



SYDNEY CENTRAL CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSCC-298
DA Number	DA/716/2020
LGA	City of Parramatta Council
Proposed Development	Section 8.3 review of determination for DA/716/2020 for lot consolidation, demolition and construction of a 26 storey mixed-use development comprising 2 retail tenancies on the ground floor, 3 levels of podium car parking comprising 76 car spaces and 108 residential units above. The application is Nominated Integrated development under the provisions of the Water Management Act 2000. The application is to be determined by the Sydney Central City Planning Panel.
Street Address	38-42 East Street, Granville NSW 2142
Applicant/Owner	Toplace Pty Ltd/ G Station Pty Ltd
Date of DA lodgement	28 October 2021
Number of Submissions	One submission
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 4A of the EP&A Act)	General Development Over \$30 Million Cost of Construction proposed = \$35,395,865
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none">• Environmental Planning and Assessment Act and Regulations• State Environmental Planning Policy (Resilience and Hazards) 2021.• State Environmental Planning Policy (Biodiversity and Conservation) 2021.• State Environmental Planning Policy (Affordable Rental Housing) 2009.• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.• State Environmental Planning Policy (Transport and Infrastructure).• State Environmental Planning Policy (Planning Systems) 2021.• State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.• Parramatta Local Environmental Plan 2011.
Report prepared by	Sohini Sen, Senior Development Assessment Officer
Report date	22 June 2022

Summary of s4.15 matters

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

Yes

Legislative clauses requiring consent authority satisfaction

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

e.g. Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

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

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions? **Not**

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

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

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

1. Executive Summary

This report considers a Section 8.3 review of determination for DA/716/2020 for lot consolidation, demolition and construction of a 26 storey mixed-use development comprising 2 retail tenancies on the ground floor, 3 levels of podium car parking comprising 76 car spaces and 108 residential units above, landscaping and ancillary public domain works.

An assessment has been undertaken against the provisions of Section 8.2-8.5 of the Environmental Planning and Assessment Act 1979 and it is considered that the development proposal, as submitted under this review application and as amended during the course of assessment adequately addresses the reasons for refusal of the original application.

Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments has not identified any fundamental issues of concerns. The application is therefore satisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979.

This report recommends that the Panel:

- Grant development consent for development proposal subject of this application, subject to the recommended conditions.

2. Key Issues

- Variation to LEP building height standard.

SYDNEY CENTRAL CITY PLANNING PANEL BRIEFING

The application was presented to the Sydney Central City Planning Panel at a briefing meeting on 24 March 2022. A response to the issues raised by the panel is provided below.

Key Issues Discussed

- *Amended and additional information addressing the original Panel's reasons for refusal accompanies the application. In particular, amended survey information and amended plans with reduced height and FSR.*
Comment: Noted.
- *The revised design proposes an Architectural Roof Feature, which exceeds the maximum LEP building height. The Panel notes that a written cl. 4.6 request to vary the maximum height of buildings has not been submitted. The Panel suggests that Council advise the Applicant to consider its options in this regard.*
Comment: The applicant has submitted a Clause 4.6 variation statement to address the non-compliant building height. An assessment of the variation is provided within the LEP table further in this report.
- *Sydney Trains have provided concurrence but a referral to Water NSW remains outstanding.*
Comment: Water NSW have provided comments on the review application and have provided their concurrence.
- *There are variations to the site specific DCP requirements for numbers of car parking spaces and rear setbacks. Council considers the variations to the rear setbacks as minor. Council's Engineering section are satisfied that the proposed shortfall in car spaces (29) is justified given proximity to Granville railway station and other forms of public transport.*
Comment: Noted. Car parking is addressed within the referrals section and DCP compliance table within this report.

Matters to be finalised

- *Council's Design Excellence Jury will consider the revised design at a meeting to be held in the coming weeks.*
Comment: The Design Excellence Jury have provided their endorsement of the amended proposal and confirm that design excellence has been maintained.
- *The Applicant is to submit further information regarding flooding.*
Comment: The applicant has provided additional flooding information which has been reviewed by Council's Catchment and Development Engineer and is supported.
- *Council's ESD consultant is yet to provide comments.*
Comment: Council's ESD consultant has provided their comments and has recommended conditions of consent.
- *Water NSW to provide a response.*
Comment: Water NSW have provided comments on the review application and have provided their concurrence.
- *The Panel requires the assessment report to provide an analysis comparing the previously refused design and the revised design in a clear, concise, and accurate manner.*
Comment: A detailed assessment of the proposal under this review application is provided within this report. A section detailing how the review application has responded to the reasons for refusal of the original application is provided in the assessment under Section 8 of this report.

3. The Site and Surrounds

The subject site is known as 38 – 42 East Street, Granville NSW 2142 and comprises 3 allotments (Lot 1 DP 1009146, Lot 1 DP 195784 and Lot 1 DP 996285). The subject site is located on the southern side of East Street, approximately 45m east from the intersection of East Street and Bridge Street, Granville. The total site area is 1,496.1m². The site has a 51.075m frontage to East Street.

The land currently accommodates a mixture of one and two storey residential buildings. The site adjoins the railway corridor to the rear and adjoins railway land to the north-west. The site immediately to the south-east and directly opposite the site are a multi-storey mixed use development. Heritage items are also located opposite the site at 19 and 21 - 23 East Street. The site is also approximately 170m from Duck Creek to the south-east of the site.

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

The site is located 130 metres from Granville Transport Interchange and Granville Town Centre. The western railway line is located to the south of the site and the M4 Motorway is located to the north of the site. The site is located in close proximity to the Parramatta City Centre. Several key arterial road networks are also in close proximity to the site. These include Parramatta Road and the M4 Motorway connecting to Western Sydney and the Sydney CBD; Woodville Road, connecting south-western Sydney to Parramatta; and James Ruse Drive, connecting North-western Sydney to Parramatta.

