yes.													
4E – Private open space and balconies	Primary balconies as follows	The proposal complies.	Yes.													




	<table><tr><th>Dwelling type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio</td><td>4 m<sup>2</sup></td><td>-</td></tr><tr><td>1 Bedroom</td><td>8 m<sup>2</sup></td><td>2m</td></tr><tr><td>2 Bedroom</td><td>10 m<sup>2</sup></td><td>2m</td></tr><tr><td>3 Bedroom</td><td>12 m<sup>2</sup></td><td>2.4m</td></tr></table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p> <p>For apartments at ground level <i>or on a podium or similar structure</i>, a private open space is provided instead of a balcony. It must have a minimum area of 15 m<sup>2</sup> and a minimum depth of 3m.</p>	Dwelling type	Minimum Area	Minimum Depth	Studio	4 m <sup>2</sup>	-	1 Bedroom	8 m <sup>2</sup>	2m	2 Bedroom	10 m <sup>2</sup>	2m	3 Bedroom	12 m <sup>2</sup>	2.4m		
Dwelling type	Minimum Area	Minimum Depth																
Studio	4 m <sup>2</sup>	-																
1 Bedroom	8 m <sup>2</sup>	2m																
2 Bedroom	10 m <sup>2</sup>	2m																
3 Bedroom	12 m <sup>2</sup>	2.4m																
4F – Common circulation and spaces	<p>Max. apartments off a circulation core on a single level is eight.</p> <p>10 storeys and over, max apartments sharing a single lift is 40.</p>	<p>6 units are provided off a lift core within the development.</p> <p>The building is more than 10 storeys. 3 lift cores are provided for a development with 114 units.</p>	<p>Yes.</p> <p>Yes.</p>															
4G - Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided</p> <table><tr><th>Apartment type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4 m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>6 m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>8 m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>10 m<sup>2</sup></td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Apartment type	Storage size volume	Studio	4 m <sup>2</sup>	1 bedroom	6 m <sup>2</sup>	2 bedroom	8 m <sup>2</sup>	3 bedroom	10 m <sup>2</sup>	<p>Adequate storage areas are provided.</p>	<p>Yes.</p>					
Apartment type	Storage size volume																	
Studio	4 m <sup>2</sup>																	
1 bedroom	6 m <sup>2</sup>																	
2 bedroom	8 m <sup>2</sup>																	
3 bedroom	10 m <sup>2</sup>																	
4H Acoustic Privacy	<p>Various objectives.</p>	<p>The proposal complies with the various objectives.</p> <p>The application was accompanied by an Acoustic Report which provided recommendations to ameliorate acoustic impacts from the railway corridor in particular, the use of insulation, ceiling and roof materials and glazed windows and doors. The proposal as well as the Acoustic Report was reviewed by Council's Health Officer who raised no objections to the acoustic measures subject to conditions of consent.</p>	<p>Yes.</p>															
4J Noise and Pollution	<p>Various objectives.</p>	<p>The proposal complies with the various objectives. A podium is proposed which will assist in shielding noise to apartments above.</p>	<p>Yes.</p>															
Part 4 - Configuration																		
4K Apartment Mix	<p>Various objectives.</p>	<p>The proposal provides:</p>	<p>NO</p>															

		<p>22 x 1 bedroom (20% mix), 83 x 2 bedroom (72% mix) and 9 x 3 bedroom (8% mix) which is consistent with the objectives.</p> <p>Notwithstanding, outstanding issues remain unresolved. The FSR and encroachment on railway land dictates the number of units within the development and therefore the unit mix. Given that possible changes are required to comply with the provisions and Sydney Train requirements, the appropriate unit mix for the development cannot be assessed.</p>	
4L Ground floor apartments	Various objectives.	No ground floor apartments are proposed.	N/A.
4M Facades	Various objectives.	The proposal complies with the various objectives.	Yes.
4N Roof design	Various objectives.	See Clause 5.6 – Architectural Roof Features of PLEP 2011.	<b>NO</b>
4O Landscape design	Various objectives.	The proposal complies with the various objectives.	Yes.
4P Planting on structures	Various objectives.	Planting is proposed within the and podium level, Level 25 and ground level. Minimum soil depths are shown and meet the objectives of this section of the ADG.	Yes.
4Q Universal design	Various objectives.	The proposal complies and provides at least 20% of apartments incorporating the Liveable Housing Guideline's silver level universal design features.	N/A.
4R Adaptive reuse	Various objectives.	The proposal complies with the various objectives.	Yes.
4S Mixed Use	Various objectives.	The proposal complies with the various objectives.	Yes.
4T Awnings and signage	Various controls under SEPP 64 apply.	Awnings are proposed and are compliant with the site specific controls under PDCP 2011.	Yes.
<b>Part 4 - Performance</b>			
4U Energy efficiency	Various objectives.	Council's ESD consultant was unable to provide final comments on the proposal as the development could not be supported in its current form due to outstanding issues with FSR, height and encroachments on railway land.	<b>NO</b>
4V Water management and conservation	Various objectives.	The proposal meets the objectives.	Yes.
4W Waste Management	Various objectives.	Refer to DCP compliance table further in this report.	No design criteria under SEPP 65.
4X Building Maintenance	Various objectives.	The proposal complies with the various objectives.	Yes.

## PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2011

The relevant matters to be considered under Parramatta Local Environmental Plan 2011 for the proposed development are outlined below.

Development Standard	Compliance
<b>Clause 2.3 Zone objectives and land use table</b>	<p>The site is zoned B4 Mixed Use. The proposed development is defined as a mixed use development and is permissible with development consent within the B4 zone.</p> <p>However, as the proposal does not comply with the maximum height, FSR and that the development encroaches on railway land, the proposal in this instance is not considered to have met the objectives of the B4 Mixed Use zone. The development does not contribute to the active, vibrant and sustainable neighbourhood.</p>
<b>Clause 2.7 Demolition requires development consent</b>	<p>Yes. Consent is sought for the demolition of the existing buildings on the site.</p>
<b>Clause 4.3 Height of Buildings</b> Allowable = 82m Proposed = 86.01m	<p><b>No.</b></p> <p>The proposal provides a plant room on Level 26 that is located above the maximum height limit. This creates an additional bulk to the roof form that was not envisaged by the controls. Accordingly, the variation to the height cannot be considered for support.</p>
<b>Clause 4.4 Floor Space Ratio</b> <u>Allowable:</u> 6:1 (9462m <sup>2</sup> ) <u>Proposed:</u> 6.51:1 (10,277.25m <sup>2</sup> )	<p><b>No.</b></p> <p>The development has not included the bike storage located on Level 25 in the calculation of FSR. This has resulted in a development that is of scale that was not envisaged by this clause. It is also noted that concerns are raised that the site area was incorrectly measured due to boundary encroachments on railway land. As such, the correct FSR cannot be ascertained in this instance. Accordingly, the variation to the FSR cannot be supported.</p>
<b>Clause 4.5 Calculation of floor space ratio and site area</b>	<p><b>No.</b></p> <p>Sydney Trains have raised concerns with regards to the boundary line that is shared by the site and the Sydney Trains asset to the north-west. Sydney Trains have noted that their records indicate that the subject site encroaches on railway land. Sydney Trains has requested that survey plan be reviewed that reflects the correct boundaries and that the development be redesigned to ensure that there are no encroachments on railway land.</p> <p>It is noted that Council's GIS also indicate that the development site encroaches on railway land. See images below.</p>

	 <p><i>Figure 4. Council's GIS map. Yellow outline indicates subject site. Red solid area indicates railway land.</i></p> <p>As the requested information has not been submitted, Council cannot ascertain the site boundaries or the correct site area. Therefore, the calculation of the floor space cannot be considered compliant with this clause and cannot be considered for approval.</p>
<p><b>Clause 4.6 Exceptions to development standards</b></p>	<p><u>Height</u></p> <p>The development seeks approval for an architectural roof feature in accordance with Clause 5.6 of PLEP 2011. However, the portion that exceeds the maximum height is an enclosed area measured at 204m<sup>2</sup> with a floor to ceiling height of 3.1 metres and lift access. Given this, concern is raised that this area can be converted to a habitable space and therefore cannot be considered as an architectural roof feature.</p> <p>As the portion of the development that exceeds the height is not an architectural roof feature, this is a variation to Clause 4.3 – Height of PLEP 2011.</p> <p>The applicant to date has not submitted amended plans to comply with the maximum height pursuant to Council's request. Further, the applicant has also not submitted a Clause 4.6 variation to justify the departure to the standard. As a Clause 4.6 has not been submitted, an assessment of the provisions under this clause cannot be undertaken and therefore the variation to the maximum height cannot be supported.</p> <p><u>FSR</u></p> <p><u>Is the planning control a development standard?</u></p> <p>The planning control, Clause 4.4 FSR is a development standard pursuant to Parramatta Local Environmental Plan 2011.</p> <p><u>What is the underlying object or purpose of the standard?</u></p> <p>The underlying purpose of Clause 4.4 is to regulate the density of the development and generation of vehicular and pedestrian traffic; provide a transition in built form and land use intensity within the area covered by PLEP 2011; require the bulk and scale of future buildings to have regard to</p>

