

TO: Sydney Central City Planning Panel

SUBJECT: 93 St Hilliers Road AUBURN NSW 2144

APPLICATION No: DA2021/0040

Application lodged	23 February 2021
Applicant	Good Luck Plaza (Blacktown) Pty Ltd c/- Mecone NSW Pty Ltd
Owner	Lesso Mall Development (Auburn) Pty Ltd
Application No.	DA2021/0040
Description of Land	93 St Hilliers Road AUBURN NSW 2144, Lot 11 DP 786590
Proposed Development	Partial demolition of existing structures, subdivision into two (2) lots, and construction of an eight (8) storey hotel over a semi-basement car parking level and associated signage
Site Area	5,414m ²
Zoning	B6 Enterprise Corridor
Disclosure of political donations and gifts	Nil disclosure
Heritage	The site is not identified as a heritage item and is not within a heritage conservation area. The site is located in proximity to a State heritage listed item – ‘Electricity Substation No 167’.
Principal Development Standards	<p>Height of Buildings <i>Permissible:</i> 27m <i>Proposed:</i> 29.96m (variation sought through a Cl. 4.6 request)</p> <p>Floor Space Ratio <i>Permissible:</i> 3:1 (as the site is within the Parramatta Road Precinct a maximum FSR of 3:1 is applicable to ‘hotel or motel accommodation’) <i>Proposed:</i> 2.55:1</p> <p>Minimum Subdivision Lot Size <i>Permissible:</i> 1,500m² <i>Proposed:</i> Lot1 – 5,411m² Lot 2 - 2.957ha</p>
Issues	Nil

SUMMARY

- Development Application No. DA2021/0040 was lodged on 23 February 2021 for the partial demolition of existing structures, subdivision into two (2) lots, and construction of an eight (8) storey hotel over a semi-basement car parking level and associated signage.

2. The application was publicly notified to occupants and owners of the adjoining properties for a period of fourteen (14) days between 3 March 2021 and 17 March 2021. In response, no submissions were received.
3. The subject site is situated within the Parramatta Road Precinct, as identified in the Auburn Local Environmental Plan 2010 (ALEP 2010) and is zoned B6 Enterprise Corridor. In accordance with the provisions of the ALEP 2010, specific building height and floor space ratio controls are afforded to development for the purpose of 'hotel or motel accommodation' within the Parramatta Road Precinct.
4. The site is not identified as a heritage item and is not within a heritage conservation area. The site is located in proximity to a State heritage listed item – 'Electricity Substation No 167'. A Heritage Impact Statement has been submitted which states that the development will have no unreasonable adverse impact on the item.
5. The development includes a Clause 4.6 variation request in relation to the maximum building height of 27 metres, as prescribed in Clause 4.3 (Height of buildings) in the ALEP 2010. A maximum building height of 29.96 metres is proposed, which equates to a variation of 11%. The variation request has been assessed and is considered acceptable on merit.
6. The development includes variations to the provisions of the Auburn Development Control Plan 2010 (ADCP 2010) in relation to the maximum number of storeys for hotel or motel accommodation, secondary street setback and use of front setback area for car parking.
7. The application is referred to the Panel as the proposal has a Capital Investment Value (CIV) in excess of \$30 million.
8. The application is recommended for approval, subject to the draft conditions of consent at **Attachment 1**.

REPORT

SUBJECT SITE AND SURROUNDING AREA

The subject site is legally described as Lot 11 in DP 786590, more commonly known as 93 St Hilliers Road, Auburn. The site comprises a total area in the order of 2.63 hectares and maintains frontages to Parramatta Road (77m), St Hilliers Road (310m) and Percy Street (198m). The portion of the site the subject of the proposed hotel accommodation building maintains a total area of 5,414m².

The site is currently occupied by a multi-unit warehouse development, with ancillary offices with vehicular access currently gained via driveways along the site's Percy Street frontage. There are also two (2) vehicular access points off the site's St Hilliers Road frontage, which provide access off St Hilliers Road via slip lanes into the site. The two access points off St Hilliers Road are not proposed to be utilised by the proposed development.

The site maintains a frontage to two (2) classified roads, being Parramatta Road and St Hilliers Road.

The subject site is situated within the Parramatta Road Precinct, as identified in the Auburn Local Environmental Plan 2010 (ALEP 2010) and is zoned B6 Enterprise Corridor. In accordance with the provisions of the ALEP 2010, specific building height and floor space ratio controls are afforded to development for the purpose of 'hotel or motel accommodation' within the Parramatta Road Precinct.

The site is not identified as a heritage item and is not within a heritage conservation area. The site is located in proximity to a State heritage listed item – 'Electricity Substation No 167'.

The locality is characterised by a mix of commercial and bulky goods retail development along Parramatta Road and Percy Street, to the north, east and south of the site and established residential development on the opposite side of St Hilliers Road, to the west of the site.