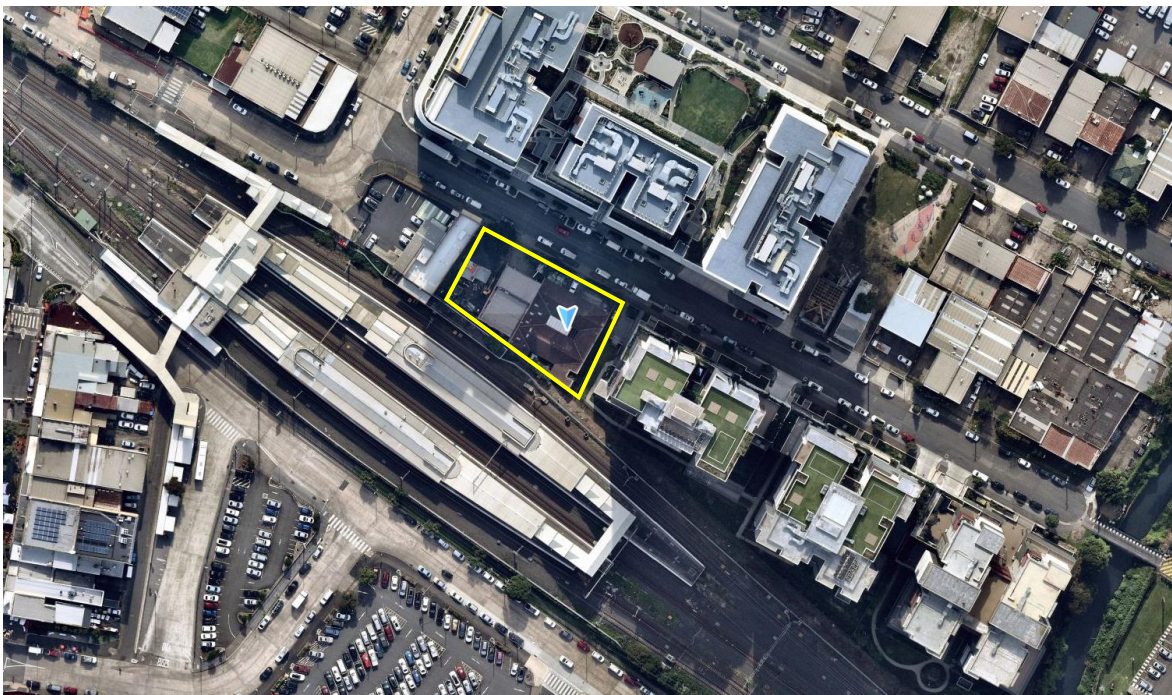


Figure 1: Aerial map with subject site outlined in yellow (Nearmap)



Figure 2: Zoning Map (Parramatta Local Environmental Plan 2011)

4. Development History

Planning Proposal

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

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

The site was deemed suitable for the planning proposal subject to achieving design excellence. It is noted that no additional FSR or Height bonus is applicable for achieving design excellence under the amendments.

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

- Increasing the maximum height of buildings from 52m to 82m.
- Exempting the site from the operation of the floor space ratio (FSR) sliding scale to enable the maximum mapped FSR of 6:1.
- Including a site-specific provision that excludes enclosed balconies (wintergardens) on the building façade facing the railway line from the gross floor area (GFA) calculation used for determining the FSR of a proposed building on the site.
- Requirement of a design excellence competition.

The intention of the Planning Proposal is to apply the recommendations of the Parramatta Road Corridor Urban Transformation Strategy (PRCUTS) to address the current 'mismatch' of the existing height and FSR controls permitted in the B4 Mixed Use zone in Granville that do not allow the maximum FSR to be achieved within the height limit by increasing the

maximum Height of Building control. The proposed increase of height is consistent with the recommended height controls under the PRCUTS, meeting the recommended 80m height limit with a 2m variation, which is considered minor and still in keeping with the objectives of the PRCUTS.

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

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

Architectural Design Competition

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

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

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

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

- *Building Height - The top of building height is above the maximum 92m. Prior to the lodgement of a DA, this non-compliance should be discussed with Council's Development Assessment Officers. The Jury supports the architectural roof feature provided no additional FSR is approved.*
- *Communal Open Space - The provision of a range of indoor and outdoor communal open spaces on level 4 (podium rooftop) and level 25 (tower rooftop) provide a high level of amenity to residents and their visitors. The design development of these spaces should ensure:*
 - *Visual/acoustic privacy impacts to apartments are minimised, and*
 - *Wind downdraft impacts are addressed.*
- *South-Eastern Apartments - The layouts of all south-eastern corner apartments should be reconsidered to improve the location of kitchens, dining and living areas.*

Central island kitchens are not considered an optimal configuration. The Jury would recommend further design development is undertaken to improve these layouts.

- *Solar shading / Sunhoods - Consider increasing the depth and colour/reflectivity of the tower façade sunhoods to assist in betterer articulating/animating the facades while also maximising solar shading.*
- *Southern Facade - Further consideration and design development of the southern podium elevation is required. This is a highly visible component of the building (along the railway corridor), and there is the potential for a public art component which may relate the sites history both Indigenous and European to be integrated into the developed design.*
- *Flood Transition - It is acknowledged that step free thresholds are established at suitable levels to facilitate access for those with disabilities and to protect from overland flooding. It is recommended that the design team consult with Council's flood engineer and public domain officers to ensure that the proposal is consistent with Council's vision for development along East Street.*
- *Environmentally Sustainable Design - The Jury recommend that the design team addresses the comments and improvement opportunities identified by Council's Independent ESD advisor.*

It is noted that the Design Jury recommended that the amendments be returned to the Jury for review prior to the lodgement of the Development Application. Council's records do not indicate that this process was undertaken prior to the lodgement of the current application. Notwithstanding this review application has been referred to the Design Jury who have endorsed the current design and confirm that design excellence has been maintained.