	<p>heritage sites and their settings and to reinforce and respect the existing character and scale of low density residential areas.</p> <p><i>Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 1.3 of the EPA Act?</i></p> <p>Strict compliance with the development standard in this instance does not hinder the attainment of the objects in Section 1.3 of the EPA Act which include the promotion of good design and amenity of the built environment and the promotion of the orderly and economic use and development of land.</p> <p><u>Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?</u></p> <p>Compliance with the development standard is reasonable in the circumstances of the case for the following reasons:</p> <ul style="list-style-type: none"> <li>• The additional floor area results in additional bulk in this location which was not envisaged by the controls.</li> <li>• The bike storage area requires weather protection and that the use of fixed louvres in this instance serves to enclose the area.</li> <li>• It is noted that PLEP 2011 was amended to remove the FSR sliding scale for this site and imposed a fixed 6:1 FSR despite the land area. This amendment was gazetted November 2019. Given the recent changes to the PLEP 2011, it is unreasonable to vary the FSR standard. This is supported by the SCCPP upon briefing of the application.</li> <li>• Further, the concerns regarding the correct boundaries in relation to the railway land and that a revised survey has not been submitted and therefore the correct site area cannot be ascertained. As such, the correct FSR for the site cannot be calculated.</li> </ul> <p><u>Is the exception well founded?</u></p> <p>Chief Justice Preston of the NSW Land and Environment Court provided further guidance to consent authorities as to how variations to the standards should be approached. Justice Preston expressed the view that there are 5 different circumstances in which an objection may be well founded:</p> <ul style="list-style-type: none"> <li>• The objectives of the standard are not achieved, in particular it does not provide a transition in built form and land use intensity within the area covered by PLEP 2011;</li> <li>• The underlying objective or purpose of the standard is relevant to the development and therefore compliance is necessary;</li> <li>• The underlying object or purpose would not be defeated or thwarted and compliance in this instance is required. As such, compliance is reasonable;</li> </ul>
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	<ul style="list-style-type: none"> <li>• The development standard has not been virtually abandoned or destroyed by the Council's own actions. As previously stated, the FSR for the site was amended as recently as November 2019. Hence, compliance with the standard is necessary and reasonable; and</li> <li>• The zoning of the particular land is appropriate so that a development standard appropriate for that zoning is also reasonable and necessary as it applies to the land and compliance with the standard would be reasonable or necessary. That is, the particular parcel of land should be included in the particular zone.</li> </ul> <p>The recent findings in case <i>Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118</i> indicate that the consent authority must be satisfied that the applicant's written request adequately demonstrates that the compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the contravention; and that the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for the development within the relevant zone.</p> <p>In this case, the applicant's justification that the increase in the FSR will not result in adverse impacts on the surrounding locality and is consistent with the future character envisioned while supporting the role of Parramatta as a strategic centre is inadequate. It does not adequately address the matters required to be demonstrated by Clause 4.6(3) and the proposed development is not in the public interest as it is inconsistent with the objectives of the FSR Development Standard and the objectives for development within the B4 Mixed Use zone.</p> <p>Accordingly, the proposal cannot be supported.</p>
<b>Clause 5.1A Development on land intended to be acquired for public purposes</b>	The site is not identified on this map
<b>Clause 5.6 Architectural roof features</b>	<p><b>No.</b></p> <p>The development proposes an architectural roof feature. However, this feature is an enclosed area measured at 204m<sup>2</sup> with a floor to ceiling height of 3.1 metres and lift access. Given these features, this area has the capacity to be converted at a later stage to habitable areas which is in contravention of Clause 5.6 (3)(a)(iii) – which states that architectural roof features should “..not include floor space area and is not reasonably capable of modification to include floor space area”. Accordingly, the proposal cannot be considered for support.</p>
<b>Clause 5.7 Development below mean high water mark</b>	The proposal is not for the development of land that is covered by tidal waters.



<b>Clause 5.10 Heritage Conservation</b>	The site does not contain a heritage item or is located within a heritage conservation area.
<b>Aboriginal Places of Heritage significance</b>	The site is identified as Low Aboriginal Heritage Sensitivity.
<b>Clause 5.11 Bush fire hazard reduction</b>	The site is not identified as bushfire prone land.
<b>Clause 5.19 Pond based, tank based and oyster aquaculture</b>	The development is not for a pond based, tank based or oyster aquaculture.
<b>Clause 5.20 Playing and performing music</b>	The development does not relate to a licensed premises.
<b>Clause 6.1 Acid Sulfate Soils</b>	<b>No.</b>  The site is classified as containing Class 4 and 5 Acid Sulfate Soils. Whilst no basement is proposed, the development requires deep piles which require works below 2m. Accordingly, an Acid Sulfate Management Plan is required. However, a ASMP was not submitted with the application.
<b>Clause 6.2 Earthworks</b>	See Referrals Section for comment.
<b>Clause 6.3 Flood planning</b>	The site is not identified by council as being flood prone.
<b>Clause 6.4 Biodiversity protection</b>	The site is not identified on this map.
<b>Clause 6.5 Water protection</b>	The site is not identified on this map.
<b>Clause 6.6 Development on landslide risk land</b>	The site is not identified on this map.
<b>Clause 6.7 Affected by a Foreshore Building Line</b>	The site is not located in the foreshore area.
<b>Clause 6.12 Design Excellence</b>	Clause 6.12 is applicable to this development as it involves the erection of a new building which will have a height over 55m and has a capital investment value of over \$100 million. The building design is a winner of a competitive design process. Notwithstanding, the proposal could not be reviewed during the assessment process for the Design Jury to endorse as matters regarding FSR, height and encroachment on railway land remains outstanding. As the development does not have the endorsement of the Design Jury, the proposal does not exhibit design excellence and cannot be supported.
<b>Clause 6.20 Development on Land at 38 – 42 East Street, Granville</b>	The development provides 338m <sup>2</sup> of winter gardens (enclosed balconies) which was not included in the gross floor area for the site.

## 11. Draft Environmental planning instruments

Draft Parramatta Local Environmental Plan 2020 was placed on public exhibition on the 31 August 2020, with exhibition closing on the 12 October 2020. The draft LEP will replace the five existing LEPs that apply within the Local Government Area and will be the primary legal planning document for guiding development and land use decisions made by Council.