Figure 1: Locality & Aerial Perspective – subject site in red outline with area of proposed building shaded red and location of State heritage listed item denoted by purple star (Source: Nearmap, 2020)

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed development comprises:

Demolition

The development proposes the partial demolition of the northern-most portion of the existing warehouse building fronting Parramatta Road, to facilitate the construction of the proposed hotel building, at the site's Parramatta Road frontage. The slab, part of the existing building fronting Parramatta Road and existing parking are to be retained and utilised and refurbished for the proposed development. The remainder of the existing warehouse building is to be retained.

Subdivision

The development includes the subdivision of Lot 11 DP 786590 into two (2) lots:

- Lot 1 – 5,411m²; and
- Lot 2 – 2.957ha

The proposed hotel is to be constructed on Lot 1 and Lot 2 is to retain the existing single storey warehouse building currently on the site.

In order to facilitate legal access to the car parking on proposed Lot 2, for the hotel use on proposed Lot 1, an easement and associated positive covenant have been proposed, as denoted on the proposed Plan of Subdivision.

<i>Primary hotel use</i>	Monday to Sunday (inclusive) 24 hours
<i>Café/lounge and dining room</i>	Monday to Sunday (inclusive) 6am to 1am the following day
<i>Conference facilities</i>	Monday to Sunday (inclusive) 9am to 1am the following day

A total of 140 car parking spaces are proposed across the lower level and ground levels, as follows:

- 79 parking spaces within proposed Lot 1 at lower ground level and ground level;
- 61 parking spaces within proposed Lot 2, comprising:
 - 16 existing at-grade spaces off Percy Street; and
 - 45 existing spaces at lower ground level, along the site's St Hilliers Road frontage.

The existing vehicular crossover will be retained. The development will be accessed via two existing vehicular points off Percy Street. The entry driveway, whilst providing access for cars also provides access to the loading area. There is a porte cochere proposed at the entrance to the hotel which is accessed via the Percy Street driveway.

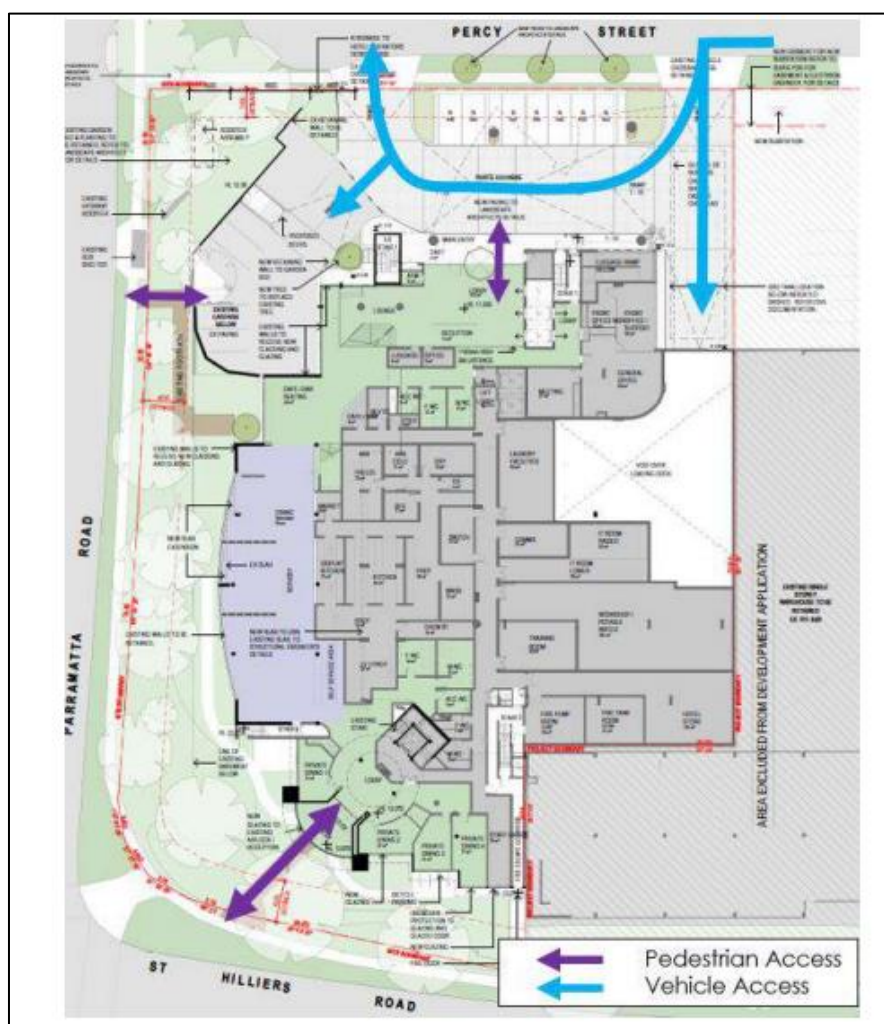


Figure 3: Vehicular and Pedestrian Site Access (Source: *tpp transport planning*, 2020)

HISTORY

On 10 December 2018 Council granted deferred commencement consent to DA2018/111 for the partial demolition, alterations, change of use and fitout of the existing warehouse and office buildings to a specialist retail premises with ancillary office use and associated signage to operate 10am to 6pm daily, inclusive of public holidays at 93 St Hiliers Road, Auburn.