These additional design amendments have been considered and incorporated into the development scheme lodged under this Development Application. A detailed discussion of these recommendations is provided further in this report.

5. The Proposal

The subject Development Application seeks development consent for lot consolidation, demolition and construction of a 26 storey mixed-use development comprising 2 retail tenancies on the ground floor, 3 levels of podium car parking comprising 76 car spaces and 108 residential units above, landscaping and ancillary public domain works.

The proposed development includes the following components:

- Lot consolidation of Lot 1 DP 996285, Lot 1 DP 1009146 and Lot 1 DP 195784;
- Demolition of existing structures including part of rear deck which is currently on Sydney Trains owned land;
- Construction of a 26 storey mixed-use development comprising 2 retail tenancies on the ground floor. Tenancy 1 is to have a floor area of 224m² and Tenancy 2 will have a floor area of 29m².
- 3 levels of podium car parking comprising of 76 car spaces.
- 108 residential units in the tower above. The unit mix are as follows:
 - 19 x 1 bedroom
 - 80 x 2 bedroom
 - 9 x 3 bedroom



Figure 3: 3D perspective of proposed development as viewed from East Street (Krikis Tayler Architects)

The development has a total gross floor area of 8,968m² and includes 253m² commercial floor area. The proposed building height is 82.66m.

The key differences between the development scheme subject of this Development Application and the scheme that was awarded design excellence during the design competition phase include:

- Increase in parking from 61 spaces to 76 spaces.
- Decrease in amount of commercial ground floor area from 274m² to 253m².
- Reduced building height.
- Internal reconfiguration of south-eastern apartments.

Amended plans were received during the course of assessment of this application with the following changes:

Amended architectural plans were submitted with the following changes:

- Additional window schedule details.
- Additional façade sections.
- Additional sketch drawings to respond to Design Excellence Jury requirements to be incorporated into the recommended conditions of consent.

Other amended documentation submitted includes:

- Revised site survey plan.
- Flood statement.
- Clause 4.6 variation statement.
- Revised NatHERS Certificates.
- Revised BASIX Certificate.
- Geotechnical report.

The amended plans and documentation are the subject of this assessment and have been awarded design excellence by the design jury.

6. Referrals

The following internal and external referrals were undertaken:

Design Excellence Jury	<p>Supported, subject to conditions of consent.</p> <p><u>Ground Floor</u> The jury confirm that the DA drawings retain the key aspects of the winning design competition scheme specifically: Single vehicular entry at the north-western corner of the site Active uses including two retail tenancies activating East Street and outdoor dining opportunities</p> <p><u>Pocket Park</u> The jury felt that the resolution of Pocket Park was inferior to the winning design competition concept as it removed the grass component. The applicant explained that the change from the small area of grass to a paved area was based on the advice of the landscape consultant that grass in this location on an existing slab is unlikely to be viable. Further as the area is likely to be a thoroughfare to the retail/outdoor dining it will degraded quickly. Following the meeting the applicant provided further written advice from the Landscape Consultant addressing this issue and an updated design solution.</p> <p>The applicant also provided an amended concept for the design and location of the Public Art within the Pocket Park. The jury agrees that this is a preferred location and recommends that the DA drawings be amended to reflect the revised configuration and design.</p> <p><u>Parking</u> The jury acknowledge that no additional basement parking is proposed.</p> <p><u>Podium Expression</u> The jury continue to support the resolution of the podium and subject to a re-design of the southern façade (that will be addressed below), this key element has been retained in the DA drawings.</p> <p><u>Curved Glass</u> This was a key element in the winning design competition scheme and the jury acknowledge that this has been carried through in the DA drawings. The jury recommend Council impose a condition on the DA consent to ensure the retention of the curved glass.</p> <p><u>Apartment Layouts</u></p>
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	<p>The jury notes that this layout has been carried through in the DA drawings. The submitted sketch plan of the south-eastern corner apartment satisfactorily addresses the jury's comments regarding apartment layout. This is to be reinforced via a condition of consent.</p> <p><u>Tower Form</u></p> <p>The Jury support the tower form, which is split into two distinct components, separated by an east-west corridor providing district views, natural light and air. The provision of a south side core incorporating 3 lifts, efficient scissor fire-stair configuration and air conditioner condenser platforms should be retained.</p> <p><u>Building Height</u></p> <p>The jury is supportive of the height of the building, acknowledging that the final DA scheme is one storey less than the winning design competition entry.</p> <p><u>Communal Open Space</u></p> <p>The jury considers that the configuration of COS is inferior compared to the winning design competition entry. The DA drawings propose external COS on level 4 and internal and external COS on level 25. The jury felt that the COS on level 4 should also include an internal room.</p> <p>The applicant has prepared a sketch plan (SK 220519-0620-20) that converts unit 401 into a Communal Room that opens onto the communal terrace. The jury recommends that a condition of consent be included requiring the plans to be amended to reflect the additional COS.</p> <p><u>South-eastern Apartments</u></p> <p>The jury did not consider the revised layout was an acceptable solution. The jury supported the relocation of the balcony but felt the entry to the units proximity to the kitchen was inferior.</p> <p>The applicant has prepared a sketch plan (SK 220519-0620-10) that proposes an alternate layout to the southern units. The jury supports the revised layout and recommends that a condition of consent be included requiring the plans to be amended to reflect this new layout.</p> <p><u>Solar Shading</u></p> <p>The jury accept the applicant's assessment that the depth of the sunhoods is appropriate to ensure weather protection in summer and solar penetration in winter. The jury acknowledges the change in the finish of the sills, and this has improved the articulation of the tower façade.</p> <p><u>Southern Façade</u></p> <p>The jury felt that the design of the southern façade that formed part of the winning Design Competition scheme was a superior design outcome and the location of the public art on this façade weakened its expression to the railway line. The jury recommend that the public art be relocated and the design of the southern elevation revert back to the design competition entry.</p>
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	<p>The applicant provided a revised sketch plans (SK220523-0620-50, SK220523-0620-51 & SK220523-0620-52) for the southern elevation.</p> <p>The applicant advised that <i>'The design development leading to the DA was the adoption of a significantly ventilated carpark to improve the ESD. This concept was incorporated into the public art, so with the shifting of the public art, the architects were keen to retain the natural ventilation. The revised concept retains the solidity brought by the masonry but with the introduction of banded louvers for carpark ventilation. The longer bands of louvres in the darker masonry walls are set vertically with panels oriented in different directions to change the appearance depending on the viewing angle to give a sense of motion and add interest to train passengers'</i>.</p> <p>The jury supports the revised concept design and recommends the DA drawings be amended to reflect the sketch plan via a condition of consent.</p> <p>The applicant's public art consultant Site Image provided a revised concept for the location of public art within Pocket Park. The jury supports this amendment and recommends the Public Art Plan be updated to reflect this via a condition of consent.</p> <p><u>Flood Transition</u> The jury recommends the applicant liaise with Council's Public Domain Section to ensure an appropriate transition from East Street to Pocket Park. Council's Senior Catchment and Development Engineer has reviewed the plans and raises no objections.</p> <p><u>Environmentally Sustainable Design (ESD)</u> The jury acknowledge the advice of Council's planner that these issues have now been resolved and Council's Independent ESD advisor supports the DA.</p> <p>The Jury consider that the design is consistent with the original Design Excellence Competition winning scheme, prepared by Krikis Tayler Architects.</p> <p>The Jury agree that the design exhibits Design Excellence and meets Design Excellence objectives of the Parramatta LEP 2011.</p>
ESD Consultant	Supported, subject to conditions of consent.
Accessibility Officer	<p>A comprehensive Access Report by Accessibility Solutions (NSW) Pty Ltd (D08288833) has been provided identifying several issues that will be required to be addressed at the construction certificate (CC) stage of the project. These additional comments are not limited to or replace those mentioned within the access report and does not relinquish the applicant from its obligation to provide a fully compliant detailed universally accessible design.</p> <p>There doesn't appear to be a direct path of travel to the pocket packet park from within the development.</p> <p>Access is required to the communal areas, rooms, retail and open spaces via compliant paths of travel.</p>

