



**SYDNEY CENTRAL CITY PLANNING PANEL**

**COUNCIL ASSESSMENT REPORT**

<b>Panel Reference</b>	PPSSCC-292
<b>DA Number</b>	DA/944/2021
<b>LGA</b>	City of Parramatta
<b>Proposed Development</b>	Demolition of existing buildings and construction of a part 20 storey and part 22 storey shop top housing development comprising 126 residential units and 5,128m <sup>2</sup> of commercial space over 5 levels of basement parking. The application is Nominated Integrated Development pursuant to the Water Management Act 2000. The application will be determined by the Sydney Central City Planning Panel.
<b>Property Address</b>	Lot 1 DP 29138, Lot 2 DP 29138, Lot 4 DP 29138, LOT 5 DP 29138, Lot E DP 28758, Lot C DP 28758, Lot A DP 28758, Lot F DP 28758, Lot 3 DP 29138, Lot 6 DP 29138, Lot 7 DP 29138, Lot D DP 28758, Lot B DP 28758, PT LOT 8 DP 29138 SUBJ TO ROW, 59-77 Beecroft Road & 72 Rawson Street, EPPING NSW 2121
<b>Applicant</b>	Bruce Lyon Holdings Pty Ltd
<b>Owner</b>	Winten Lyon Pty Limited and Bruce Lyon Holdings Pty Ltd and G S L Developments Pty Ltd and Winten Lyon Pty Ltd and Winten Lyon Pty Ltd
<b>Date of DA lodgement</b>	13 October 2021
<b>Number of Submissions</b>	Three (3)
<b>Recommendation</b>	Refusal
<b>Regional Development Criteria</b>	The development has a capital investment value of more than \$30 million.
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"><li>• Environmental Planning and Assessment (EP&amp;A) Act 1979</li><li>• EP&amp;A Regulation 2000</li><li>• SEPP (Building Sustainability Index: BASIX) (BASIX SEPP) 2004</li><li>• SEPP (Transport and Infrastructure) 2021</li><li>• SEPP (Planning Systems) 2021</li><li>• SEPP (Biodiversity and Conservation) 2021</li><li>• SEPP (Resilience and Hazards) 2021</li><li>• SEPP No. 65 (Design Quality of Residential Apartment Development) (SEPP 65) &amp; Apartment Design Guide (ADG)</li><li>• Parramatta Local Environmental Plan (PLEP) 2011</li><li>• Parramatta Development Control Plan (PDCP) 2011</li></ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"><li>• Appendix 1 – Reasons for Refusal</li><li>• Appendix 2 – Architectural Drawings</li><li>• Appendix 3 – Design Verification Statement</li><li>• Appendix 4 – Design Excellence Advisory Panel advice</li><li>• Appendix 5- Sydney Trains recommended conditions</li></ul>
<b>Clause 4.6 requests</b>	None
<b>Summary of key submissions</b>	<ul style="list-style-type: none"><li>• Vehicle access</li><li>• Car parking</li><li>• Privacy</li><li>• Overshadowing</li></ul>
<b>Report prepared by</b>	Frances Mehrstens

<b>Report date</b>	1 March 2022
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### **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**

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### **Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report? **Yes**

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### **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? **N/A**

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### **Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (s7.24)? **No**

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### **Conditions**

Have draft conditions been provided to the applicant for comment? **No**

## 1. Executive Summary

The proposal provides for demolition of existing buildings and construction of a part 20 storey and part 22 storey shop top housing development comprising 126 residential units and 5,128m<sup>2</sup> of commercial space over 5 levels of basement parking.

The application is located on a large site in the core area of the Epping Town Centre and is subject to SEPP 65, as well as the site-specific controls for the Epping Town Centre set out in the Parramatta DCP 2011. The development has been subject to review by Council's Design Excellence Advisory Panel (DEAP) and is considered to require substantial amendments relating to site planning, built form, podium height, sustainability and internal layout to be consistent with *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65) and the Apartment Design Guide (ADG).

Due to the depth of excavation, the application is Integrated Development as it requires a water supply approval under cl. 90(2) of the *Water Management Act 2000*. WaterNSW, the relevant authority, has declined to issue General Terms of Approval for the proposed drainage solution.

A Phase 1 preliminary site investigation of the site found potential for contamination and accordingly a Phase 2 detailed site investigation is required. A Phase 2 investigation has not been provided and, accordingly, the requirements of *State Environmental Planning Policy (Resilience and Hazards) 2021* cannot be satisfied.

The site is also subject to a number of provisions of *State Environmental Planning Policy (Transport and Infrastructure) 2021* due to the proximity to the rail corridor, as well as being categorised as traffic generating development. The rail authority (Sydney Metro) has declined to grant concurrence as the application proposes works that are not permitted under the *Sydney Metro Underground Corridor Protection Guidelines*.

The applicant lodged a Class 1 appeal with the Land and Environment Court on 15 February 2022.

The application has been assessed relative to sections 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant State and local planning controls. The proposal does not demonstrate a satisfactory response to the objectives and controls of the applicable planning framework. Accordingly, refusal of the development application is recommended.

## 2. Key Issues

### Environmental Planning and Assessment Act 1979

- **Objects of the Act (cl. 1.3):** The development does not facilitate orderly and economic use of land, as the proposal does not adequately demonstrate that adjoining sites can achieve a development that is consistent with the planning controls.
- **Integrated development (cl. 4.47):** WaterNSW do not support the proposed method of groundwater drainage from the basement and accordingly have not issued General Terms of Approval. In accordance with cl. 4.47(4) the application is recommended for refusal.

### Water Management Act 2000

- **Water management work (cl. 90(2)):** A water supply work approval is required for the proposed drainage of the basement. WaterNSW do not support the proposed method of groundwater dewatering.

### Environmental Planning and Assessment Regulation 2000

- **BASIX Certificate (Schedule 1, cl. 2A):** The BASIX certificates submitted do not specify the correct information in relation to heating and cooling loads and omit a window schedule.

### State Environmental Planning Policy (Transport and Infrastructure) 2021

- **Excavation in, above, below or adjacent to rail corridors (cl. 2.98):** Sydney Metro (the rail authority) have declined to grant concurrence due to lack of detail in relation to the shoring design and the proposal to install temporary anchors in the Sydney Metro reserve, which is not permitted under the Sydney Metro Underground Corridor Protection Guidelines.
- **Development adjacent to rail corridors (cl. 2.97):** Advice provided by Sydney Trains (the rail authority) recommends that an Electrolysis Risk Assessment is undertaken to assess the potential impacts of stray currents from the rail corridor and that reflective surfaces must limit glare and reflectivity to the satisfaction of the rail operator. Whilst the rail authority recommends these requirements are enforced through a condition of consent, it is considered that these matters should be resolved prior to the determination of a development application due to the potential for significant impacts on design. The development application does not consider electrolysis risk or reflectivity as part of the DA.
- **Traffic generating development (cl. 2.121):** Advice provided by Transport for NSW states that comment cannot be provided as additional information is required in relation to:
  - SIDRA modelling
  - Management of vehicular access to basement car parking
  - Car parking and traffic generation calculations should be provided in accordance with the TfNSW 'Guide to Traffic Generating Development' and further justification in relation to adjusted traffic generation rates
  - Impacts on bus stops on Beecroft Road

Accordingly, accurate assessment cannot be made on the accessibility of the site and potential traffic safety, road congestion or parking implications of the development.

State Environmental Planning Policy (Resilience and Hazards) 2021

- **Contamination and remediation to be considered in determining development application (cl. 4.6):** The Phase 1 Environmental Investigation submitted indicates the potential for contamination on the site. A Phase 2 detailed investigation and Remediation Action Plan is required to make an assessment of whether the land is suitable or can be made suitable after remediation for the proposed sensitive uses. A Phase 2 Environmental Investigation and Remediation Action has not been provided with the development application.

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

- **Apartment Design Guide (cl. 28(c)) – Variations to design criteria**
  - **Visual Privacy (cl. 3F):** The design proposes separation distances to the west (laneway boundary) that are significantly less than the recommended design criteria.
  - **Solar and Daylight Access (cl. 4A):** Solar access to living rooms and balconies of apartments and communal open space is not adequately demonstrated.
  - **Natural Ventilation (cl. 4B):** Natural ventilation is not adequately demonstrated, as no window schedule was provided to demonstrate sufficient inlet and outlet size and a number of single aspect apartments are included in the natural ventilation calculation.
  - **Ceiling Heights (cl. 4C):** Unclear information is submitted that indicates ceiling heights will be less than the recommended height due to the location of the bulkhead.
  - **Apartment Size and Layout (cl. 4D):** Design Excellence Advisory Panel advice recommends that layouts can be amended to improve internal circulation and privacy. In addition, a number of apartments include habitable rooms (studies) with no windows.
  - **Common Circulation and Spaces (cl. 4F):** Corridors in excess of 12 metres are proposed that do not provide sufficient amenity or articulation.