A period of two (2) years was provided for the satisfaction of the deferred commencement conditions, to date the consent has not been made operative and has subsequently lapsed.

On 3 April 2019 a pre-lodgement meeting was held with Council staff and the Applicant to discuss the proposed construction of an eight (8) storey hotel with approximately 220 rooms and provision of 88 car parking spaces (PL-15/20019). As part of the pre-lodgement minutes issued, the following matters were specifically raised, to be addressed as part of any future development application:

- Any future DA is required to address the impact of the proposed development on the adjoining development to be retained to the south-west. Impacts to be addressed include vehicular access, car parking and fire safety between buildings.
- Proposed parking spaces are not adequate, parking spaces shall comply with Council's DCP.
- Proposed loading area is not adequate, loading area numbers shall comply with Council's DCP.
- Proposed loading arrangement is not acceptable, loading area including manoeuvring shall be clear of carpark circulation aisles.
- Loading area shall be designed to provide access to at least a Heavy Rigid Vehicle (HRV).

The above matters have been addressed as part of the subject application.

On 25 May 2020 a development application was lodged with Cumberland City Council (DA2020/0246) seeking consent for the partial demolition of existing structures, subdivision into two (2) lots, and construction of an 8 storey hotel over a semi-basement car parking level and associated signage. As a result of unresolved matters relating to the provision of car parking on the site, the application was subsequently withdrawn by the Applicant on 14 October 2020.

APPLICANTS SUPPORTING STATEMENT

The applicant has provided a Statement of Environmental Effects prepared by Mecone dated December 2020 and was received by Council on 23 February 2021, in support of the application.

CONTACT WITH RELEVANT PARTIES

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

INTERNAL REFERRALS

Development Engineer

The development application was referred to Council's Development Engineer for comment who has advised that the development proposal is satisfactory, subject to conditions.

Environment and Health

The development application was referred to Council's Environment and Health Officer for comment who has advised that the development proposal is satisfactory, having regard to the matters of land contamination and acoustics, subject to conditions of consent.

Waste Management

The development application was referred to Council's Waste Management Officer for comment who has advised that the development proposal is satisfactory, subject to conditions.

Design Excellence Panel

In accordance with the Cumberland Council Design Excellence Panel Policy, which requires any development proposal incorporating buildings with a height greater than 25 metres to be referred to the Cumberland Design Excellence Panel (CDEP), the application was referred to the CDEP on 5 August 2020 (as part of DA2020/0246).

The CDEP relevantly advised that the key issues have been adequately addressed and, along with recommendations made on further minor amendments, could be managed through conditions of consent.

A copy of the Design Excellence Minutes is provided at **Attachment 6** to this Report.

A condition of consent has been recommended to incorporate the key design changes raised by the CDEP.

It is noted that the building design of the development proposed under this current development application, i.e. DA20201/0040, remains identical to the building design proposed under DA2020/0246. This has informed the decision not to re-refer the current development application to the CDEP.

EXTERNAL REFERRALS

Transport for NSW (TfNSW)

The site maintains a frontage to two (2) classified roads, being Parramatta Road and St Hilliers Road. In accordance with the provisions of Clause 104 of State Environmental Planning Policy (Infrastructure) 2007 (ISEPP), the application was referred to TfNSW.

TfNSW raise no objection to the proposed development, subject to conditions of consent. These conditions have been incorporated into the recommended conditions of consent.

Ausgrid

The application was referred to Ausgrid in accordance with Clause 45(2) of the ISEPP and Ausgrid raise no objection to the proposed development.

Sydney Water Corporation

Sydney Water provided advice noting that the site fronts multiple watermain ranging in size from 150mm to 250mm which are supplied from adjacent trunk network and should be able to adequately service the site, with preferred points of connection to be provided at the Section 73 application stage.

Having regard to wastewater Sydney Water have advised that wastewater servicing should be available via a 750mm RC trunk wastewater main on Percy Street. Amplifications or extensions to the drinking water network may be required, complying with the Water Services Association of Australia code.

The above matters could be managed through conditions of consent. Standard conditions of consent have been recommended to address Sydney Water assets.

PLANNING COMMENTS

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

State Environmental Planning Policies

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

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

Development of a type that is listed in Schedule 7 of SEPP (State and Regional Development) 2011 is defined as 'regional significant development'. Such applications require a referral to a Sydney District Panel for determination as constituted by Part 3 of Schedule 2 under the *Environmental Planning and Assessment Act 1979*. The proposed development constitutes 'Regional Development' as it has a Capital Investment Value (CIV) which exceeds the \$30 million threshold. While Council is responsible for the assessment of the DA, determination of the Application will be made by the Sydney Central City Planning Panel (SCCPP).