	<p>Low level thresholds are required to provide access to all the outdoor areas including the retail tenancies.</p> <p>The communal spaces, rooms and pocket park will require suitable accessible, inclusive features/furniture.</p> <p>Note: AS1428.2 provides guidance on accessible furniture including, reach ranges and varying heights of tables and seats with back and arm rests etc.</p> <p><u>Planning Comment:</u> The above items are addressed via recommended conditions of consent.</p>
Catchment and Development Engineer	<p>Supported, subject to conditions.</p> <p>The Applicant engaged flood consultants SGC who have advised of ground floor flood planning level from overland flow (1% AEP plus 500mm freeboard) as 7.5m AHD.</p> <p>The architectural plans have been amended to raise the building so that the ground floor of habitable rooms is RL 7.50m AHD. The site is above the PMF from Duck Creek and so there is no requirement for evacuation or shelter in place.</p> <p>The proposed development is draining to the street. There is a split OSD tank. 1 in the 4th level of the building and extends down to the ground level (approximately 5m deep) and the second is within the driveway. Both OSD drain in accordance with Council's drainage policy and have been designed to be in compliance with UPRCT 3rd edition.</p> <p>Furthermore, the OSD systems have been increased in size to cater for wind driven rain as a direct relation to the height of the building in accordance with AS3600. Additional non-standard condition have been implemented to ensure appropriate safety measures are in place to service and maintain such a deep OSD tank.</p> <p>The applicant has also implemented WSUD measures by way of a propriety products that will be connected to the OSD system with a high flow bypass chamber. A review of the WSUD system indicated that the applicant's development site meets the required targets set in Council's DCP as well as the sites PSD by way of accommodating for the 3 months storm for the WSUD system and adjustment of the orifice plate.</p>
Heritage Advisor	No objections raised.
Tree and Landscape Officer	<p>Supported, subject to conditions of consent.</p> <p>The revised landscape plans have been adjusted to meet some of the outstanding items listed in the assessment report. The main items affecting the landscape were around the % deep soil zone, this I believe has been addressed. Some minor changes to the landscape design have occurred predominantly to the north-western side which have been reviewed in this assessment. The revised landscape plans for the ground level, podium level 4 and level 24 have been reviewed and are adequate. Some minor changes are required which are listed below. They will be conditioned accordingly:</p>