Whilst the draft LEP must be considered when assessing this application, under Section 4.15(1)(a)(ii) of the Environmental Planning & Assessment Act 1979, the LEP is neither imminent or certain and therefore limited weight has been placed on it.

Notwithstanding, the proposed development is consistent with the objectives of the Draft LEP.

## 12. Development Control Plans

### Parramatta Development Control Plan 2011

The relevant matters to be considered under Parramatta Development Control Plan 2011 for the proposed development are outlined below.

Development Control		Compliance
Part 2 – Site Planning		
2.4.1 Views and Vistas	Yes. There are no significant views to or from the site identified within the DCP. The site is in proximity to the Granville Conservation Area – Civic Precinct. The proposal does not overshadow or obstruct views to the Granville Conservation Area – Civic Precinct.	
2.4.2 Water Management		
2.4.2.1 Flooding	N/A. The site is not flood prone.	
2.4.2.2 Protection of Waterways	Yes. The proposal complies.	
2.4.2.3 Protection of Groundwater	Yes. The proposal complies.	
2.3.3 Soil Management		
2.4.3.1 Sedimentation	An Erosion and Sediment Control Plan was submitted with the Development Application and conditions of consent ensuring minimisation of soil erosion are recommended.	
2.4.3.2 Acid Sulfate Soils.	Refer to LEP table.	
2.4.3.3 Salinity	The proposal complies.	
2.4.4 Land Contamination	Refer to body of report.	
2.4.5 Air Quality	The proposal complies. Relevant conditions would have been imposed for air quality are recommended to ensure no adverse air quality impacts are generated from the development during demolition, construction and ongoing use if the application were recommended for approval.	
2.4.6 Development on Sloping Land	The proposal complies and the design of the development responds to the site topography.	
2.4.7 Biodiversity	The proposal complies.	
2.4.8 Public Domain	The proposal satisfactorily addresses the public domain.	
Part 3 – Development Principles		
3.1 Preliminary Building Envelope		
3.1.1 Height	No. See Clause 4.3 – Height under PLEP 2011	
3.1.3 Preliminary Building Envelope Tables		
Minimum Site Frontage	Refer to Part 4 of this table.	
Front Setback Control	Refer to Part 4 of this table.	
Side Setback Control: Assessed on merit	Refer to Part 4 of this table.	
Rear Setback Control: Assessed on merit	Refer to Part 4 of this table.	
Deep Soil and Landscaped Area: Assessed on merit	Refer to ADG table earlier in report. The level of landscaping proposed is considered satisfactory.	

<b>3.2 Building Elements</b>	
<b>3.2.1 Building Form and Massing</b>  Buildings are to be of a height that responds to the topography and the shape of the site.  The proportion and massing of buildings is to relate favourably to the form, proportions and massing of existing and proposed buildings patterns in the street.  Building height and mass should not result in unreasonable loss of amenity to adjacent properties, open space or the public domain.  The form and massing of buildings is to provide a transition between adjoining land use zones and building types.  For all mixed use developments, potential management arrangements, including ownership/lease patterns are to be considered at the design stage to ensure proper functioning of various components of the building.	<b>No.</b>  As discussed, the proposed building height is not compliant with the maximum LEP building height permitted and does not in this instance respond to the shape of the site.  Also, the encroachment on railway land results in the uncertainty of the shape of the site.  Refer to Part 4 of this table for the applicable building form and massing controls.  The proposal complies.
<b>3.2.2 Building Facades and Articulation</b>	Refer to Part 4 of this table for the applicable building façade controls.
<b>3.2.3 Roof Design</b>	<b>No.</b> The development provides a roof design that exceeds the maximum height of the development.  See Clause 5.6 of PLEP 2011 for further discussion.
<b>3.2.4 Energy Efficient Design</b>	The proposal complies and conditions would have been imposed if the application had been recommended for approval to ensure compliance
<b>3.2.5 Streetscape</b>	Refer to Part 4 of this table for the applicable streetscape and public domain controls.
<b>3.3 Environmental Amenity</b>	
<b>3.3.1 Landscaping</b>	<b>No.</b> As the encroachment of land remains unresolved, the site area cannot be ascertained. As a result, the amount of landscaping for the site cannot be calculated.
<b>3.3.3 Visual Privacy</b>	See ADG assessment
<b>3.3.4 Acoustic Privacy</b>	An acoustic report was submitted with the Development Application. Council's Health Officer has reviewed the proposal and raises no objections to the proposed acoustic measures recommended within the acoustic report and recommended conditions of consent.
<b>3.3.5 Solar Access and Ventilation</b>	<b>No.</b> The proposal results in overshadowing to a number of properties however the submitted shadow diagrams indicate that adjoining properties are able to receive the minimum 3 hours of solar access required under the DCP.  Due to the outstanding issues with FSR, height and encroachment on railway land which dictate the overall design of the units within the development, a proper assessment of the development cannot be undertaken.
<b>3.3.6 Water Sensitive Urban Design</b>	<b>No.</b> See Referral Section for Engineer Comments.