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

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

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

Matter for Consideration	Yes/No
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrap yards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site listed on Council's Contaminated Land database?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site subject to EPA clean-up order or other EPA restrictions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the site been the subject of known pollution incidents or illegal dumping?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the site adjoin any contaminated land/previously contaminated land?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>A Stage 1 Preliminary Site Investigation prepared by Alliance Geotechnical has been submitted with the application. This preliminary site investigation (PSI) has been reviewed by Council's Environmental Health Unit (EHU) and it has been advised that the PSI relevantly concludes that the site is suitable for the proposed development from a land contamination perspective, conditional to the recommendations provided in the PSI.</p> <p>One of those conditions relates to one Area of Environmental Concern (AEC) that was identified and that should any contamination be observed or suspected during the excavation of this area, works should cease and an unexpected finds protocol should be followed as well as an investigation of the fill materials within the AEC should be carried out by a suitably qualified environmental consultant. Fill soils proposed to be excavated across the AEC should also be disposed of offsite, following appropriate NSW EPA waste classification requirements.</p> <p>The above and the remaining recommendations provided in the PSI are standard and are consistent with conditions that the EHU recommend for any consent issued (i.e. waste classification, demolition/excavation requirements and unexpected finds protocol).</p>	

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

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

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

The application was referred to Ausgrid in accordance with the provisions of Clause 45, who raise no objection to the proposed development.

Clause 101 – Frontage to classified road

The application is subject to clause 101 of the ISEPP as the site has frontage to Parramatta Road and St Hilliers Road, both of which are classified roads. No vehicular access is proposed off either of these roads, with the existing vehicular access points off Percy Street being utilised by the proposed development. Further, the application was referred to TfNSW who raise no objection to the proposed development, subject to conditions.

Clause 104 – Traffic generation developments

The application is subject to clause 104 as the proposal triggers the requirements for traffic generating developments listed in Schedule 3 of the ISEPP, as the development proposed more than 50 car parking spaces and the site has access to Percy Street, which connects to Parramatta Road. The application has been referred to TfNSW who raise no objection to the proposed development, subject to conditions.

(d) State Environmental Planning Policy No 64—Advertising and Signage (SEPP 64)

The development includes the erection of two (2) business identification signs on the building's north-eastern and south-eastern elevations:

- One (1) LED illuminated wall sign affixed to upper portion of the north-eastern building elevation, fronting Parramatta Road, measuring total dimensions of 1.462m (H) x 9.233m (W) (approximately 13.5m² in area); and
- One (1) floodlit illuminated wall sign located above the main entrance to the building measuring total dimensions of 4.88m (H) x 3.081m (W) (approximately 1.5m² in area).

The signage proposed is consistent with the assessment criteria at Schedule 1 of SEPP 64. Refer to **Attachment 8** of this Report.

Regional Environmental Plans

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

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

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

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

Local Environmental Plans

(a) Auburn Local Environmental Plan 2010 (ALEP 2010)

The provisions of the ALEP 2010 are applicable to the development proposal.

i. Permissibility:-

The subject site is zoned B6 Enterprise Corridor and development for the purpose of 'hotel or motel accommodation' is permitted with consent in the B6 land use zone. The development also includes 'food and drink premises', 'restaurant or café' and 'function centre' land uses. Pursuant to the provisions of Clause 6.9 of the ALEP 2010, food and drink premises and restaurant or café are permissible with consent in the B6 land use zone. A function centre is also a permissible use in the B6 land use zone.

'Hotel or motel accommodation' is defined as:

a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that—

- (a) comprises rooms or self-contained suites, and*
- (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles,*

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

Food and drink premises' is defined as:

premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- (a) a restaurant or cafe,*
- (b) take away food and drink premises,*
- (c) a pub,*
- (d) a small bar.*

'Restaurant or café' is defined as:

a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

A 'function centre' is defined as:

a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

The relevant matters to be considered under ALEP 2010 and the applicable clauses for the proposed development are summarised in the following table.