Parramatta Local Environmental Plan 2011

- **Earthworks:** Insufficient information is provided to assess the impacts of the proposed earthworks up to a depth of approximately 17.3 metres.

Parramatta Development Control Plan 2011

- **Epping Town Centre:** The proposed built form is incompatible with the desired future character of the Epping Town Centre.
- **Pedestrian Connections and Laneways:** The proposed through-site link is compromised by

obstructions and does not achieve sufficient active frontages.

- **Podium Height**
  - Control: 2 -3 storeys
  - Proposed: 5 storeys (podium to laneway)
- **Rawson Street Basement Setback**
  - Control: 2 metres
  - Proposed: 0.7 metres
- **Beecroft Road Setback**
  - Control: 1.5 metres setback at podium, 6 metres for tower above podium.
  - Proposed: Projections into the public domain at Level 1 and Level 2, and projections more than 600mm beyond the setback on the tower portion.
- **Residential Floorplates**
  - Control: 700sqm GFA maximum
  - Proposed: approximately 335m<sup>2</sup> – 979sqm
- **Commercial Floorplates**
  - Control: 1,200sqm GFA maximum
  - Proposed: approximately 1,090m<sup>2</sup> – 1,529sqm
- **Housing Diversity and Choice:**
  - Control: 1BR = 10-20%, 2BR = 60-75%, 3BR = 10-20%
  - Proposed: 1BR = 43.7%, 2BR = 46.8%, 3BR = 9.5%
- **Stormwater Management:** Details of basement drainage disposal system not provided, detail of management of emergency overflow from OSD required and OSD calculations required.

### 3. Site Description, Location, and Context

#### 3.1 Site and Location

The site is located within the Epping Town Centre to the west of the northern railway line and north of the Epping Railway Station. The site comprises 13 allotments with a combined site area of 2,990m<sup>2</sup> and frontages to Rawson Street (25m), Beecroft Road (85m) and a public laneway (60m). The site is subject to a change in level of approximately 3 metres from RL 89 at Rawson Street to RL 93 on Beecroft Road.

The site is currently occupied by a number of two storey commercial buildings and at-grade parking. As a result of the Epping Town Centre Urban Activation Precinct Strategy 2014, the town centre is undergoing a transition from low-density residential, retail and commercial development to high-rise commercial and mixed use developments.



**Figure 1** Aerial view of locality (subject site in red).



**Figure 2** The site viewed from Beecroft Road





**Figure 3** Side boundary looking toward Rawson Street



**Figure 4** The site viewed from Rawson Street (Source: DFP Planning)

### 3.2 Background

The applicant had a Pre-Lodgement meeting with Council and DEAP in 2018 (PL/182/2018) for:

*Demolition of all buildings on site and construction of 4 levels of underground parking, 4 levels of retail, 4 levels of commercial, 4 levels of hotel, 2 x 14 levels of residential and roof to terrace.*

The development site included additional land and had a total site area of 6,592sqm. No further pre-lodgement consultation was undertaken between the 2018 meeting and lodgement of the current DA.

It is also noted that the applicant lodged a Class 1 appeal with the Land and Environment Court on 15 February 2022.

### 3.3 Development Application Timeline

13 October 2021	DA Lodged
29 October 2021	Sydney Metro issue RFI #1
11 November 2021	DEAP Meeting
1 December 2021	SCCPP Briefing Meeting
6 December 2021	Applicant responds to Sydney Metro RFI
6 December 2021	DEAP advice issued to applicant
7 December 2021	SCCPP Record of Briefing issued
16 January 2022	Sydney Metro issue RFI #2
18 January 2022	Request for Information issued through Planning Portal and applicant is advised to withdraw application. Applicant is advised a response must be provided within 14 days.
27 January 2022	Applicant provides response that the application will not be withdrawn and that the issues raised will be resolved through design amendments.
2 February 2022	Applicant advises that amended information will take approximately 6 weeks to prepare.
3 February 2022	SCCPP Briefing Meeting
4 February 2022	Response provided by WaterNSW indicating application not supported.
7 February 2022	SCCPP Record of Briefing issued.
8 February 2022	Applicant advises that DA will not be withdrawn and that amended plans will be prepared for submission.
15 February 2022	The applicant lodged a Class 1 appeal was in the Land and Environment Court.

## 4. The Proposal

### 4.1 Summary of Proposal

The proposal involves the following:

- Demolition of all existing buildings and structures on-site.
- Excavation of five (5) levels of basement car parking comprising:
  - 78 residential parking spaces.
  - 18 residential visitor parking spaces.
  - 94 commercial parking spaces.
  - 2 car share parking spaces.
  - 1 car wash bay.
  - Loading facilities.
- Construction of a part 20 storey and part 22 storey shop top housing development comprising:
  - 3 - 5 level podium.
    - Retail (3,273m<sup>2</sup>).
    - Business (1,855m<sup>2</sup>).
    - Residential (1,198m<sup>2</sup>)
  - 2 x 18 level residential towers above with a total of 126 residential dwellings



comprising:

- 56 x 1-bedroom apartments (45%).
  - 58 x 2-bedroom apartments (46%).
  - 12 x 3-bedroom apartments (9%).
  - 14 out of 126 apartments are located in the podium.
- 1 x public through-site link.
  - Extension and augmentation of infrastructure and services as required.
  - Associated public domain and landscaping works.

The application is Integrated Development under cl. 90(2) of the *Water Management Act 2000* as it requires groundwater dewatering. The application also requires concurrence from Sydney Metro under cl. 2.98 of *State Environmental Planning Policy (Transport and Infrastructure) 2021* due to the proximity of the proposed excavation to the at-grade rail corridor and the underground metro corridor.



**Figure 5** Photomontage of proposed development viewed from Beecroft Road



**Figure 6** Photomontage of the proposed development from Rawson Street

## 5. Referrals

The following referrals were undertaken during the assessment process:

### 5.1 Sydney Central City Planning Panel Briefings

The matters raised by the Panel at its briefing meetings are addressed below:

Issues Raised	Comment
<b>Briefing 1 (01/12/21)</b>	
Consideration of the orderly development of this street block in relation to other land on Rawson Street that is within Winten Lyon ownerships and to existing public laneways.	Orderly development has been considered with reference to building separation and visual privacy requirements in accordance with the Apartment Design Guide. The proposed separation distance to adjoining properties is significantly less than the amount recommended by the design criteria. The application does not adequately demonstrate how orderly development of the remaining lots could be achieved, with particular reference to visual and acoustic privacy.
Challenges associated with satisfying ADG and other controls for development on the subject site and the adjacent sites fronting Rawson Street, given the size and orientation of the private land holdings separated by narrow public lanes.	<p>Assessment of the proposal demonstrates there are multiple variations to the ADG and non-compliances with the Epping Town Centre DCP controls in relation to:</p> <p><b>ADG</b></p> <ul style="list-style-type: none"> <li>• Visual privacy.</li> <li>• Solar access.</li> <li>• Natural ventilation.</li> <li>• Apartment size and layout.</li> <li>• Common circulation and spaces.</li> </ul> <p><b>Epping Town Centre DCP</b></p> <ul style="list-style-type: none"> <li>• Desired future character.</li> <li>• Pedestrian connections and laneways.</li> <li>• Podium height.</li> <li>• Street setbacks.</li> <li>• Residential and commercial floorplate sizes.</li> <li>• Wind impacts.</li> </ul>
Consideration of urban design issues such as wind effects, scale of podium, setbacks, length of building façade, size of floorplates, cross ventilation, solar access, adequacy of landscaped and communal open space areas, ground plane activation, wayfinding and accessibility.	As outlined above, assessment of the application has found that urban design issues are unsatisfactorily resolved. This view is supported by Council's Urban Design team and the Design Excellence Advisory Panel.
Location of through site link and proximity to Epping station.	The location of the through site link and connection to Epping station was the subject of recommendations from Sydney Metro, with the intention of improving pedestrian movements and wayfinding. It is expected that these considerations would be incorporated into further planning for the development of the site.