	<p>a) No details have been provided for the typical planting arrangements to show proposed soil depths and soil volumes.</p> <p>b) The small round planter indicating a <i>Cupaniopsis anacardioides</i> (Tuckeroo) tree to be joined up with the periphery edge planting to enable the adequate soil volume required to support the mature growth of this tree be achieved (as per the Apartment Design Guidelines 4P Planting on Structures).</p> <p>c) Some plant species are to change at ground level and on the roof level 24.</p> <p>d) Larger trees are required on the roof level 4 and underground guying is required as opposed to above ground staking due to the increase in wind loading at greater heights.</p> <p>e) The proposed small lawn on level 4 should be changed to synthetic turf for maintenance reasons.</p> <p>f) Just as a note to the Architect, the CGI showing the external façade on the Architectural plan A701 shows trailing plants spilling over the edge of the level 4 roof terrace. This is incorrect and not reflected in the planting plans. Hedge species are shown here instead.</p> <p>There is only one large Bottlebrush tree in excellent condition located in the front garden of 42 East St. This tree is approved to be removed to facilitate the development.</p>
<p>Traffic and Transport Engineer</p>	<p>Supported, subject to conditions.</p> <p><u>Car Parking</u></p> <p><i>RMS Guide to Traffic Generating Developments</i> <i>High density residential flat buildings (Metropolitan Sub-Regional Centres)</i></p> <ul style="list-style-type: none"> • 0.6×19 (one-bedroom unit) = 11.4 • 0.9×80 (two-bedroom units) = 72 • 1.4×9 (three-bedroom unit) = 12.6 • Total = 96 • Visitor: $1 \times (108 \text{ units} \div 5) = 21.6$ (22) <p>Total residential parking = 118 spaces (applicable based on ADG Objective 3J-1)</p> <p>Retail: <i>Parramatta DCP 2011 – Granville Town Centre</i></p> <ul style="list-style-type: none"> • Minimum 1 space per 60m² GFA = $1 \times (253\text{m}^2 \text{ of retail area} \div 60) = 4.2$ (5) • Maximum 1 space per 30m² GFA = $1 \times (253\text{m}^2 \text{ of retail area} \div 30) = 8.4$ (8) <p>Total retail parking = minimum 5 and maximum 8 spaces Total = minimum 123 and maximum 126 spaces</p> <p>76 parking spaces are provided, as shown on the submitted plans (the use of parking spaces has not been shown on the plans).</p> <p>The Apartment Design Guide (ADG)-Objective 3J-1 states: <i>“For development on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan area; the minimum</i></p>

	<p><i>car parking requirement for residents and visitors set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant Council, whichever is less.”</i></p> <p>It is noted that the site is within 800 metres from the Granville railway station. As a result, the above objective of the ADG can be applied to this development.</p> <p>The proposed development has car parking shortfall of 47 spaces. However, the proposed development is located within the immediate vicinity of bus services along Bridge Street in addition to Granville Railway Station. It is accordingly expected that a proportion of the future residents within the subject development will utilise the surrounding public transport infrastructure to access destinations throughout the Sydney metropolitan area.</p> <p>Maximum parking rates are also applied to some of the uses within the Granville Town Centre (refer to Table 3.6.2.4 of the Parramatta DCP 2011). For this reason, it is considered that lower parking provision will help to mitigate traffic and parking implications of the proposed development on the surrounding road network. As a result, the provision of 76 car parking spaces is considered adequate for the proposed development.</p> <p>It is noted that this parking provision is in line with the proposed parking rates based on the <i>Paramatta Road Corridor Urban Transformation Strategy</i> (not approved yet) which considers maximum parking rates for Granville Town Centre.</p> <p><u>Bicycle Parking</u></p> <p>Residential Flat Buildings: 1 bicycle space per 2 dwellings = $1 \times (108 \text{ units} \div 2) = 54$</p> <p>Retail Tenancies: 1 bicycle space per 200m² of floor space = $1 \times (253\text{m}^2 \text{ of retail area} \div 200) = 1.3 \text{ (2)}$ Total = 56 bicycle spaces</p> <p>54 bicycle parking spaces for residential units are provide, as shown on the Level 24 Floor Plan (Drawing No. A207 – Issue 20) and 6 bicycle parking spaces are provided for visitors, as shown on the Ground Floor Plan (Drawing No. A200 – Issue 20).</p> <p><u>Loading</u></p> <p>1 loading bay per 400m² GFA of retail areas = $1 \times (253\text{m}^2 \text{ of retail area} \div 400) = 0.64 \text{ (1)}$ Total = 1 loading bay</p> <p>One (1) truck turntable is provided, as shown on the Ground Floor Plan (Drawing No. A200 – Issue 20).</p> <p>The dimensions of the parking spaces and aisle width, as shown on the submitted DA plans = 2.4m wide x 5.4m long and 5.8m aisle width At blind aisle, the aisle is extended 1m beyond the last parking space on each row of the parking spaces and minimum 300mm space is provided where the side boundary of a space is a wall or a column, as shown on the submitted plans.</p>
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	<p>The dimensions and configuration of the disabled parking space = dedicated space plus shared space (2.4m wide x 5.4m long with a bollard installed on the shared space).</p> <p>Column locations, as shown on the submitted plans, meet the requirements of AS2890.</p> <p>Swept path plans for vehicle access from the access driveway through to parking spaces and the loading bay have been submitted with the Site Access, Parking & Internal Circulation Assessment report.</p> <p>A 6.0m two-way entry and exit driveway to the podium carpark and the loading dock from East Street, as shown on the Ground Floor Plan (Drawing No. A200 – Issue 20). 5.5m two-way internal ramps are provided between podium levels.</p> <p>Ground Floor Plan (Drawing No. A200 – Issue 20) shows that roller shutter door will be provided at the access driveway to the podium parking areas and the loading dock. However, the location of the roller shutter door may result in queuing back across the footpath. It is recommended that the proposed roller shutter door be located where adequate queuing length between the vehicular control point and the property boundary is provided in accordance with Clause 3.4 of AS 2890.1-2004 to allow free influx of traffic which will not adversely affect traffic or pedestrian flows in the frontage road. This requirement can be conditioned.</p> <p><u>Traffic Generation</u></p> <p>The submitted Site Access, Parking & Internal Circulation Assessment report estimates that the proposed development results in a traffic generating capability of 36 weekday commuter peak hour vehicle trips.</p> <p>The report also states that the estimated traffic generation is significant comparable to the previously assessed and approved traffic generating capacity (under DA/738/2014) for the site of 35 weekday commuter peak hour vehicle trips.</p> <p>The report, finally, concludes that the traffic generating capacity of the subject development is comparable or less than that previously assessed and approved and, therefore, is not anticipated to result in any noticeable impact on the overall operational performance of the surrounding road network.</p>
Environmental Health Officer (Waste)	Supported, subject to conditions of consent.
Environmental Health Officer (Acoustic)	Supported, subject to conditions of consent.
Environmental Health Officer (Contamination)	Supported, subject to conditions of consent.
Social Outcomes	Supported, subject to conditions of consent.