3.3.7 Waste Management	The submitted Waste Management Plan details the types, volumes and methods of waste disposal for the development during the demolition and construction phase. Council's Health Officer has reviewed the proposal and raises no objections with the proposed waste management measures subject to recommended conditions of consent.
3.5 Heritage	The subject site is located opposite a heritage listed items at 19 and 21 – 23 East Street. These sites contain a single storey dwelling and semi-detached dwellings. As the heritage items are located opposite the site, it is unlikely that any significant impacts will result from the development. It is also noted that the heritage items are located adjacent to a multi-storey mixed use development which was considered appropriate in its location.
<b>3.6 Movement and Circulation</b>	
3.6.2 Parking and Vehicular Access	<b>No.</b> Refer to applicable parking rates further in this table.
3.6.3 Movement and Circulation	Information has been submitted to demonstrate that the proposed movement and circulation within the car park levels meets Australian Standards and the objectives and controls for this section of the DCP (refer to traffic referral comments in this report).
<b>3.7 Residential Subdivision</b>	
3.7.2 Site Consolidation and Development on Isolated Sites  Development for the purpose of residential flat buildings, multi dwelling housing in the form of town houses, villas or the like is not to result in the creation of an isolated site that could not be developed in compliance with the relevant planning controls, including the Parramatta LEP 2011 and this DCP.	The development does not result in an isolated site as the adjoining property has already been built as a multi-storey mixed use building.
<b>Part 4 – Special Precincts – 4.1.6 – Granville Town Centre</b>	
The site is located within the Granville Town Centre identified within the DCP.	
<p><b>Desired Future Character</b></p> <p><i>The Granville town centre precinct will continue to be a vibrant place with a variety of activities within and surrounding the centre. This will be achieved through a mix of uses, building heights and densities to support the role and function of Granville. Throughout the precinct new development is to retain and enhance the heritage character of the precinct. Specific characteristics for parts of the town centre are detailed below.</i></p> <p><b>Mixed use development:</b> <i>to be located between the railway line and Cowper Street with increased height limits and floor space ratios permitted on larger sites. The amalgamation of lots will be required to achieve the maximum building heights and floor space ratios prescribed in the Parramatta LEP 2011. Where the required site amalgamation does not occur, reduced building heights and floor space ratios apply (refer to the Parramatta LEP 2011). The prescribed maximum floor space ratios may not be wholly achievable on all sites due to urban design considerations or site configuration. Residential development will be located away from Parramatta Road to minimise adverse amenity impacts. The interface between development along Parramatta Road and residential development to the rear will be carefully designed to ensure that privacy and visual amenity are managed and protected.</i></p> <p>Comment: The proposal is inconsistent with the desired future character of the Granville Town Centre. The proposal does not comply with the height and FSR provisions contained within PLEP 2011.</p>	
Setbacks	Refer to site specific setbacks applicable for the development further in this table.
Site Frontage	Complies.

Required: minimum 30m for site area between 950m <sup>2</sup> and 2100m <sup>2</sup> Proposed: 113.28m	
<u>Land Amalgamation</u> The preferred pattern of land amalgamation is to be side by side to maximise lineal street frontage and to encourage east west built form for good solar access, as shown in Figure 4.1.6.5.	The proposal includes the amalgamation of a number of allotments consistent with the Planning Proposal on the site.
<u>Landscaping and Deep Soil</u> In the B4 Mixed Use zone between Parramatta Road and railway line, a minimum of 30% of the site is to be a deep soil zone, and not less than 40% of the site is to be landscaped.  The required deep soil areas are to be predominantly located at the rear of the site to provide a landscape corridor and visual screening between buildings.	<b>No.</b> Deep soil for the site has been provided on the ground level (to the rear along the railway corridor), level 4 podium and Level 25.  It is noted that the issues with the encroachment on railway land remains unresolved and therefore the site area cannot be ascertained. Given this, the amount of minimum deep soil and landscaping for the site cannot be calculated.
<u>Development between Parramatta Road and Railway Line</u>  Residential and commercial apartments are to be designed to enable casual surveillance of public spaces.  For development greater than 15 metres in height, buildings with large floor plates, must be expressed as separate building elements.  For development greater than 15 metres in height the horizontal dimension of any building façade must not exceed 35 metres.  For development greater than 15 metres in height the maximum floor plate area of a non-residential buildings is 480m <sup>2</sup> , with a maximum depth of 25 metres.  Use light wells and courtyards to improve internal building amenity and cross ventilation.  The roof forms of all buildings are to add interest to the skyline.	The proposal complies.  The proposal has been designed to provide articulation across its building facades and is considered appropriate.  The proposed building does not comply with this control. Refer to site specific controls further in this table.  Refer to site specific controls further in this table.  The proposal complies.  <b>No.</b> The proposal exceeds the maximum height for the site and therefore is not considered to contribute to interest to the skyline.
<b>4.3.7 Granville Precinct</b>	
<b>4.3.7.2 38 – 42 East Street, Granville – Site Specific DCP</b>	
<b>Desired Future Character</b>  Future development at 38-42 East Street shall be designed to respond to the high density mixed use character developing in the precinct in its transition from light industrial uses as envisioned by the	<b>No.</b> Whilst the development is a form that aligns with the desired future character, the proposal exceeds FSR and height controls for the site. Further, the encroachment on railway land has not been ascertained to ensure the site area is correct. Given this, the proposal cannot be supported.