Consideration of other site planning matters related to contamination, drainage, parking and traffic.	<p>The following summarises advice received in relation to these matters:</p> <ul style="list-style-type: none"> <li>• Contamination: A Phase 2 detailed site investigation and, if required, Remediation Action Plan are required to be prepared and submitted in order to satisfy the requirements of SEPP 55.</li> <li>• Drainage: The proposed drainage solution is inadequately detailed and is not supported by WaterNSW. Accordingly, the required integrated approval under the WM Act 2000 would not be granted.</li> <li>• Parking and traffic: parking and traffic impacts are generally supported by Council, however TfNSW have requested further traffic modelling and raised concern about potential queuing on Rawson Street and oversupply of car parking spaces.</li> </ul>
The Panel notes the issues associated with Council's assessment of this application in relation to its ownership of the lanes, and that Council is considering how to ensure probity is observed.	Council remains the owner of the lane adjoining the development site. The issues identified and reasons for refusal are concerned with compliance with a number of environmental planning instruments and is unrelated to the ownership of the adjoining lane.
<b>Briefing 2 (03/02/21)</b>	
Significant information is outstanding and Council is waiting on the Applicant to provide numerous inputs	The applicant advised an indicative timeframe of 6 weeks from the beginning of February to prepare the required amended information. The applicant has since chosen to lodge an appeal with the Land and Environment Court. In any event, it is understood that the amended information will not include the Phase 2 detailed site investigation. Accordingly, SEPP 55 cannot be satisfied and the application cannot be approved.
Design issues are still under consideration, with the design currently considered to be unsatisfactory.	The applicant advised an intention to prepare an amended design. The amended design would be required to be reviewed by DEAP, as well as re-referred to Council's internal specialists and external agencies. Given the range of design issues identified, it is considered that the application should be refused and that the applicant seeks pre-lodgement advice for an amended scheme and subsequent development application.
The Panel supports progress to a determination as soon as possible, noting the above.	Noted.

**Table 1** SCCPP briefing notes and response.

## 5.2 Design Excellence Advisory Panel

Council's DEAP first considered the application at a meeting on 11 November 2021. The Panel noted general support for the proposal and that the architectural, urban design and landscape quality are of a reasonable standard, however raised concerns with the following issues:

- Lack of consideration for the desired future character of the Epping Town Centre articulated in the Parramatta DCP 2011, resulting in potential compromises for the public domain and built environment.
- The site planning is not adequately integrated with other strategic considerations for the town centre, including built form, streetscape, green grid and hierarchy of public spaces.
- The unusual built form of the proposal may result in adverse visual impacts when considered as part of the desired future character of the Epping Town Centre.
- The podium height and built form will result in a 'canyon' effect on the laneway, compromising the quality of the street activation and proposed outdoor dining.
- The proposal includes a number of unshaded west-facing windows, which are not adequately protected from the sun.

- Internal apartment layout could be amended to improve privacy.
- A number of west facing units have walls with limited windows on the northern side of the living area thereby preventing direct access to the balconies and blocking sunlight from the north. More detailed analysis of solar access to internal living spaces to clarify whether there is full ADG compliance.
- The proposal excludes other sites owned by the same land owner. The Panel's view is that all sites should be considered in a comprehensive development strategy as they have critical links to the town centre, future public open space, pedestrian bridge over Beecroft Road and Epping Station. Inclusion of all sites may result in an alternative built form and massing, with benefits for built form, open space and access.
- Insufficient detail is provided to assess how the remaining sites would be developed. In particular, the width of the indicative building envelopes was questioned and how these sites would contribute to activation of the lane.
- Indicative building envelopes do not demonstrate that they could be developed in accordance with the ADG.
- The podium height and number of storeys and how it relates to urban form throughout the precinct was queried.
- Height and depth of awning relative to footpath levels must provide adequate protection for pedestrians.
- Landscaping should consider tolerance to wind and shade, as well as long-term maintenance.
- Details of sustainability measures, such as solar panels, rain water harvesting, and ceiling fans, is required to be provided.

The Panel requested that amended plans are submitted for review. A copy of the DEAP feedback is provided at Appendix 4.

### 5.3 External

Authority	Comment
Australian Rail Track Corporation Transport and Infrastructure SEPP cl. 2.97 Development Adjacent to Rail Corridors	Confirmed that referral is not required.
Sydney Trains Transport and Infrastructure SEPP cl. 2.98 Development Adjacent to Rail Corridors	Supported subject to conditions, including the following requirements: <ul style="list-style-type: none"> <li>• Acoustic Assessment in accordance with <i>Development near Rail Corridors and Busy Roads – Interim Guidelines</i></li> <li>• Electrolysis Risk Assessment.</li> <li>• Reflectivity and glare assessment.</li> <li>• Geotechnical Assessment demonstrating impact on the rail corridor.</li> <li>• Hydrologic Assessment demonstrating no adverse impacts as a result of dewatering.</li> </ul>
Sydney Water Corporation	No objection subject to standard requirements.
Endeavour Energy	No objection subject to standard requirements.
TfNSW Transport and Infrastructure SEPP cl. Traffic generating development	Advice provided by Transport for NSW states that comment cannot be provided as additional information is required in relation to: <ul style="list-style-type: none"> <li>• SIDRA modelling</li> <li>• Management of vehicular access to basement car parking</li> <li>• Car parking and traffic generation calculations should be provided in accordance with the TfNSW 'Guide to Traffic Generating Development' and further justification in relation to adjusted traffic generation rates</li> </ul>

	<ul style="list-style-type: none"> <li>Impacts on bus stops on Beecroft Road</li> </ul>
WaterNSW Integrated approval under s 90(2) of the Water Management Act	General Terms of Approval not issued due to proposal for a drained basement. Further information and re-referral is required.
Sydney Metro Concurrence Transport and Infrastructure SEPP cl. 2.98, Referral cl. 2.97, 2.99	Sydney Metro (the rail authority) have declined to grant concurrence due to lack of detail in relation to the shoring design and the proposal to install temporary anchors in the Sydney Metro reserve, which is not permitted under the Sydney Metro Underground Corridor Protection Guidelines

**Table 3:** External referrals

#### 5.4 Internal

Authority	Comment
Design Excellence Advisory Panel	Further amendments required – refer to summary above.
Accessibility	Not supported – multiple amendments required.
Environmental Health - Acoustic	The proposal satisfies the requirements of Council's controls and can be supported, subject to conditions of consent.
Environmental Health - Contamination	Not supported – Phase 2 detailed site investigation, Remediation Action Plan and Preliminary Soil Assessment required.
Environmental Health - Waste	The proposal satisfies the requirements of Council's controls and can be supported, subject to conditions of consent.
Environmentally Sustainable Development	Not supported – multiple amendments required to BASIX and NatHERS.
Wind	Not supported - The pedestrian safety criterion is not met at the southern corner at ground level and on parts of the podium on Level 1 and 3. Wind mitigation elements are required to be incorporated into amended architectural plans and the effectiveness of these mitigation measures quantified.
Landscaping & Trees	Not supported – multiple amendments required to landscape plans.
Urban Design - Public Domain & Building	Not supported – amendments and further information required in relation to setbacks, building separation, building length, built form, inadequate awnings, obstruction of through-site link and shadow impacts on laneway and public domain.
Stormwater Engineer	Not supported – further information required in relation to On-Site Detention and basement drainage.



Traffic & Transport	<p>Acceptable subject to standard conditions and the following special conditions:</p> <ul style="list-style-type: none"> <li>• Restrict parking on Rawson Street to facilitate swept paths for loading vehicles exiting the driveway.</li> <li>• Reallocate 10 commercial parking spaces to retail parking spaces.</li> <li>• Provide convex mirrors in car park to prevent conflicts between vehicles and improve sight lines.</li> <li>• Loading Dock Management Plan required to prevent queuing on access ramp.</li> </ul> <p>It is noted that the SIDRA modelling undertaken in the TIA report did not account for the impacts of upstream and downstream traffic (i.e. the signals at Carlingford Road and Rawson Street intersection and the pedestrian crossings on Rawson Street between Carlingford Road and Bridge Street). Therefore, the modelling undertaken is not considered reflective of the current and future traffic conditions on Rawson Street.</p> <p>It is noted that the TIA report has proposed to extend the existing central median island on Rawson Street to restrict site access to left in/left out to improve traffic flow on Rawson Street (see above for further details). Considering the above, the proposal is supported.</p>
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**Table 4:** Internal referrals

## 6. Environmental Planning and Assessment Act 1979

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

### 6.1 Section 1.7: Significant effect on threatened species, populations or ecological communities, or their habitats

The site is in an established urban area with low ecological significance. No threatened species, populations or ecological communities, or their habitats are impacted by the proposal.

### 6.2 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 7
Section 4.15(1)(a)(ii) - Draft environmental planning instruments	Refer to section 8
Section 4.15(1)(a)(iii) – Development control plans	Refer to section 9
Other Planning Controls	Refer to section 10
Section 4.15(1)(a)(iiia) - Planning Agreement	Refer to section 11
Section 4.15(1)(a)(iv) - The Regulations	Refer to section 12
Section 4.15(1)(a)(v) - Coastal zone management plan	Not applicable.
Section 4.15(1)(b) - Likely impacts	Refer to section 13
Section 4.15(1)(c) - Site suitability	Refer to section 14
Section 4.15(1)(d) – Submissions	Refer to section 15
Section 4.15(1)(e) - The public interest	Refer to section 16

**Table 5:** Section 4.15(1)(a) considerations

## 7. Environmental Planning Instruments

## 7.1 Overview

The instruments applicable to this application comprise:

- SEPP (Building Sustainability Index: BASIX) (BASIX SEPP) 2004;
- SEPP (Transport and Infrastructure) 2021;
- SEPP (Planning Systems) 2021;
- SREP (Biodiversity and Conservation 2021)
- SEPP (Resilience and Hazards) 2021);
- SEPP No. 65 (Design Quality of Residential Apartment Development) (SEPP 65); and
- Parramatta Local Environmental Plan (PLEP) 2011.