Public Art Officer	Supported, subject to conditions of consent.
Endeavour Energy	Supported, subject to conditions of consent.
Transport for NSW (formerly RMS)	The original application was referred to RMS and conditions of consent were recommended. These are included within the draft conditions of consent.
Water NSW	Supported, subject to general terms of approval.
Sydney Trains	Supported, subject to general terms of approval.

7. Assessment under Environmental Planning and Assessment Act 1979

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

Section 4.15: Evaluation

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

Provision	Comment
Section 4.15(1)(a)(i) - Environmental planning instruments	Refer to section 8.
Section 4.15 (1)(a)(ii) - Draft environmental planning instruments	Refer to section 9.
Section 4.15 (1)(a)(iii) – Development control plans	Refer to section 10.
Section 4.15 (1)(a)(iia) - Planning agreement	Refer to section 11.
Section 4.15 (1)(a)(iv) - The Regulations	Refer to section 12.
Section 4.15 (1)(b) – The likely impacts of the development	Refer to section 13.
Section 4.15 (1)(c) – The suitability of the site for development	Refer to section 14.
Section 4.15 (1)(d) – Any submissions	Refer to section 15.
Section 4.15 (1)(e) – The public interest	Refer to section 16.

8. Environmental Planning Instruments

Overview

The instruments applicable to this application comprise:

- Environmental Planning and Assessment Act 1979.
- Water Management Act 2000.
- State Environmental Planning Policy (Resilience and Hazards) 2021.
- State Environmental Planning Policy (Biodiversity and Conservation) 2021.
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- State Environmental Planning Policy (Transport and Infrastructure).
- State Environmental Planning Policy (Planning Systems) 2021.
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- Parramatta Local Environmental Plan 2011.

Compliance with these instruments is addressed below.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

8.2 Determinations and decisions subject to review

1. *The following determinations or decisions of a consent authority under Part 4 are subject to review under this Division:*
 - a. *the determination of an application for development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),*
 - b. *the determination of an application for the modification of a development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),*
 - c. *The decision of a council to reject and not determine an application for development consent.*
2. *However, a determination or decision in connection with an application relating to the following is not subject to review under this Division:*
 - a. *a complying development certificate,*
 - b. *designated development*
 - c. *Crown development (referred to in Division 4.6).*
3. *A determination or decision reviewed under this Division is not subject to further review under this Division.*

Planning Comment: The review application relates to a determination by the Sydney Central City Planning Panel, therefore is subject to Division 8.2 of the Environmental Planning and Assessment Act 1979.

The application was determined by the Parramatta Local Planning Panel on 22 July 2021. The application is not a Complying Development Certificate or designated development, nor is the application an application of the Crown.

8.3 Application for and conduct of review

1. *An applicant for development consent may request a consent authority to review a determination or decision made by the consent authority. The consent authority is to review the determination or decision if duly requested to do so under this Division.*
2. *A determination or decision cannot be reviewed under this Division:*
 - a. *After the period within which any appeal may be made to the Court has expired if no appeal was made, or*
 - b. *After the Court has disposed of an appeal against the determination or decision.*

Planners Comment:

The subject determination review application was lodged on 28 October 2021. The COVID-19 Legislation Amendment (Emergency Measures – Attorney General) Act 2020 extended the timeframe for the review of a determination to 12 months, for applications determined within the prescribed period. DA/716/2020 was refused on 22 July 2021, which was within the prescribed period.

Accordingly, the assessment of the Review application is to be determined by 22 July 2022. An assessment of the application against the relevant planning instruments and controls forms the basis of this review.

3. *In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development*

consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.

Planners Comment:

The applicant has made some amendments to the proposed development subject of the original application that was refused. A comparison of the original application and proposed amendments made under this review application are provided below.

Key differences between the original proposal and the review proposal

An evaluation of the proposal submitted under this review application against the original development application is provided below.

Original Development Application	Review Application	Comment
Building Height = 86.01m	Building Height = 82.66m	The building height has been reduced closer to the maximum height standard. It is noted that the proposal still exceeds the maximum building height, and a variation is sought under Clause 4.6 of LEP 2011.
Gross Floor Area = 10,277m ²	Gross Floor Area = 8,968m ²	<p>The Gross Floor Area (GFA) has been reduced through the reduction in the number of apartments and some retail area.</p> <p>It is noted that the original assessment report identified an inadequate survey plan and resulting incorrect site area calculations.</p> <p>A correct survey plan and revised site area calculations were submitted with this review application. The Gross Floor Area complies with the maximum FSR for the site.</p>
Retail Floor Area = 257m ²	Retail Floor Area = 253m ²	The retail floor area is slightly reduced.
Number of storeys = 26	Number of storeys = 26	No change.
Car parking = 86 spaces over three podium levels	Car parking = 76 spaces over three podium levels	The number of car parking spaces has been reduced.
114 residential units: - 22 x 1 bedroom, 83 x 2 bedroom and 9 x 3 bedroom	108 residential units: - 19 x 1 bedroom, 80 x 2 bedroom and 9 x 3 bedroom	The number of 1 bedroom and 2 bedroom apartments have been reduced.