<p>Parramatta Road Corridor Urban Transformation Strategy.</p> <p>Adjacent development is characterised by a podium and tower building typology with 4 storey street walls and residential towers above.</p> <p>The proposed mix of land uses includes retail/ commercial uses at the ground floor with residential apartments above.</p> <p>Future development should establish active edges at ground level to enhance activity, movement and safety in the streetscape while providing opportunities for boutique retail, café and commercial floor space.</p> <p>A tall, slender tower form is encouraged within a podium of above ground parking to buffer the adjacent rail corridor</p>	
<p><b>Objectives</b></p> <p>O.1 To provide a mix of uses that support the role of the Granville Town Centre.</p> <p>O.2 To encourage high quality built form outcomes and achieves Design Excellence.</p> <p>O.3 To create an attractive and safe activated urban environment within East Street and the adjacent pocket park / future pedestrian link over the railway.</p> <p>O.4 To deliver housing growth directly adjacent to Granville Rail Station</p>	<p>The development proposes a mixed use development.</p> <p><b>No.</b> Due to the outstanding issues with FSR, height and encroachment on railway land, the proposal was not reviewed by the Design Jury and therefore the development does not achieve Design Excellence.</p> <p>The development provides a pocket park and is landscaped with capacity to accommodate outdoor furniture.</p> <p>The development proposes 114 residential units.</p>
<p><b>Built Form and Massing</b></p>	
<p><i>Maximum building heights</i></p> <p>Maximum height of 82m (tower) and 15m for the podium.</p>	<p><b>No.</b></p> <p>Podium = 14.97m Tower = 86.01m</p> <p>See discussion under Clause 4.3 – Height under PLEP 2011.</p>



<p><b>Setbacks</b></p> <p>Front setback Podium – 4m Tower – 7m</p> <p>North-West Setback Nil to Podium 9m to tower</p> <p>Rear Setback 3m</p> <p>South-east Setback 3m to podium 9m to tower</p>	<p><b>No.</b></p> <p>Podium – 4m Tower – 7m</p> <p>Nil to Podium 9m to tower</p> <p>Min. 3m</p> <p>3m to podium 9 to tower</p> <p>The outstanding issue with the encroachment on railway land to the north-west, the setback to this boundary cannot be ascertained. To date, the requested information has not been submitted to allow for a proper assessment of the development.</p>
<b>Podium, Ground Level and Public Domain</b>	
<p>Retail shopfronts should provide step-free transition between indoor and outdoor space.</p> <p>Provide adequate space on the East Street and pocket park frontage for outdoor dining.</p> <p>Awnings facing East Street are not to restrict tree growth.</p> <p>Separate the commercial and residential lobbies.</p> <p>Provide minimum articulation depth of 600mm to carpark facades.</p> <p>Ensure there are no direct sightlines from pedestrians to vehicles within carpark and to consider lighting and night views from streets into carpark areas</p>	<p>The proposal is consistent with this control.</p> <p>There is adequate areas to accommodate outdoor dining.</p> <p>Awnings are proposed and do not restrict tree growth.</p> <p>Separate retail and residential lobbies are provided.</p> <p>600mm articulation to car park facades are provided.</p> <p>If the application had been recommended for approval, a condition of consent would have been imposed to ensure appropriate lighting to comply with this control.</p>
<b>Communal Open Space</b>	
<p>Provide communal open space on the podium accessible off the lift core on the western edge.</p> <p>Accommodate an undercover communal facility within the tower footprint adjacent to the open to the sky communal open space.</p>	<p>Communal open space is provided on the podium level accessible via a lift core.</p> <p>An open to the sky communal open space is provided on the podium as well as Level 25.</p>
<b>Traffic</b>	

<p>Parking is to be provided in accordance with the <i>Parramatta Road Corridor Urban Transformation Strategy</i>:</p> <p>1 bedroom – 0.5 spaces  2 bedroom – 0.9 spaces  3 bedroom – 1.2 spaces  Visitors – 0.1 spaces  Motorcycles – 1 space per 25 car spaces  Bicycles – 0.5 spaces per dwelling in secure enclosure.</p> <p>Retail – 1 space per 70m2 GFA  Bicycles – 1 space per 200m2 GFA to visitors</p> <p>Provide at least 1 car share space</p> <p>Buildings should be designed with car parking at podium level</p> <p>Vehicular access to the site shall be via a single two way driveway with crest height in accordance with flood planning requirements/</p> <p>Loading space shall be provided on East Street subject to consultation with Council.</p>	<p><b>No.</b></p> <p><i>Required parking spaces</i></p> <p>97 residential spaces  12 visitor spaces  4 motorbike spaces  57 bicycle spaces  4 retail spaces  2 bicycle spaces for retail customers.</p> <p><i>Provided Parking Spaces</i></p> <p>86 car parking spaces  4 motorbike spaces  57 bicycle spaces are proposed.</p> <p>It is noted that the site is within close proximity to public transport including Granville train station. For this reason, it is considered that parking at a reduced rate will assist in mitigating traffic and parking implications of the proposed development on the surrounding road network. The proposed reduced parking spaces is also supported by Council's Traffic Engineer.</p> <p>Despite this, due to the issues with FSR and encroachment on railway land which dictates the site area and density of the development, the amount of car, motorbike and bicycle spaces cannot be calculated correctly and therefore cannot be properly assessed.</p> <p>A review of the plans do not indicate that a car share space is provided. If the application had been recommended for approval, compliance with this control could have been imposed.</p> <p>Parking is located at podium level.</p> <p>The development complies.</p> <p>Loading is provided within the development on the ground floor.</p>
<p><b>Substations</b></p>	
<p>Substations are to be provided within buildings, not within the street, open spaces or setbacks, and are to be designed to ensure protection of residents from Electro Magnetic Radiation (EMR) emissions.</p> <p>Development Application shall include consultation with Endeavour Energy to relocate existing padmount substation</p>	<p>Whilst all substations are located within the building, a booster is located within the front setback. Notwithstanding, this is considered to be acceptable given the length of the frontage and the landscaping treatment within the front setback.</p> <p>The application was referred to Endeavour Energy who raised no objections to the proposal to relocate the existing substation.</p>
<p><b>Flooding</b></p>	