Compliance with these instruments is addressed below.

## 7.2 State Environmental Planning Policy (Building Sustainability Index: 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. The BASIX certificate relies on NatHERS certificate for the thermal assessment component. The submitted certificate does not satisfy the BASIX requirements as:

- The heating load specified in the NatHERS certificates exceeds the maximum heating loading defined in the BASIX Thermal Comfort Protocol and is non-compliant. Incorrect heating loads must have been entered into the BASIX portal to generate a valid certificate.
- The BASIX stamped drawings are missing a window schedule.
- NatHERS certificates are inconsistent as:
  - The glass types used for certification do not match the performance specifications on the stamped plans.
  - The zoning does not correctly describe the architectural plans.
  - There are inconsistencies between operable windows and materials shown on the certificates and the architectural plans.

Accordingly, the proposal does not satisfy the BASIX requirements.

## 7.3 State Environmental Planning Policy (Transport and Infrastructure) 2021

### Clause 2.97 – Development adjacent to rail corridors

The development application was referred to Sydney Trains (the rail authority), who provided conditions of consent to ensure that the proposed development is undertaken in a safe manner (refer to Appendix 5). The conditions of consent are not to be amended, replaced or superseded without the further agreement of Sydney Trains. Council has reviewed the conditions and determined that some conditions which require further assessment should be resolved prior to determination of the DA. The reason for this is that the outcome of the further assessment may impact on the design of the development. It is considered that the following further assessment required by Sydney Trains should be undertaken prior to the determination of any development application to ensure there is no adverse effect on rail safety:

- Electrolysis Risk Assessment.
- Acoustic Assessment in accordance with *Development Near Rail Corridors and Busy Roads-Interim Guidelines*.
- Geotechnical Assessment demonstrating no negative impact on the rail corridor or the integrity of the infrastructure.
- Hydrological Assessment demonstrating dewatering will not have any adverse impacts on the rail corridor.
- Reflectivity and Glare Assessment demonstrating limited impact on the rail corridor.

### Clause 2.98 – Excavation, in, above, below or adjacent to rail corridors

The development application was referred to Sydney Metro (the rail authority) as it proposes penetration of ground to a depth of at least 2m below ground level within 25m of a rail corridor. Development consent may not be granted without the concurrence of the rail authority. Sydney Metro

have considered the potential effects of the development on the rail corridor and have declined to grant concurrence due to a lack of detail in relation to the shoring design and the proposal to install temporary anchors in the Sydney Metro reserve, which is not permitted under the Sydney Metro Underground Corridor Protection Guidelines. Sydney Metro issued a Request for Information to the applicant, and a response was provided. This response was deemed to be inadequate and Sydney Metro require further information to consider granting concurrence.

Accordingly, development consent may not be granted.

#### **Clause 2.121 – Traffic generating development**

The development application was referred to TfNSW as traffic generating development. Prior to granting development consent, the consent authority is required to take into account any advice provided by TfNSW, as well as:

- *the accessibility of the site concerned, including—*
  - *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
  - *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
- *any potential traffic safety, road congestion or parking implications of the development.*

Advice provided by Transport for NSW states that comment cannot be provided as additional information is required in relation to:

- SIDRA modelling
- Management of vehicular access to basement car parking
- Car parking and traffic generation calculations should be provided in accordance with the TfNSW 'Guide to Traffic Generating Development' and further justification in relation to adjusted traffic generation rates
- Impacts on bus stops on Beecroft Road

TfNSW also noted that Beecroft Road is subject to investigation of Traffic and Transport Improvement strategies.

Council's Traffic referral also notes that a number of vehicle access management measures are required to manage loading vehicle access and congestion on Rawson Street. These include restriction of on-street parking on Rawson Street, a Loading Dock Management Plan and the installation of convex mirrors throughout the car park to prevent vehicle conflicts.

Accordingly, it is considered that matters relating to the accessibility of the site and potential traffic safety, road congestion and parking implications of the development are inadequately resolved and that the requirements of clause 2.121 cannot be satisfied.

#### **7.4 State Environmental Planning Policy (Planning Systems) 2021**

The proposed development has a Capital Investment Value (CIV) of more than \$30 million. As such, cl. 2.19 of this Policy provides that the application is 'regionally significant development' and thus the Sydney Central City Planning Panel (SCCPP) is the consent authority for this application.

#### **7.5 Sydney Regional Environmental Policy (Biodiversity and Conservation) 2021**

Part 10 of this policy relates to the Sydney Harbour Catchment. These provisions apply to the whole of the Parramatta Local Government Area (LGA), aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment, and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole. The nature of this project and the location of the site are such that there are no specific controls which directly apply, with the exception of the objective of improved water quality. That outcome will be achieved through the imposition of suitable conditions to address the collection and discharge of water during construction and operational phases of the development.

#### **7.6 State Environmental Planning Policy (Resilience and Hazards) 2021**

A preliminary site investigation report was submitted with the application. The report outlined the history of the site, noting it has been historically used as a mechanics garage and is in close proximity to sites used a dry cleaner and service stations. In addition to this, waste materials on the site contained asbestos and concentrations of heavy metals above the acceptable level were detected in groundwater. The report finds that a Phase 2 detailed site investigation is required and that a Remediation Action Plan may be required.

Council's Environmental Health team have reviewed the proposal and consider that the Phase 2 detailed site investigation must be undertaken. If required, a Remediation Action Plan and Preliminary Soil Assessment must also be undertaken.

In accordance with clause 4.6, the consent authority does not have sufficient information to be satisfied that the land can be made suitable for the proposed use. Accordingly development consent may not be granted.

## 7.7 State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development)

SEPP 65 requires that residential apartment development satisfactorily address nine (9) design quality principles, and considers the recommendations in the Apartment Design Guide (ADG).

### 7.7.1 Design Quality Principles

A design statement addressing the quality principles prescribed by SEPP 65 was prepared by the project architect and submitted with the application. The proposal is considered to be inconsistent with the design principles for the reasons outlined below:

Requirement	Council Officer Comments
<i>Principle 1: Context and Neighbourhood Character</i>	<p>The proposed development is a large site in a prominent position in the Epping Town Centre. The area is currently undergoing a transition, and the site-specific Epping Town Centre controls in the Parramatta DCP 2011 outline the following desired future character:</p> <p><i>The Centre Core will accommodate higher density commercial, retail and residential development in the form of high quality, tall slim-line towers within the areas fronting Rawson Street and Beecroft Road (between Bridge Street and Carlingford Road).</i></p> <p><b>Assessment:</b> The proposed building form has a building length of more than 73 metres for the first 10 storeys of the building and proposes commercial and residential floorplates that are in excess of the maximum set by the DCP. The proposed bulk and massing is not considered 'slim-line' and is not compatible with the desired future character articulated by the character statement and numeric controls.</p> <p><i>New development within the Centre Core will contribute to public domain improvements, new laneway connections and active ground level uses (particularly along Rawson Street, Beecroft Road and new laneways) that provide high levels of pedestrian amenity and reinforce the role of these streets as a vibrant retail/commercial area</i></p> <p><b>Assessment:</b> The proposed through-site link will facilitate pedestrian movement between Beecroft Road and Rawson Street, however the link compromises pedestrian amenity through the inclusion of multiple obstructions such as lift wells, ramps and stairs. It is considered that the design of the through-site link could be refined to improve pedestrian amenity and wayfinding.</p> <p><i>Building tower elements will be suitably setback from all street alignments so that they do not visually dominate the street, allow a pedestrian scale to be maintained at street level and reduce overshadowing impacts on</i></p>