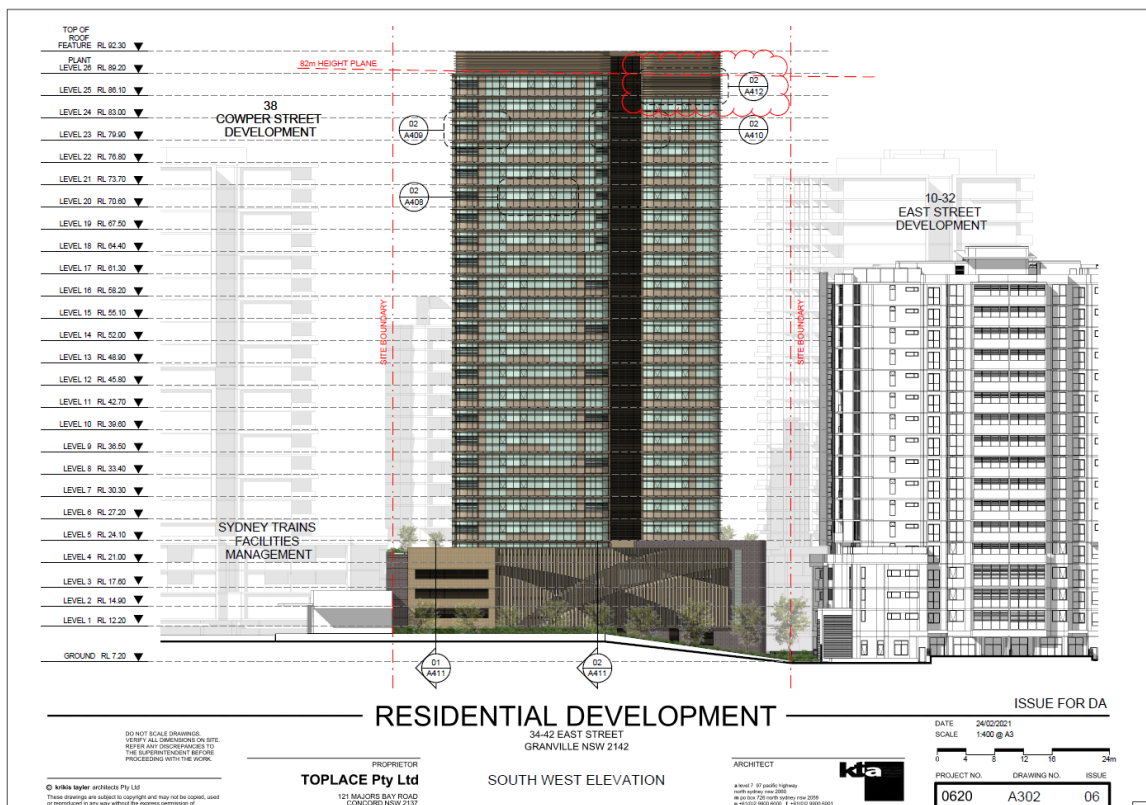


Figure 3. South-west Elevation of development under original application.

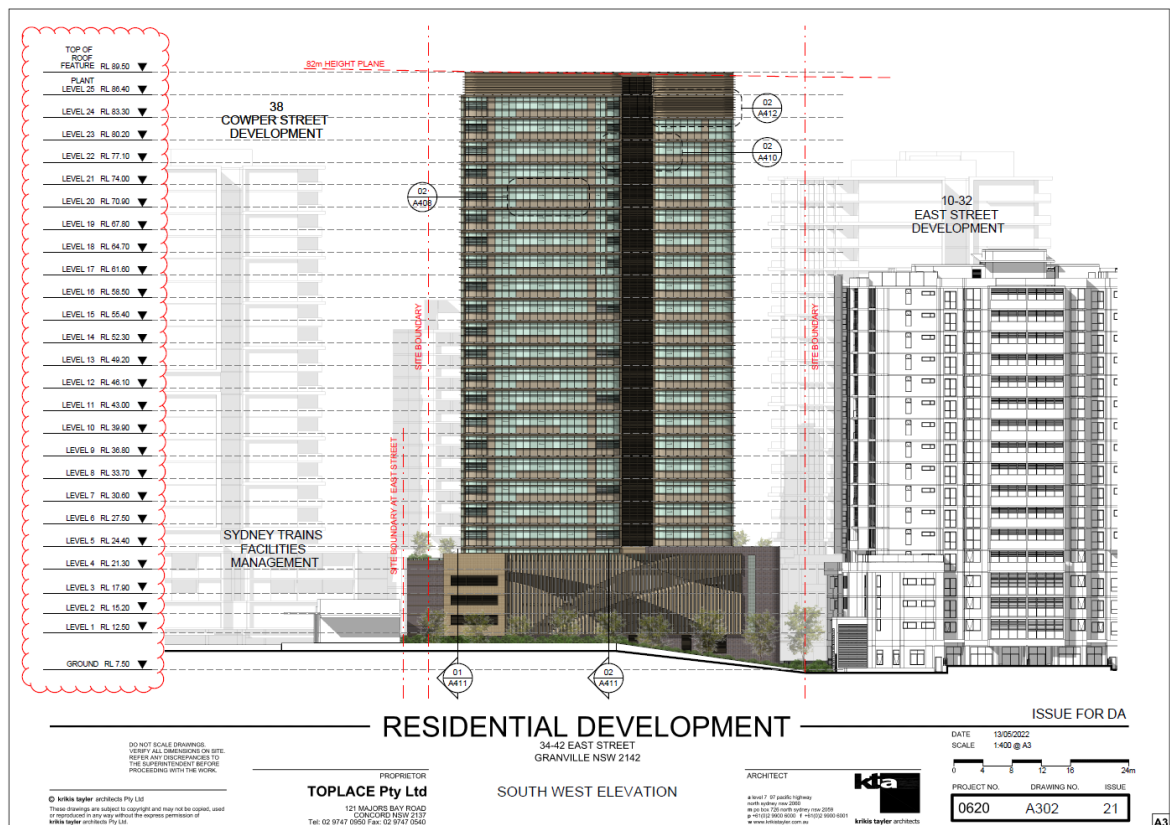


Figure 4. South-west Elevation of development under subject review application.

The proposal as amended is substantially the same development; being demolition, tree removal and construction of a 26 storey mixed use development.

4. *The review of a determination or decision made by a delegate of a council is to be conducted:*
 - a. *by the council (unless the determination or decision may be made only by a local planning panel or delegate of the council), or*
 - b. *By another delegate of the council who is not subordinate to the delegate who made the determination or decision.*
5. *The review of a determination or decision made by a council is to be conducted by the council and not by a delegate of the council.*

Planners Comment: The subject review application is to be determined by the Sydney Central City Planning Panel.