<p>Development Application for the site shall be accompanied by a detailed flood impact study.</p> <p>A 'flood planning / shelter in place' strategy shall be provided with any Development Application.</p> <p>Habitable uses and vehicular parking shall be provided at a height above relevant flood planning levels.</p>	<p>Council's Flood Maps do not indicate that the site is affected by flooding.</p>
<b>Wintergarden Balconies</b>	
<p>Wintergardens areas able to be excluded from GFA shall be those fronting the railway corridor and limited to the minimum balcony areas as noted in the Apartment Design Guide (ADG) or dwelling types: 8m<sup>2</sup> for 1 bedroom apartments, 10m<sup>2</sup> for 2 bedroom units, and 12m<sup>2</sup> for 3 bedroom units. The maximum wintergarden areas to be excluded from GFA is capped at 400m<sup>2</sup>. Any wintergarden area exceeding 400m<sup>2</sup> will be included in the GFA calculations.</p>	<p>338m<sup>2</sup> of wintergardens is provided and complies with this control.</p>

### 13. Planning Agreements

The proposed development is not subject to a planning agreement entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4.

### 14. The Regulations

If the application had been recommended for approval, conditions would have been imposed to ensure the following provisions of the Regulation will be satisfied:

- Clause 98 - Building works are to satisfy the Building Code of Australia.

### 14. The likely impacts of the development

#### 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 result in unacceptable adverse physical impacts as:

- The encroachment on railway land has not been ascertained. Therefore, any building and site requirements such as FSR, landscaping, deep soil and common open space cannot be calculated, or its impacts assessed.
- The impacts on railway land has not been assessed as information remains outstanding for Sydney Trains to conduct a review.
- The variation to height provides a bulk within the roof area and skyline that is not envisaged by the current controls.

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

#### Response

This proposal will have not have a satisfactory relationship with its context for the following reasons:

- The outstanding matters with relation to FSR, height and encroachment on railway land may require amendments to the development. As such, the development in its current form cannot be considered for support.
- The proposal does not have the endorsement of the Design Excellence Jury and in this instance is not considered to have achieved design excellence.
- The impacts of the proposal on the adjoining railway land have not been assessed by Sydney Trains given the outstanding information.

### 15. Site suitability

The potential constraints of the site could not be satisfactorily assessed given the outstanding information that has not been submitted. Accordingly, the site cannot be considered as suitable for the development.

### 16. Submissions

The application was notified and advertised in accordance with the requirements contained within Appendix 1 of Council's Consolidated Notification Requirements from 9 December 2020 to 11 January 2021. During this time, one individual unique submission was received. The issues raised within this submission are addressed below. Issues have been grouped to avoid repetition.

Issue	Response
Height exceeds maximum for the site	The proposed development exceeds the maximum height for the site. An assessment of this variation is located elsewhere in this report. <b>This has been included as a reason for refusal.</b>
Overdevelopment and density.	Information required to ascertain the boundary between the site and railway land has not been submitted and therefore the site area cannot be calculated. Given this, the proposed development cannot be assessed against the relevant provisions for the site including the appropriate bulk, scale and density. <b>This has been included as a reason for refusal.</b>
Traffic and Parking	The current development proposes 86 car parking spaces, 4 motorbike spaces and 57 bicycle spaces. Council's Traffic Engineer has noted that amount of parking spaces is satisfactory given the proximity of the site from Granville railway station and that it will assist in mitigating traffic and parking implications of the proposed development on the surrounding road network.

	Notwithstanding, the issues with the encroachment on railway land and the impacts on site area and density appropriate for the site remains outstanding. As such, the required car spaces, motorbike spaces and bicycle spaces are dependent on the size of the development, the proposal in terms of parking and traffic impacts cannot be ascertained.
Overshadowing	<p>The overshadowing impacts of the development is assessed elsewhere in this report.</p> <p>However, as issues with the encroachment on railway land remains unresolved and that a correction on site boundaries may result in a smaller or redesigned development, the true overshadowing impacts cannot be assessed.</p>

**Amended Plans:** No. To date, the amended / additional information has not been submitted.

## 17. Public interest

Due to the abovementioned concerns regarding the FSR, height and encroachment on railway land, the proposal is considered to be contrary to the public interest.