Requirement	Council Officer Comments
	<p><i>the public domain.</i></p> <p><b>Assessment:</b> The proposed setbacks to the laneway and Beecroft Road do not comply with the relevant controls. In the case of the laneway setback, the relevant distance is set by the ADG and is significantly less than the recommended design criteria. In the case of Beecroft Road, multiple portions of the building protrude beyond the site boundary. The lack of setbacks creates a dominating built form, compromises the pedestrian scale and will result in overshadowing impacts on the laneway public domain.</p> <p>Advice received by the Design Excellence Advisory Panel also finds that the development does not adequately respond to the Epping Town Centre context and could benefit from further context analysis.</p>
<i>Principle 2: Built Form and Scale</i>	As outlined above, the built form and scale of the building is considered inadequate and does not respond to the desired future character of the Epping Town Centre. The proposed built form also compromises residential amenity, with multiple variations proposed to solar access and natural ventilation.
<i>Principle 3: Density</i>	The proposal has a complying floor space ratio (FSR) and as such is considered to provide a density of housing in keeping with the desired future character of the area. It is noted that the built form results in compromises to residential amenity, with variations to solar access and natural ventilation.
<i>Principle 4: Sustainability</i>	The BASIX Certificate submitted with the application contains a number of errors and cannot be used to verify sustainability measures. It is noted that the natural ventilation calculations rely on the inclusion of single aspect apartments and mechanical ventilation solutions, indicating that a reasonable level of natural ventilation is not achieved.
<i>Principle 5: Landscape</i>	Substantial planting is proposed in the form of planter boxes and vertical planters. However, significant amendment is required to the landscape plans in relation to plant species, sizes and ongoing maintenance.
<i>Principle 6: Amenity</i>	<p>The proposal does not adequately demonstrate that a reasonable level of amenity will be achieved, with reference to:</p> <ul style="list-style-type: none"> <li>• Solar access.</li> <li>• Natural ventilation.</li> <li>• Apartment layout.</li> <li>• Common circulation.</li> </ul>
<i>Principle 7: Safety</i>	<p>The proposal is considered to provide appropriate safety for occupants and the public for the following reasons:</p> <ul style="list-style-type: none"> <li>• A significant number of units are orientated towards public streets creating passive surveillance.</li> <li>• Entry points into the building are clearly identifiable allowing ease of access for residents and visitors.</li> <li>• Retail components at ground level will activate the precinct to further enforce a sense of passive surveillance.</li> </ul>
<i>Principle 8: Housing Diversity and Social Interaction</i>	The proposal achieves a mix of apartment sizes providing housing choice for different demographics, living needs and household budgets. However, it is noted that the proposed dwelling mix does not comply with the Parramatta DCP controls. The proposal provides communal open spaces which will foster social interaction.
<i>Principle 9: Aesthetics</i>	The composition of building elements, textures, materials and colours reflect the use, internal design, and structure of the resultant building. A variety of materials, colours and textures are proposed, however it is considered that the visual appearance of the building does not adequately demonstrate a response to the desired future character of the Epping Town Centre.

**Table 6:** Assessment of the proposal against the Design Quality Principles



### 7.7.2 Design Review Panels

The application was referred to the City of Parramatta's Design Excellence Review Panel, in accordance with the requirements of Clause 28 of SEPP 65. See Section 5.2 above.

### 7.7.3 Apartment Design Guide

The relevant provisions of the ADG are considered within the following assessment table:

Element	Design Criteria	Required	Proposed	Compliance
Communal Open Space	Min 25% of the site area	748m <sup>2</sup>	1,093m <sup>2</sup> 36% of site area	Yes
	Min 50% of communal open space to receive 2 hours direct sunlight between 9.00a.m - 3.00p.m June 21	375m <sup>2</sup>	525m <sup>2</sup> Communal open space does not adequately show that direct sunlight is achieved between 9am – 3pm at midwinter. Shadow diagrams do not provide hourly increments and include areas that are covered by shade structures or portions of the building above.	<b>No</b>
Deep soil zone	Min 7% of the site area. Minimum dimension of 3m required	209m <sup>2</sup>	0m <sup>2</sup>	<b>No</b> – acceptable on the basis that the site is located in a dense urban area.
Building Separation	South Tower To Southern Boundary. Floor 2 Floor 3 - 6 Floor 7+  South Tower To North Tower Habitable – blank wall Non- habitable blank wall  North Tower to Northern Boundary Floor 2 Floor 3 - 6 Floor 7+  South Tower to laneway / future development on lot(s)  Floor 2 Floor 4 – 8 Floor 9+	6m 9m 12m  6m 3m  6m 9m 12m  6m 9m 12m	0 - 6m 0 – 6m 9m  6m 6m  8.6 – 18.7m 10.6 – 13.4m 9 – 10.7m  0.3 – 2m 0.4 – 5.1m 0.5 - 10m	<b>No</b> <b>No</b> <b>No</b>  Yes Yes  Yes Yes <b>No</b>  <b>No</b> <b>No</b> <b>No</b>

Car Parking	Residential Occupant <0.4 spaces/1-bed <0.7 spaces/2-bed <1.2 spaces/3-bed Sub-total  Residential Visitor >1 space/7 units  Total	22.4 40.6 14.4 77.4 (78)  18  95	78  18  95	Yes
Solar Access	At least 70% of living rooms and private open space to receive at least 2 hours direct sunlight between 9.00a.m and 3.00p.m on June 21	>88	The Design Verification States that 93 apartments (74%) receive solar access.	<b>Compliance not adequately demonstrated</b> – DEAP note that a number of windows that would provide solar access are obscured by portions of the building, potentially blocking solar access to living rooms.
	A maximum of 15% of apartments are permitted to receive no direct sunlight between 9.00a.m and 3.00p.m midwinter.	<19	8 6%	Yes
Natural Ventilation	At least 60% of apartments in first 9 floors are to be naturally cross- ventilated. Floor 10 onwards ventilated if balcony not enclosed	>34	The Design Verification States that 39 apartments (61%) are naturally cross ventilated.  Wintergardens that are capable of fully enclosed and a passive ventilator system proposed to apartments facing Beecroft Road	<b>Compliance not adequately demonstrated</b> – the cross ventilation calculations include apartments that are mechanically ventilated, as well as single aspect apartments. The Design Verification Statement notes that cross ventilation is achieved through a corner dual aspect strategy, however this is not adequately explained. Diagrams

				illustrating that apartments have inlet and outlet areas of equivalent size to achieve natural ventilation are not provided.
	Building depth (glass to glass)	<18m	17.9m	Yes
Ceiling Heights	Residential habitable	2.7m	2.7m, however 2.4m below some kitchen bulkheads (minimum floor to floor 3.1m)	<b>Partial compliance</b>
	Residential non-habitable	2.4m	2.7m (minimum floor to floor 3.1m)	Yes
	Commercial	4m	3.5 – 6.5m	<b>Partial compliance</b>
Apartment Size	1 bedroom	>50m <sup>2</sup>	>55.6m <sup>2</sup>	Yes
	2 bedroom	>75m <sup>2</sup>	>79.9m <sup>2</sup>	Yes
	3 bedroom	>95m <sup>2</sup>	>100m <sup>2</sup>	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	>10% GFA	A window schedule was not provided to enable this criteria to be adequately assessed.  A number of apartments include habitable rooms (studies) that do not have a window.	<b>Compliance not adequately demonstrated</b>
	Habitable room depths to be a maximum 2.5 x the ceiling height.	<6.75m	6 – 8.8m Multiple living areas are 7 – 8m deep (Apartment Type .02 North Tower)	<b>Partial compliance</b>
	Maximum depth (open plan) from window.	8m	6.5 - 8.8m (Apartment Type .02 North Tower)	<b>Partial compliance</b>
Bedroom size	Master bedrooms Other bedrooms Min dimensions	10m <sup>2</sup> 9m <sup>2</sup> 3m	All dimensions comply with the design criteria.	Yes
Living room width	1 bedroom 2 bedroom 3 bedroom	3.6m 4m 4m	All dimensions comply with the design criteria.	Yes
Balconies	1 bedroom 2 bedroom 3 bedroom	8m <sup>2</sup> /2m 10m <sup>2</sup> /2m 12m <sup>2</sup> /2.4m	All dimensions comply with the design criteria.	Yes
Circulation	Maximum units per circulation core	8	5 – 6	Yes
Storage	1 bedroom 2 bedroom 3 bedroom	6m <sup>3</sup> 8m <sup>3</sup> 10m <sup>3</sup>	The minimum volume of storage is provided, with a minimum of 50% of storage provided within the apartment.	Yes

**Table 7:** Assessment of the proposal against the ADG

As detailed in the above table, the proposed development incorporates a number of variations to the design criteria. The variations, taken together with the failure to satisfy the design quality principles, demonstrate that the proposal does not exhibit a suitable level of design quality.

In accordance with Planning Circular PS 17-001 *Using the Apartment Design Guide* issued by the Department of Planning and Environment, Council has taken into consideration the advice of the Design Excellence Advisory Panel, the ADG and the development's design quality in relation to the design quality principles. It is considered that the development does not meet the objectives and design criteria of the ADG and that, while alternative solutions may be appropriate, these have not been adequately detailed.

In accordance with clause 30(2) of SEPP 65, development consent may not be granted if the development has not given adequate regard to the design quality principles and the objectives specified in the ADG for the relevant design criteria.

## 7.8 Parramatta Local Environmental Plan 2011

The relevant objectives and requirements of PLEP 2011 have been considered in the assessment of the development application, and are contained within the following table.