DEVELOPMENT STANDARD	COMPLI ES	DISCUSSION
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4.1 Minimum subdivision lot size 1,500m ²	Y	<p>The development includes the subdivision of Lot 11 DP 786590 into two (2) lots:</p> <ul style="list-style-type: none"> • Lot 1 – 5,411m²; and • Lot 2 – 2.957ha <p>Both lots are above the minimum lot size.</p>
4.3(2A)(a) Height of Buildings Maximum 27 metres for hotel or motel accommodation within the Parramatta Road Precinct	N	<p>The development proposes a maximum building height of 29.96 metres. The areas of the building breaching the building height contains roof structure, rooftop plant and minor portions of the gym on the uppermost building level. As a result of the varying natural ground level, the maximum breach of 2.96m occurs at the lift overrun area in the centre of the building.</p> <p>For the purpose of calculating the maximum building height, given the retention of the basement carpark beneath the portion of the building to be retained, the Applicant has derived existing ground level by extrapolating a line across the site between the surrounding footpaths. It is acknowledged that the use of this method is established in caselaw, as it is not appropriate to utilise the existing basement level as exiting ground level.</p> <p>A Clause 4.6 variation request has been submitted for this departure from the development standard.</p>
4.4(2B)(b) Floor Space Ratio Maximum 3:1 for hotel or motel accommodation within the Parramatta Road Precinct	Y	<p>The development proposes a total FSR of 2.55:1.</p>
4.6 Exceptions to development standards	-	<p>Refer to the following Clause 4.6 variation discussion in relation building height and the Clause 4.6 request at Attachment 7 to this Report.</p>
5.10 Heritage Conservation	Y	<p>The site is not identified as a heritage item and is not located within a heritage conservation area. The site is located in proximity to 93 Parramatta Road, Auburn, which is situated on the northern side of</p>

	<p>Parramatta Road, along its intersection with Silverwater Road.</p> <p>93 Parramatta Road comprises Lot 167 DP 610769 and Lots A & C DP 347473 and is listed as an item of State significance – ‘Electricity Substation No. 167, on the State Heritage Register (SHR):</p> <p><i>Auburn Zone Substation No. 167 is significant at state level as the main high voltage electricity distribution point for this part of Sydney when constructed in 1924 by the Municipal Council of Sydney.</i></p> <p>The application has been accompanied by a Statement of Heritage Impact prepared by Wolfpeak Environment Heritage, dated 2 July 2019, which relevantly concludes that:</p> <p><i>Whilst contemporary in nature, the proposed development is consistent with the streetscape and commercial environment of its location. It has considered and mitigated the bulk and scale of its construction through appropriate design responses such as a suitable set-back, articulated façade, and landscaping elements.</i></p> <p><i>Whilst in the vicinity of a State listed heritage item, the proposed development does not impact the significance of the item. The visual amenity of the item will be slightly altered by the new development however this is only minor in nature and does not affect the heritage significance of the item.</i></p> <p><i>Based on the analysis and conclusions above, the following recommendations should be considered:</i></p> <ul style="list-style-type: none"> <i>• An archival recording of views and vistas to and from the Electricity Substation No. 167 be undertaken and deposited with Council archives to capture the changing streetscape of the area.</i> <p>Having regard to the above, the development is considered to have no adverse impact on the significance of the State Heritage listed item in the vicinity of the site.</p>
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6.1 Acid Sulfate Soils	Y	The site comprises Class 5 acid sulfate soils. A standard condition of consent to address the management of the acid sulfate soil affectation of the site has been recommended.
6.3 Flood Planning	N/A	The property is located within the flood precinct, however, the portion of the site on which the hotel development is proposed is not flood affected.
6.9 Key Sites	N/A	The site is situated within a Commercial Precinct pursuant to the provisions of Clause 6.9 of the ALEP 2010. Clause 6.9 provides that retail premises are permissible with development consent on land to which this clause applies in Zone B6 Enterprise Corridor.

Figure 5: ALEP Assessment Table

ii. Clause 4.6 – Variation to Building Height

Clause 4.6 allows the consent authority to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The consent authority may grant the exception as the Secretary's concurrence can be assumed where clause 4.6 is adopted as per the Department of Planning Circular PS 18-003, dated 21 February 2018.

The applicant has submitted a written request to vary the development standards for building height as prescribed by Clause 4.3 of the ALEP 2010. Based on various case laws established by the Land and Environment Court of NSW such as *Four2five P/L v Ashfield Council [2015] NSWLEC 9*, *Randwick City Council v It Micaul Holdings P/L [2016] NSW LEC7* and *Zhang and anor v Council of the City of Ryde [2016] NSWLEC 1179*, a 3 part assessment framework for a variation request proposed under clause 4.6 has been considered and an assessment of the proposed variance, following the 3 part test is discussed in detail below.

The 3 preconditions which must be satisfied before the application can proceed are as follows:

1. Is the proposed development consistent with the objectives of the zone?

Applicant's justification:

The proposed development's consistency with the B6 Enterprise Corridor zone objectives is addressed as follows:

- *The proposal contributes to the mix of compatible uses along Parramatta Road.*
- *The proposal provides for an employment-generating use along Parramatta Road.*

Planner's comment:

The proposed development is consistent with the objectives of the B6 land use zone, as it is providing a compatible land use, with a frontage to Parramatta Road and St Hilliers Road that will provide a range of employment uses.