## 18. Parramatta 7.12 Contributions Plan (Outside CBD) (Amendment No. 5)

A condition of consent would have been imposed pertaining to the payment of Section 7.12 contributions prior to the issue of a Construction Certificate if the application had been recommended for approval.

## Summary and conclusion

After consideration of the development against Section 4.15 of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, the proposal is not suitable for the site and is not in the public interest. The proposal is recommended for refusal.

## Recommendation

- a) **That** the Sydney Central City Planning Panel as the consent authority **refuse** Development Application No. DA/716/2020 for Lot consolidation, demolition and construction of a 26 storey mixed-use development comprising 2 retail tenancies on the ground floor, 3 levels of podium car parking comprising 86 car spaces and 114 residential units above, at 38-42 East Street, GRANVILLE NSW 2142 for the following reasons:
1. The proposed development does not exhibit a satisfactory proposal, in that insufficient information remains outstanding resulting in the inability of the BASIX Certificate to be assessed and endorsed pursuant to the BASIX SEPP.
  2. The proposed development does not exhibit a satisfactory proposal, in that it did not provide documentation to confirm that the development will not introduce electro-magnetic interference to the railway signalling and telecommunications systems pursuant to Clause 85 of the SEPP (Infrastructure).
  3. The proposed development does not exhibit a satisfactory proposal, in that it did not provide that details of pile loads and whether piles will be under tension pursuant to

Clause 86 of the SEPP (Infrastructure) and therefore Sydney Trains could not issue concurrence.

4. The proposed development does not exhibit a satisfactory proposal in that it did not provide information to allow the proper assessment of the following principles contained within SEPP 65 - Design Quality of Residential Apartment Development:
  - i. Principle 1 - Context and neighbourhood
  - ii. Principle 2 - Built form and scale
  - iii. Principle 3 - Density
  - iv. Principle 4 - Sustainability
  - v. Principle 5 - Landscape
  - vi. Principle 6 - Amenity
  - vii. Principle 8 - Housing Diversity and Social Interaction
  - viii. Principle 9 - Aesthetics
5. The proposed development does not exhibit a satisfactory proposal, in that it that it did not provide information to allow the proper assessment of the following controls contained within the Apartment Design Guide:
  - i. 3D Communal and public open space
  - ii. 3E Deep soil zones
  - iii. 3J Bicycle and car parking
  - iv. 4A Solar and daylight access
  - v. 4K Apartment Mix
  - vi. 4N Roof design
  - vii. 4U Energy efficiency
6. The proposed development does not exhibit a satisfactory proposal and does not have the endorsement of the Design Excellence Jury and that it has achieved design excellence.
7. The proposed development does not exhibit a satisfactory proposal, in that it is inconsistent with the following provisions prescribed within Parramatta LEP 2011:
  - i) Clause 2.3 - the development is inconsistent with the zone objectives of the B4 Mixed Use zone
  - ii) Clause 4.3 Height of Buildings
  - iii) Clause 4.4 Floor Space Ratio
  - iv) Clause 4.5 Calculation of floor space ratio and site area
  - v) Clause 4.6 Exceptions to development standards
  - vi) Clause 5.6 Architectural roof features
  - vii) Clause 6.1 Acid Sulfate Soils
  - viii) Clause 6.12 Design Excellence
8. The proposed development does not exhibit a satisfactory proposal, in that it is inconsistent with the following provisions prescribed within the Parramatta Development Control Plan 2011:
  - i. Section 3.1.1 Height
  - ii. Section 3.2.1 Building Form and Massing
  - iii. Section 3.2.3 Roof Design
  - iv. Section 3.3.1 Landscaping
  - v. Section 3.3.5 Solar Access and Ventilation
  - vi. Section 3.3.6 Water Sensitive Urban Design
  - vii. Section 3.6.2 Parking and Vehicular Access
  - viii. Part 4 – Special Precincts – 4.1.6 – Granville Town Centre

- i. Landscaping and Deep Soil
  - ix. Section 4.3.7 Granville Precinct
    - i. Desired Future Character
    - ii. Maximum building heights
    - iii. Setbacks
    - iv. Traffic
- 9. The applicant has failed to submit sufficient details to Council. The following documents were insufficient:
  - i. Current / Correct Survey Plan
  - ii. Architectural Plans (as amended to comply with FSR and height)
  - iii. Clause 4.6 for Height variation
  - iv. Acid Sulphate Management Plan
  - v. Documentation to satisfy Sydney Trains requirements
  - vi. OSD Calculations and OSD Plans as requested by Council's Development Engineer.

Accordingly, the proposal fails to satisfy Section 4.15(b),(c) & (e) of the Environmental Planning and Assessment Act, 1979.

- 10. The proposal fails to satisfy the relevant considerations under Section 4.15(1)(c) Environmental Planning and Assessment Act 1979 for built environment, suitability of the site, and the public interest.
- 11. The proposal fails to satisfy the relevant considerations under Section 4.15(1)(e) Environmental Planning and Assessment Act 1979 in that the adverse impacts generated by the development due to non-compliances with the applicable planning controls is not beneficial for the local community and as such, is not in the wider public interest.

**b) That** the submitter be advised of the decision.