Development Standard	Proposal	Compliance
<b>2.3 Zoning</b> B2 – Local Centre	The proposal is a mixed use development comprising shop top housing and commercial premises, which are permissible with development consent in the zone.	Yes
<b>Zone Objectives</b>	<ul style="list-style-type: none"> <li>The proposed development provides opportunities for a range of retail, commercial and residential accommodation.</li> <li>In the short term jobs will be created through the construction of the development and in the longer term suitably located retail / commercial tenancies.</li> <li>The addition of residential apartments close to Epping Railway Station with links to major employment centres will encourage the use of public transport.</li> </ul>	Yes
<b>4.3 Height of Buildings</b> Control: 72m	Max Height: 72m	Yes
<b>4.4 Floor Space Ratio</b> Control: 6:1 (17,940m <sup>2</sup> ).	Total GFA: 17,940sqm (6:1)	Yes
<b>4.6 Exceptions to Development Standards</b>	None Proposed	N/A
<b>5.9 Preservation of trees or vegetation</b>	There are no trees or significant vegetation on the site	N/A
<b>5.10 Heritage conservation</b>	The subject site is not listed as a heritage item under the PLEP 2011. In addition, the site is not within the curtilage or vicinity of a listed heritage item or conservation area.	N/A
<b>6.1 Acid sulfate soils</b>	The site is identified as Class 5 acid sulfate soils. An acid sulfate soil management plan is not required.	N/A
<b>6.2 Earthworks</b>	Approximately 17.3 metres of excavation is required to accommodate the proposed basement. No earthworks plan was submitted with the development application and the stormwater drainage information does not adequately detail the basement drainage disposal system.	No

## 8. Draft Environmental Planning Instruments

### 8.1 DRAFT CONSOLIDATED CITY OF PARRAMATTA LEP 2020

The site is subject to a Planning Proposal to create a consolidated City of Parramatta Local

Environmental Plan. It is noted that the Planning Proposal has received a Gateway determination and has been publicly exhibited, and therefore is a formal matter for consideration for the purposes of section 4.15 of the Act. The primary focus of the Planning Proposal is harmonisation (or consolidation) of the existing planning controls that apply across the City of Parramatta. It does not propose major changes to zoning or increases to density controls. However, in order to create a single LEP, some changes are proposed to the planning controls applying to certain parts of the LGA. This draft LEP does not propose any changes to the controls for this site and as such, further consideration of this document is not necessary.

## 8.2 DRAFT DESIGN & PLACE SEPP 2021

The NSW Government has developed a new Design & Place State Environmental Planning Policy (Design & Place SEPP) which aims to improve the design of buildings and spaces. The Design and Place SEPP will be a principle-based SEPP, integrating and aligning good design and place considerations into planning policy, and giving effect to a number of objects of the Act including good design and amenity of the built environment, sustainable management of built and cultural heritage, and the proper construction and maintenance of buildings. It will also promote the NSW Premier's Priorities for a Better Environment (Greener Public Spaces and Greening our City. The SEPP No 65 – Design Quality of Residential Apartment Development and SEPP (Building Sustainability Index: BASIX) 2004 will be repealed and replaced into Design and Place, with relevant provisions transferred across. The Design & Place SEPP is not considered to be imminent – as the Department has flagged that it will be subject to future public consultation – and not certain – as a draft instrument has not been on exhibition. As such, it is a consideration but has minimal determinative weight. The provisions of the Design & Place SEPP are not considered to affect the development application.

## 9. Development Control Plans

### 9.1 Parramatta Development Control Plan 2011

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within PDCP 2011. Where there is conflict between PDCP 2011 and the SEPPs listed above, the SEPP controls prevail to the extent of the inconsistency and as such are not included below. The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

Development Control	Proposal	Compliance
<b>2.4 Site Considerations</b>		
2.4.1 Views and Vistas	The DCP does not identify any significant district views to or from the site.	N/A
2.4.2.3 Protection of Groundwater	Insufficient information provided to make an assessment.	No
2.4.3.1 Sedimentation	Erosion and sediment control plans would be required if the application was recommended for approval.	Yes
2.4.3.3 Salinity	The site is identified as being of low-moderate salinity potential. As such no mitigation measures are required.	N/A
2.4.5 Air Quality	Further information about air quality design considerations in accordance with the Development near Rail Corridors and Busy Roads – Interim Guideline is required to be provided. The major source of air pollution is traffic on Beecroft Road, which the submitted Design Report states is forecast to increase in traffic by 74% by 2036. Information must be provided that demonstrates how an acceptable level of air quality will be achieved within the development.	No
2.4.6 Development on Sloping Land	Earthworks are proposed for basement excavation and to set new ground levels.	No



Development Control	Proposal	Compliance
	Insufficient information is provided to determine the extent of the earthworks.	
2.4.7 Biodiversity	No tree removal is proposed	N/A
2.4.8 Public Domain	Insufficient information provided to make an assessment.	No
<b>3.1 Preliminary Building Envelope (Table 3.1.3.7)</b>		
Minimum Site Frontage: >24m	25 – 60 metres	Yes
Front Setback: 5-9m	These controls are superseded by the site-specific Epping Town Centre controls.	-
Rear Setback: 15% (~6.7m)	These controls are superseded by the site-specific Epping Town Centre controls.	-
<b>3.3 Environmental Amenity</b>		
3.3.6 Water Sensitive Urban Design	Insufficient information provided to make an assessment.	No
3.3.7 Waste Management	A waste storage room is provided in the basement and is capable of being collected regularly by Council services.	Yes
<b>3.4 Social Amenity</b>		
3.4.2 Access for People with Disabilities	Council's accessibility officer identified non-compliances with the relevant Australian Standards that are required to be address to ensure access for people with disabilities is achieved.	No
3.4.4 Safety and Security	The proposal does not contribute to the provision of any increased opportunity for criminal or anti-social behaviour. Natural surveillance of the public domain would be provided.	Yes
3.4.5 Housing Diversity and Choice <ul style="list-style-type: none"> <li>3 bed 10% - 20%</li> <li>2 bed 60% - 75%</li> <li>1 bed 10% - 20%</li> <li>10% adaptable units</li> </ul>	3 bed – 9.5% 2 bed – 46.8% 1 bed – 43.7% Adaptable – 10%	No
<b>3.5 Heritage</b>		
3.5.1 General	The site is not heritage listed and is not in the vicinity of any heritage listings.	N/A
3.5.2 Archaeology	The site is considered to be of low archaeological significance.	N/A
3.5.3 Aboriginal Cultural Heritage	The site is identified as having low Aboriginal sensitivity.	N/A
<b>3.6 Movement and Circulation</b>		
<b>3.6.1 Sustainable Transport</b>		
Car Share	2 car share spaces are proposed.	Yes
1 car share if over 50 units		
<b>3.6.2 Parking and Vehicular Access</b>		
Car Parking Control		
<u>Residential – on land within 800 metres of Epping railway station:</u> <ul style="list-style-type: none"> <li>Max. 0.4 x 56 (1-bedroom unit) = 22.4</li> </ul>	193 parking spaces are shown on the architectural plans, including: <ul style="list-style-type: none"> <li>78 residential spaces including 13 accessible spaces</li> <li>18 residential visitor spaces (including 1</li> </ul>	Yes – with exception of surplus of 10 car parking spaces allocated to commercial

Development Control	Proposal	Compliance
<ul style="list-style-type: none"> <li>• Max. <math>0.7 \times 58</math> (2-bedroom units) = 40.6</li> <li>• Max. <math>1.2 \times 12</math> (3-bedroom units) = 14.4</li> </ul> <p>Total Residential = Maximum 77.4 (78)</p> <p><u>Residential Visitors – on land within 800 metres of Epping railway station:</u></p> <ul style="list-style-type: none"> <li>• Min. <math>1 \times (126 \text{ units} \div 7) = 18</math></li> </ul> <p><u>Retail – on land within 800 metres of Epping railway station:</u></p> <ul style="list-style-type: none"> <li>• Max. <math>1 \times (3,273\text{m}^2 \text{ GFA} \div 30) = 109.1</math> (110)</li> <li>•</li> </ul> <p><u>Commercial – on land within 800 metres of Epping railway station:</u></p> <ul style="list-style-type: none"> <li>• Max. <math>1 \times (1,855\text{m}^2 \text{ GFA} \div 50) = 37.1</math> (38)</li> </ul> <p><b>Total = Maximum 226 spaces for residential, retail and commercial and minimum 18 spaces for residential visitors</b></p>	<p>accessible space and 2 Electric Vehicle spaces)</p> <ul style="list-style-type: none"> <li>• 46 retail spaces including 2 accessible spaces</li> <li>• 48 commercial spaces including 2 accessible spaces</li> <li>• 1 car wash bay</li> <li>• 2 car share spaces</li> </ul>	<p>uses. If recommended for approval, it would be a condition of consent that these spaces are reallocated to retail.</p>