2. Is the proposed development consistent with the objectives of the development standard which is not met?

Applicant's justification:

The relevant objectives are addressed as follows:

- The proposal, despite the variation, provides for an appropriate development density. The bulk and scale of the building accord with its corner location at a prominent intersection. It is also important to note that the proposed FSR is well below the LEP's maximum (2.36:1 proposed vs. 3:1 maximum).*
- The proposal, despite the height variation, is compatible with the character of the locality. The proposal is positioned along an enterprise corridor at the corner of a major intersection. The hotel's sculpted 8-storey form is appropriate at this prominent location. Also, the proposal sits directly opposite from a 7-storey commercial building of similar scale.*

Planner's comment:

The proposed development provides an appropriate development density for the site and is located in a prominent location, at the corner of Parramatta Road and St Hilliers Road. The design of the building responds to the corner location of the site as it addresses and activates both primary street frontages. The design of the development contributes positively to the character of the locality, noting that the site is situated within the Parramatta Road Precinct.

3. a) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? And;

Applicant's justification:

Compliance with the height standard is considered unreasonable and unnecessary given the following circumstances of this case:

- The proposed development, despite the non-compliance, is consistent with the objectives of the B6 Enterprise Corridor zone.*
- The proposed development, despite the non-compliance, is consistent with the objectives of the height of buildings standard*
- The variation would result in no notable adverse environmental impacts that could otherwise be avoided through a compliant form.*
- The variation results in better planning outcome, providing significant benefits in terms of visual amenity and environmental sustainability.*

Planner's comment:

Compliance with the maximum 27 metre building height is considered unnecessary in the circumstances of the proposed development given the prominent corner location of the site, fronting Parramatta Road and St Hilliers Road. The design of the building is site responsive and contributes positively to the streetscape and Parramatta Road Precinct locality. The development provides active frontages to the site's Parramatta Road and St Hilliers Road

frontages, consistent with the strategic objectives of the Parramatta Road Urban Transformation Strategy.

b) Are there sufficient environmental planning grounds to justify contravening the development standard and therefore is the applicant's written justification well founded?

Applicant's justification:

There are sufficient environmental grounds to justify contravening the height of building standard, as discussed below:

- The proposal provides for a relatively compact building footprint with larger-than-required front setbacks and significant deep soils zones supporting numerous existing mature trees. A larger setback-compliant footprint may reduce or eliminate the need for height variations but may also result in additional demolition and tree removal. It is considered that the proposed footprint results in a better planning outcome, providing significant benefits in terms of visual amenity, environmental sustainability and stormwater management through its large setbacks with retained mature trees.*
- Further to the above point, the proposal's FSR of 2.36:1 is well below the maximum allowable of 3:1. The proposal opts for a compact, slightly taller form over a shorter, broader form. The preferred form allows for a high quality landmark building at a prominent intersection and, as noted above, allows for large setbacks and tree retention.*
- The variation would result in no significant overshadowing impacts. Given the variation's small size, any additional shadow would be minor. Also, there is no sensitive immediately surrounding development; the site is bound on three sides by roads, and the adjoining development to the south is industrial in nature.*
- The variation would result in no significant visual impacts, being minor in scale and integrated with the overall building. The variation would not result in any irregular or conspicuous vertical extensions.*
- The proposed hotel including the height variation would not detract from the significance of the State heritage item diagonally opposite the intersection (Electricity Substation No 167), as confirmed in the Statement of Heritage Impact by WolfPeak submitted with the DA.*
- Overall, it is evident that the proposed development would not result in any significant environmental impacts that could be avoided through a compliant form.*

Planner's comment:

Having regard to the location of the site, on a prominent corner, the responsiveness of the design of the building to the site location and the character of the locality, in the Parramatta Road Precinct, the variation from the maximum building height of 2.96 metres (11%) is considered acceptable on merit. The Applicant's written justification is considered to be well founded and is supported by Council.

Conclusion:

Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6 subclause (3). Council is further

satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

It is the view of Council Officers that justification provided is satisfactory and having considered the application on its merit, the exception to the maximum building height development standard is considered acceptable in this instance.

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

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

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

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

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

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

(b) Draft Cumberland Local Environmental Plan (Draft CLEP)

The Draft Cumberland Local Environmental Plan (Draft CLEP) has been prepared by Cumberland Council to provide a single planning framework for the future planning of Cumberland City. The changes proposed seek to harmonise and repeal the three existing LEPs currently applicable to the Cumberland local government area, those being:

- Holroyd Local Environmental Plan 2013,
- Parramatta Local Environmental Plan 2011, and
- Auburn Local Environmental Plan 2010.

The current planning controls for the subject site, as contained within ALEP 2010 are not proposed to change under the Draft CLEP. A B6 land use zone is maintained for the site under the Draft CLEP. The provision of a FSR bonus for hotel or motel

accommodation is also carried over to the Draft CLEP, noting that a standard FSR of 1:1 is applicable to the site.

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

The Auburn Development Control Plan 2010 (ADCP 2010) provides guidance for the design and operation of development to achieve the aims and objectives of the ALEP 2010.

A comprehensive assessment and compliance table is contained in **Attachment 9**.