Section 4.1.5 Epping Town Centre			
Control	Requirement	Proposal	Compliance
<b>4.1.5 Desired Future Character</b>	Refer to extract below.	<p>The proposal is not consistent with the desired future character of the Epping Town Centre, as outlined below.</p> <p>The proposed building form has a building length of more than 73 metres for the first 10 storeys of the building and proposes commercial and residential floorplates that are in excess of the maximum set by the DCP. The proposed bulk and massing is not considered 'slim-line' and is not compatible with the desired future character articulated by the character statement and numeric controls.</p> <p>The proposed through-site link will facilitate pedestrian movement between Beecroft Road and Rawson Street, how the link compromises pedestrian amenity through the inclusion of multiple obstructions such as lift wells, ramps and stairs. It is considered that the design of through-site link could be refined to improve pedestrian amenity and wayfinding.</p> <p>The proposed setbacks to the laneway and Beecroft Road do not comply with the relevant controls. In the case of the laneway setback, the relevant distance is set by the ADG and is significantly less than the recommended design criteria. In the case of Beecroft Road, multiple portions of the building protrude beyond the site boundary. The lack of setbacks creates a dominating built form, compromises the pedestrian scale and will result in overshadowing impacts on the laneway public domain.</p> <p>Advice received by the Design Excellence Advisory Panel also finds that the development does not adequately respond to the Epping Town Centre context and could benefit from further context analysis.</p>	<b>No</b>

Section 4.1.5 Epping Town Centre			
Control	Requirement	Proposal	Compliance
	<ul style="list-style-type: none"> <li>High density commercial, retail and residential development in the form of quality, tall slim-line towers</li> <li>Contribute to public domain improvement, new laneway connections and active ground level uses</li> <li>Minimise vehicle access points on Rawson Street</li> <li>Building tower elements setback from street alignment</li> <li>Maintain pedestrian scale at street level</li> <li>Reduce overshadowing impacts to the public domain</li> <li>New development protects amenity of adjoining properties and future building occupants</li> <li>High rise development must not result in wind tunnelling</li> </ul>		
<b>P.1 – P.7 Pedestrian Connections &amp; Laneways</b>	Width >6m Active Frontage Clear of Obstruction	<i>Pedestrian Link</i> 8 – 8.6m Yes <b>No (outdoor dining, lift landing, structures)</b>	Yes Yes <b>No</b>
	24/7 access Open to sky Dedicated	Yes <b>Partially (building projection over)</b> <b>Not proposed</b>	Yes <b>No</b> <b>No</b>
<b>P.8 – P.11 Landscaping</b>	Podium planting with appropriate soil depth and width Protect existing streets and provide new street trees in accordance with Council specifications Public Domain Plan to be provided	Podium planting is proposed, however significant amendment is required to clarify plant species, sizes and ongoing maintenance.  No Public Domain Plan was submitted with the application.	<b>No</b>
<b>C.1 Building Height</b>	72 m 22 storeys	22 storeys	Yes
<b>C.2 – C.10 Setbacks</b>  <b>Basement Podium Tower</b>   <b>Basement Podium Tower</b>   <b>Tower</b>	Beecroft* 1.5m 1.5m  >6m	1.5m Building 1.5m, non-trafficable planters encroach up to 0.5 - 1.6m Generally 6m, wintergardens encroach on Levels 4 - 8	Yes Part  Part
	Rawson* 2m 2m >8m	0m >2m >8m	No Yes Yes
	*Refer to DCP diagram below		Part
	North & South boundaries (per ADG) Laneway* (per ADG) *Refer to DCP diagram below	Refer to ADG assessment above.  Refer to ADG assessment above.	Part  No

Section 4.1.5 Epping Town Centre			
Control	Requirement	Proposal	Compliance
<b>C.4 Podium Height</b>	2-3 storeys  3 – 4 storeys on Beecroft Road Planting on Podium	Rawson Street – 3 storeys Public lane – 5 storeys Beecroft Road – 4 storeys  Planting on podium	Yes <b>No</b> Yes  Yes
<b>C.11 – C.12 Building bulk and depth</b>	<i>Residential</i> <700m <sup>2</sup> GFA <900m <sup>2</sup> Envelope  <i>Commercial</i> <1,200m <sup>2</sup> GFA  Dimensions <40m	<b>~335m<sup>2</sup> – 979m<sup>2</sup></b> <b>~900 - 1,400m<sup>2</sup> (variable)</b>  <b>1,090m<sup>2</sup> – 1,529m<sup>2</sup></b>  18-22m east-west >73m north-south	<b>No</b> <b>No</b>  <b>No</b> <b>No</b> <b>No</b>
<b>C.13 – C.15 Site Area and Amalgamation</b>	>2,000m <sup>2</sup>  Encourage site amalgamation. Applicant to demonstrate how small lots will not be isolated by new development.	>2,990m <sup>2</sup>  The applicant has provided indicative building envelopes for how lots opposite the site may be redeveloped. The feasibility of these envelopes has not been tested against the ADG and was queried by DEAP.	Yes  <b>No</b>
<b>C.16 Development along Beecroft Road</b>	Four levels of retail and commercial at ground  Consider opportunity for overpass to Epping Station	Minimum of four storeys of retail and commercial provided  Not proposed.	Yes  N/A
<b>C.30 - 35 Active Frontages</b>	>70% Active  6m-12m tenancies  <6m lobbies	Rawson Street: 56% Beecroft Road: 78%  Rawson Street: 3m Beecroft Road: 7m – 18m  Lobby A: 7 m	Yes Yes  <b>No</b> Yes <b>Part</b>
<b>C.36 Vehicle Access Points</b>	1 (Maximum 3 off Rawson Street)	1 (Rawson Street) Directly adjoins neighbouring development driveway	Yes
<b>C.57 Bicycle Parking</b>	<i>Residential</i> 1/2units (63)  <i>Retail/Commercial</i> >1/200m <sup>2</sup> (26)	126  64	Yes  Yes
<b>C.57 Motorcycle Parking</b>	1 / 25 car parking spaces = 8	15	Yes

Table 11: Assessment of the proposal against PDCP 2011.

## 10. Other Planning Controls

### 10.1 Parramatta Public Domain Guidelines

The latest Parramatta Public Domain Guidelines (PDG), released July 2017, include updated public domain requirements for the East Epping precinct, specifying paving materials, tree planting and the like. As part of the Request for Information, the applicant was advised that a complete set of public



domain alignment plans is required to be submitted for assessment prior to determination. No public domain plans were received.

## 11. Planning Agreements

No planning agreements relate to the site.

## 12. The Regulations

Matters prescribed by the Regulations to be considered in the determination of a development application have been addressed above. If the application were recommended for approval, appropriate conditions would have been recommended to ensure the following provisions of the Regulation will be satisfied:

- Clause 92 - Demolition works are to satisfy AS 2601 - 1991; and
- Clause 98 - Building works are to satisfy the Building Code of Australia.

## 13. The Likely Impacts of the Development

The likely impacts of the development have been considered in this report and are found to be inadequately resolved.

## 14. Site Suitability

The proposed development is not considered suitable for the site for the following reasons:

- The proposal does not represent orderly and economic use of the land, as it is not adequately demonstrated how adjoining sites could achieve a development that is consistent with the planning controls.
- Integrated approval and concurrence requirements from external agencies have not been granted.
- A Phase 2 detailed site investigation has been submitted to satisfy the requirements of the *State Environmental Planning Policy (Biodiversity and Hazards) 2021*.
- The design quality principles of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* are not met, with the significant variation to building separation distance criteria compromising future development of the Epping Town Centre.
- A suitable method of stormwater and groundwater drainage has not been designed for the site.
- The proposal incorporates multiple non-compliances with the site-specific development control plan for the Epping Town Centre, resulting in non-compliances with:
  - Desired future character.
  - Pedestrian connections and laneways.
  - Podium height.
  - Setbacks.
  - Floorplates.
  - Wind impacts.

## 15. Submissions

The application was notified and advertised in accordance with the Parramatta DCP 2011.

The advertisement ran for a 28-day period between 22 October 2021 and 19 November 2021. 2 submissions were received inside the notification period, and one submission outside of the notification period.

The issues raised in all public submissions are summarised and commented on as follows:

<b>Issues (Number of submissions which raise issue)</b>	<b>Comment</b>
Vehicle access arrangement on Rawson Street may conflict with other vehicle access points (2)	Vehicle access and traffic issues are considered to be inadequately resolved, specifically with reference to comments from TfNSW and mitigation measures recommended by Council's traffic engineers.
Limited car parking spaces (1)	Car parking is generally provided in accordance with the applicable rates. However, comments from TfNSW indicate that car parking provision could be further refined based on the proximity to Epping Station, which offers Sydney Trains and Sydney Metro services.
Privacy (1)	Privacy impacts as a result of inadequate separation distances are one of the key issues that are considered unacceptable.
Visual impact (1)	The built form and massing of the development is considered inconsistent with the desired future character of the Epping Town Centre.
Overshadowing of neighbouring residences (1)	The proposal does not result in unacceptable shadow impacts on neighbouring residential properties, however the overshadowing of the laneway and public domain is raised as an issue of concern.

**Table 13:** Summary of public submissions to the proposal.

## 16. Public Interest

The proposed development is not in the public interest as it does not meet statutory requirements for the granting of development consent under the EP&A Act, ISEPP, SEPP 65 and SEPP 55 and proposes multiple non-compliances with the environmental planning instruments that apply to the site. The applicant has not provided sufficient information to enable assessment of the application.