The following table highlights non-compliances with the DCP, which relate primarily to the number of storeys of the building, the secondary setback, the use of the front setback area for car parking and the provision of car parking and loading facilities. The variations sought are considered satisfactory on merit in this instance. A detailed discussion of the various non-compliances is provided in the following table and discussion below.

Section	Control	Proposed	Acceptable
2.0 Built Form	D3 Number of storeys – B6 Enterprise Corridor Development for hotel and motel accommodation and office premises on land zoned B6 Enterprise Corridor on Parramatta Road shall be a maximum of six (6) storeys.	<p>The proposed building maintains a total of 8 storeys.</p> <p>The proposed design of the building, including the massing and articulation of the façades, considered in conjunction with the corner site location, facilitates a building which has been designed to address all three street frontages and utilises a range of materials and colours to provide a well articulated built form. The proposed 8 storey massing of the building is considered acceptable for the site.</p> <p>Considering this control in conjunction with the height of buildings development standard of the ALEP 2010, it is acknowledged that, whilst the development exceeds the maximum 27 metre building height, with a maximum building height exceedance of 2.96 metres, an assessment of the Clause 4.6 variation request submitted with the application has determined</p>	Yes

		<p>that the proposed building height variation is worthy of support.</p> <p>Having regard to the above matters, the proposed variation of 2 storeys above the maximum 6 storey limit of the control, is considered acceptable on merit and is supported by Council.</p>	
3.2 Front setbacks	D1 In the case of a corner allotment, the setback to the secondary road shall be 3m.	<p>The ground floor of the development maintains a setback in excess of 3 metres to the site's Percy Street boundary.</p> <p>The building maintains a setback in excess of 4.5 metres to the site's St Hilliers Road frontage.</p> <p>Levels 1 to 7 of the development maintain a minimum setback of 3 metres to the building wall, with a minor encroachment of 1.25 metres into the 3 metre setback by the balconies of the proposed rooms along this frontage.</p> <p>The encroachment of the proposed balconies into the 3 metre secondary setback along Percy Street is considered acceptable, given that the balconies provide articulation to the building façade and contribute positively to the streetscape.</p> <p>This variation is considered acceptable on merit and is supported by Council.</p>	Yes
3.2 Front setbacks	D2 Front setback areas shall not be used for car parking, storage or display of goods.	Car parking is proposed within the front setback of the development along the site's Parramatta Road	Yes

		<p>frontage and Percy Street frontage.</p> <p>It is noted that a portion of this car parking is existing and being retained as part of the development, in addition to the retention of several trees along the site's Parramatta Road frontage. The proposed landscaping design has incorporated the retained trees into the landscape scheme and embellished the site's Parramatta Road and Percy Street frontages with proposed trees, shrubs and hedges.</p> <p>The landscape design contributes to lessening the visual impact of the proposed car parking spaces within the front and secondary street setbacks of the development and the variation to this control is therefore considered acceptable on merit and is supported by Council.</p>	
5.5.1 General parking design	D1 Car parking shall be provided at the rear of the development or be fully underground.	Refer to the above comments.	Yes
5.1.4 Number of parking spaces	<p>D1 Car parking for industrial development shall comply with the following requirements:</p> <p>Hotel or motel accommodationⁿ 1 space for each unit + 1 space per 2 employees if a restaurant is included, then add the greater of 15 spaces</p>	<p>The development generates the following car parking requirements:</p> <p><u>Hotel</u> 202 x 1 = 202 spaces</p> <p><u>Staff</u> 40 / 2 = 20 spaces</p> <p><u>Restaurant</u> (349 / 100) x 15 = 52.3 – 53 spaces</p> <p><u>Function centre</u></p>	Yes

	<p>per 100m² GFA of the restaurant/ function room, or 1 space per 3 seats</p> <p>Whichever is the greater of: 15 spaces per 100m² GFA, or 1 space per 3 seats</p>	<p>(589 / 100) x 15 = 88.3 – 89 spaces</p> <p>Total required car parking spaces - 364 spaces</p> <p>The proposed 140 total car parking spaces, comprising 51 x hotel guest spaces and 89 x function centre spaces, are considered adequate to service the development, and the proposed variation is supported, refer to detailed discussion below.</p>	
7.0 Loading requirements	<p>D1 Driveway access and adequate on-site manoeuvring shall be provided to enable all delivery vehicles to enter and leave the site in a forward direction.</p> <p>D5 The design of loading docks shall accommodate the type of delivery vehicles associated with the development and potential uses of the development.</p> <p>D7 That loading bays for trucks and commercial vehicles shall be provided in accordance with Table 9 below.</p> <p>Hotel or motel accommodation:</p> <p>1 space per 50 bedrooms or bedroom suites up to 200 plus 1 space per 100 thereafter plus 1 space per 1,000m² of public area set aside for bar, tavern, lounge and restaurant</p>	<p>The development as proposed would require the following:</p> <p>4 x spaces for 202 hotel rooms 1 x space for the conference/function, restaurant and bar uses</p> <p>The development provides loading bays for 2 x medium rigid vehicles (MRVs) and 1 x van loading on the site.</p> <p>Councils Development Engineer has undertaken an assessment of the proposed loading bays and the three (3) bays provided are considered acceptable.</p> <p>A condition of consent has been recommended to ensure that the largest delivery vehicle accessing the site is restricted to a MRV. A condition of consent has also been recommended to address the use and management of the loading bays as part of the hotel operations.</p>	Yes

Figure 6: ADCP 2010 Non-Compliance Table

Following is a further discussion of the non-compliance with the number of car parking spaces:

Number of Parking Spaces

The proposed 140 car parking spaces are considered adequate to service the proposed development.