## 17. Disclosure of Political Donations and Gifts

No disclosures of political donations or gifts have been declared by the applicant or any organisation/persons that have made submissions in respect to the proposed development.

## 18. Development Contributions

As the development application is recommended for refusal, no development contributions are required.

## 19. Summary and Conclusion

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

Having regard to the assessment of the proposal from a merit perspective, Council considers that the development application does not demonstrate it meets the design quality principles of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* and is not consistent with the desired future character of the Epping Town Centre. It is considered that the proposal does not adequately resolve site planning issues related to contamination, stormwater drainage, earthworks and built form.

Further to this, the development has not been granted General Terms of Approval required for integrated development and has not been granted concurrence from the rail authority as required by the *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

The proposal does not adequately respond to the site constraints and does not satisfy the statutory requirements for development consent to be granted.

For these reasons, it is considered that the proposal is not satisfactory having regard to the matters of consideration under Section 4.15 and 4.22 of the Environmental Planning and Assessment Act 1979 and is recommended for refusal.

It is noted that the applicant has filed an appeal in the Land and Environment Court pursuant to cl. 8.7 of the EP&A Act.

## 20. Recommendation

- A. **That** the Sydney Central City Planning Panel as the consent authority refuse Consent to Development Application No. DA/944/2021 for demolition of existing buildings and construction of a part 20 storey and part 22 storey shop top housing development comprising 126 residential units and 5,128m<sup>2</sup> of commercial space over 5 levels of basement parking at 59 – 77 Beecroft Road and 72 Rawson Street, Epping for the reasons set out at Appendix 1.
- B. **That** the Sydney Central City Planning Panel as the consent authority directs Council in the conduct of the appeal in accordance with cl. 8.15(4) of the Act.
- C. **That** submitters be notified of the decision.

## APPENDIX 1 – REASONS FOR REFUSAL

1. The application is not satisfactory in accordance with cl. 4.47 of the *Environmental Planning and Assessment Act 1979* as the integrated development approval body will not grant an approval that is required in order for the development to be lawfully carried out. A water supply work approval is required in accordance with cl. 90(2) of the *Water Management Act 2000*. WaterNSW, as the approval body, do not support the proposed method of groundwater dewatering and have not issued General Terms of Approval.
2. The application is not satisfactory in accordance with the Environmental Planning and Assessment Regulation 2000 and cl. 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the BASIX certificates submitted do not specify the correct information in relation to heating and cooling loads and omit a window schedule.
3. The application is not satisfactory in accordance with cl.4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, which requires consideration of the relevant provisions of the *State Environmental Planning Policy (Transport and Infrastructure) 2021*. The following relevant provisions are not satisfied:
  - a) Excavation in, above, below or adjacent to rail corridors (cl. 2.98): Sydney Metro (the rail authority) have declined to grant concurrence due to lack of detail in relation to the shoring design and the proposal to install temporary anchors in the Sydney Metro reserve, which is not permitted under the Sydney Metro Underground Corridor Protection Guidelines.
  - b) Development adjacent to rail corridors (cl. 2.97): Advice provided by Sydney Trains (the rail authority) recommends that an Electrolysis Risk Assessment is undertaken to assess the potential impacts of stray currents from the rail corridor and that reflective surfaces must limit glare and reflectivity to the satisfaction of the rail operator. Whilst the rail authority recommends these requirements are enforced through a condition of consent, it is considered that these matters should be resolved prior to the determination of a development application due to the potential for significant impacts on design. The development application does not consider electrolysis risk or reflectivity as part of the DA.
  - c) Traffic generating development (cl. 2.121): Advice provided by Transport for NSW states that comment cannot be provided as additional information is required in relation to:
    - i. SIDRA modelling
    - ii. Management of vehicular access to basement car parking
    - iii. Car parking and traffic generation calculations should be provided in accordance with the TfNSW 'Guide to Traffic Generating Development' and further justification in relation to adjusted traffic generation rates
    - iv. Impacts on bus stops on Beecroft RoadAccordingly, accurate assessment cannot be made on the accessibility of the site and potential traffic safety, road congestion or parking implications of the development.
4. The application is not satisfactory in accordance with cl.4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, which requires consideration of the relevant provisions of the *State Environmental Planning Policy (Resilience and Hazards) 2021*. Clause 4.6 of the SEPP is not satisfied as the Phase 1 Environmental Investigation submitted indicates the potential for contamination on the site. A Phase 2 detailed investigation and Remediation Action Plan is required to make an assessment of whether the land is suitable or can be made suitable after remediation for the proposed sensitive uses. A Phase 2 Environmental Investigation and Remediation Action has not been provided with the development application.
5. The application is not satisfactory in accordance with cl.4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, which requires consideration of the relevant provisions of the *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*. The following relevant provisions are not satisfied:

- a) Apartment Design Guide (cl. 28(c)) – Variations to design criteria as follows:
  - i. Visual Privacy (cl. 3F): The design proposes separation distances to the west (laneway boundary) that are significantly less than the recommended design criteria.
  - ii. Solar and Daylight Access (cl. 4A): Solar access to living rooms and balconies of apartments and communal open space is not adequately demonstrated.
  - iii. Natural Ventilation (cl. 4B): Natural ventilation is not adequately demonstrated, as no window schedule was provided to demonstrate sufficient inlet and outlet size and a number of single aspect apartments are included in the natural ventilation calculation.
  - iv. Ceiling Heights (cl. 4C): Unclear information is submitted that indicates ceiling heights will be less than the recommended height due to the location of the bulkhead.
  - v. Apartment Size and Layout (cl. 4D): Design Excellence Advisory Panel advice recommends that layouts can be amended to improve internal circulation and privacy. In addition, a number of apartments include habitable rooms (studies) with no windows.
  - vi. Common Circulation and Spaces (cl. 4F): Corridors in excess of 12 metres are proposed that do not provide sufficient amenity or articulation.
  
6. The application is not satisfactory in accordance with cl.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, which requires consideration of the relevant provisions of the Parramatta Local Environmental Plan 2011. Insufficient information is provided to assess the impacts of the proposed earthworks as required by cl. 6.2.
  
7. The application is not satisfactory in accordance with cl.4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, which requires consideration of the relevant provisions of the Parramatta Development Control Plan 2011. The following relevant controls are not satisfied:
  - a) Epping Town Centre: The proposed built form is incompatible with the desired future character of the Epping Town Centre.
  - b) Pedestrian Connections and Laneways: The proposed through-site link is compromised by obstructions and does not achieve sufficient active frontages.
  - c) Podium Height
    - Control: 2 -3 storeys
    - Proposed: 5 storeys (podium to laneway)
  - d) Rawson Street Basement Setback
    - Control: 2 metres
    - Proposed: 0.7 metres
  - e) Beecroft Road Setback
    - Control: 1.5 metres setback at podium, 6 metres above podium.
    - Proposed: Projections into public domain at Level 1 and Level 2, and projections more than 600mm on tower portion.
  - f) Residential Floorplates
    - Control: 700sqm GFA maximum
    - Proposed: approximately 335m<sup>2</sup> – 979sqm
  - g) Commercial Floorplates
    - Control: 1,200sqm GFA maximum
    - Proposed: approximately 1,090m<sup>2</sup> – 1,529sqm
  - h) Housing Diversity and Choice:
    - Control: 1BR = 10-20%, 2BR = 60-75%, 3BR = 10-20%
    - Proposed: 1BR = 43.7%, 2BR = 46.8%, 3BR = 9.5%

- i) Stormwater Management: Details of basement drainage disposal system not provided, detail of management of emergency overflow from OSD required and OSD calculations required.
- 8. The application is not satisfactory for the purposes of section 4.15(1)(e) of the Environmental Planning and Assessment Act as the application is not in the public interest for the following reason:
  - a. The proposal does not meet statutory requirements for the granting of development consent under the EP&A Act, ISEPP, SEPP 65 and SEPP 55 and proposes multiple non-compliances with the environmental planning instruments that apply to the site. The applicant has not provided sufficient information to enable assessment of the application.
- 9. Insufficient information has been provided to enable a proper assessment of the development application in relation to the following matters:
  - a. BASIX compliance.
  - b. Contamination of the site and suitability for sensitive land uses.
  - c. Air quality impact on the development from the adjacent road corridor.
  - d. Electrolysis risk from the adjacent rail corridor.
  - e. Reflectivity impact on the development on the adjacent rail corridor.
  - f. Traffic impacts.
  - g. Universal access.
  - h. Wind impacts at ground level and on the podium.
  - i. Acoustic impacts from podium retail and commercial uses on residential uses.
  - j. Solar access and natural ventilation to residential apartments.
  - k. Stormwater drainage.
  - l. Basement drainage disposal.
  - m. Landscape design.
  - n. Public domain design.
  - o. Demolition and earthworks.