In the Traffic Report which accompanies the application, it has been suggested that a more appropriate rate for the hotel component of the development would be the RMS Guide to Traffic Generating Development rates.

The RMS Guide relevantly provides that a rate of 1 space per 4 bedrooms could be applied to 3 and 4 star hotels (noting that the proposed development is a 4 star hotel). This would equate to the need for a total of 51 spaces for the hotel.

It is acknowledged that the development provides a total of 51 car parking spaces for the hotel use. It is acknowledged that the restaurant and café uses as well as staff are ancillary to the hotel use. The Applicant has advised that the restaurant and café uses are primarily to be used by guests at the hotel. On this basis, it is considered acceptable to absorb the restaurant, cafe and staff uses into the RMS rate.

The proposed conference centre has the potential to be used independent of the hotel and as such, it is considered appropriate to apply the ADCP 2010 function centre rate to this use, which equates to the requirement for a total of 89 car parking spaces.

The development has provided 89 car parking spaces to service the proposed conference centre use.

The proposed car parking spaces are distributed as follows:

- 79 spaces within proposed Lot 1 (the hotel site); and
- 61 spaces within the adjoining proposed Lot 2 (the residual site).

The use of the 61 spaces within the residual site is to be managed through the creation of an easement over proposed Lot 2, benefitting proposed Lot 1. Of the 61 spaces, 45 spaces are undercover, within the existing lower ground car park, enabling pedestrians to travel from their parked vehicles to the hotel without traversing the existing warehouse development. The remaining 16 spaces are located at grade, along the site's Percy Street frontage and are proposed to be used by the staff of the hotel. A condition of consent has been recommended to manage the use of these spaces.

Council's Development Engineer has considered the Traffic Impact Assessment submitted with the application and the proposed 140 car parking spaces are considered adequate to service the proposed development, having regard to the provisions of the RMS Guide and the ADCP 2010.

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

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

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

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

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

It is considered that the proposed development will not generate adverse environmental, social and economic impacts in the locality.

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

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

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

Advertised (newspaper) ☒ Mail ☒ Sign ☒ Not Required ☐

In accordance with Council's Notification requirements contained within the ADCP 2010, the proposal was publicly notified for a period of fourteen (14) days between 3 March 2021 and 17 March 2021.

No submissions were received in respect of the proposed development.

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

The proposed development contributes to the provision of hotel accommodation in a suitable location, given the access of the site to Parramatta Road. The proposed development will generate positive economic and social impacts in the locality.

In view of the foregoing analysis it is considered that the development as proposed would not be inconsistent with the public interest.

CUMBERLAND LOCAL INFRASTRUCTURE CONTRIBUTION PLAN 2020

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Cumberland Local Infrastructure Contribution Plan 2020 (the Contribution Plan) is applicable to the development.

In accordance with the Contribution Plan a contribution is payable, pursuant to Section 7.12 of the EP&A Act, calculated on the cost of works. A total contribution of \$440,800 would be payable prior to the issue of a Construction Certificate, a condition of consent has been recommended accordingly.

DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

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

CONCLUSION

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*, State and Regional SEPP, SEPP55, SEPP 64, ISEPP, SREP 2005, Draft Environment SEPP, Draft CLEP, ALEP 2010 and the ADCP 2010 and is considered to be satisfactory for approval, subject to the recommended conditions of consent.

Having regard to the relevant matters of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development is acceptable for the reasons outlined in this report. It is recommended that the development application be approved, subject to conditions.

RECOMMENDATION

- 1. That the Clause 4.6 variation request, to vary the maximum 27 metre building height development standard, pursuant to the Auburn Local Environmental Plan 2010 be supported.**
- 2. That Development Application No. DA2021/0040 for the partial demolition of existing structures, subdivision into two (2) lots, and construction of an eight (8) storey hotel over a semi-basement car parking level and associated signage on land at 93 St Hilliers Road AUBURN NSW 2144 be approved subject to the recommended conditions listed in Attachment 1.**

ATTACHMENTS

1. Draft Notice of Determination
2. Architectural Plans and Subdivision Plan
3. Landscape Plans
4. Stormwater Plans
5. Traffic Report
6. DEP Minutes
7. Clause 4.6 Request
8. SEPP 64 Assessment Table
9. ADCP 2010 Assessment Table