8.4 Outcome of review

After conducting its review of a determination or decision, the consent authority may confirm or change the determination or decision.

Planners Comment: The proposed subject of this review application addresses the reasons for refusal under the original application as follows:

The proposed development does not exhibit a satisfactory proposal, in that insufficient information remains outstanding resulting in the inability of the BASIX Certificate to be assessed and endorsed pursuant to the BASIX SEPP.	<p>The review application was accompanied with a BASIX certificate and associated BASIX documentation.</p> <p>Council's ESD consultant has reviewed the submitted documentation and raises no objections to the proposal subject to recommended conditions of consent.</p>
The proposed development does not exhibit a satisfactory proposal, in that it did not provide documentation to confirm that the development will not introduce electro-magnetic interference to the railway signalling and telecommunications systems pursuant to Clause 85 of the SEPP (Infrastructure).	<p>The review application was accompanied with supplementary engineering plans, geotechnical report, site survey plans, and section details.</p> <p>Sydney Trains has reviewed the submitted documentation and raises no objections to the proposal subject to recommended conditions of consent.</p>
The proposed development does not exhibit a satisfactory proposal, in that it did not provide that details of pile loads and whether piles will be under tension pursuant to Clause 86 of the SEPP (Infrastructure) and therefore Sydney Trains could not issue concurrence.	<p>The review application was accompanied with supplementary engineering plans, geotechnical report, site survey plans, and section details.</p> <p>Sydney Trains has reviewed the submitted documentation and raises no objections to the proposal subject to recommended conditions of consent.</p>
<p>The proposed development does not exhibit a satisfactory proposal in that it did not provide information to allow the proper assessment of the following principles contained within SEPP 65 – Design Quality of Residential Apartment Development:</p> <ol style="list-style-type: none"> i. Principle 1 - Context and neighbourhood ii. Principle 2 - Built form and scale iii. Principle 3 - Density 	<p>The review application was accompanied by a satisfactory survey plan, architectural plans and supporting documentation.</p> <p>An assessment of the proposal under this review application has been undertaken and the development is consistent with the provisions of SEPP 65.</p>

iv. Principle 4 - Sustainability v. Principle 5 - Landscape vi. Principle 6 - Amenity vii. Principal 8 - Housing Diversity and Social Interaction viii. Principle 9 - Aesthetics	Refer to assessment under SEPP 65 further in this report.
<p>The proposed development does not exhibit a satisfactory proposal, in that it that it did not provide information to allow the proper assessment of the following controls contained within the Apartment Design Guide:</p> <p>i. 3D Communal and public open space ii. 3E Deep soil zones iii. 3J Bicycle and car parking iv. 4A Solar and daylight access v. 4K Apartment Mix vi. 4N Roof design vii. 4U Energy efficiency</p>	<p>The review application was accompanied by a satisfactory survey plan, architectural plans and supporting documentation.</p> <p>An assessment of the proposal under this review application has been undertaken and the development is consistent with the provisions of the Apartment Design Guide (ADG).</p> <p>Refer to ADG compliance table further in this report.</p>
<p>The proposed development does not exhibit a satisfactory proposal and does not have the endorsement of the Design Excellence Jury and that it has achieved design excellence.</p>	<p>The documentation submitted under this review application was referred to the Design Excellence Jury.</p> <p>The jury endorses the proposed design and confirms that design excellence is maintained.</p>
<p>The proposed development does not exhibit a satisfactory proposal, in that it is inconsistent with the following provisions prescribed within Parramatta LEP 2011:</p> <p>i) Clause 2.3 - the development is inconsistent with the zone objectives of the B4 Mixed Use zone ii) Clause 4.3 Height of Buildings iii) Clause 4.4 Floor Space Ratio iv) Clause 4.5 Calculation of floor space ratio and site area v) Clause 4.6 Exceptions to development standards vi) Clause 5.6 Architectural roof features vii) Clause 6.1 Acid Sulfate Soils viii) Clause 6.12 Design Excellence</p>	<p>The review application was accompanied by a satisfactory survey plan, architectural plans and supporting documentation.</p> <p>An assessment of the proposal under this review application has been undertaken against the provisions of the Parramatta LEP 2011. The proposal is consistent with the LEP provisions.</p> <p>Refer to LEP compliance table further in this report.</p>
<p>The proposed development does not exhibit a satisfactory proposal, in that it is inconsistent with the following provisions prescribed within the Parramatta Development Control Plan 2011:</p> <p>i. Section 3.1.1 Height ii. Section 3.2.1 Building Form and Massing</p>	<p>The review application was accompanied by a satisfactory survey plan, architectural plans and supporting documentation.</p> <p>An assessment of the proposal under this review application has been undertaken against the provisions of the Parramatta Development Control Plan 2011 (DCP 2011).</p>

<ul style="list-style-type: none"> iii. Section 3.2.3 Roof Design iv. Section 3.3.1 Landscaping v. Section 3.3.5 Solar Access and Ventilation vi. Section 3.3.6 Water Sensitive Urban Design vii. Section 3.6.2 Parking and Vehicular Access viii. Part 4 – Special Precincts – 4.1.6 – Granville Town Centre <ul style="list-style-type: none"> a) Landscaping and Deep Soil ix. Section 4.3.7 Granville Precinct <ul style="list-style-type: none"> a.) Desired Future Character b.) Maximum building heights c.) Setbacks d.) Traffic 	<p>The proposal is consistent with the DCP provisions. Refer to DCP compliance table further in this report.</p>
<p>The applicant has failed to submit sufficient details to Council. The following documents were insufficient:</p> <ul style="list-style-type: none"> i. Current / Correct Survey Plan ii. Architectural Plans (as amended to comply with FSR and height) iii. Clause 4.6 for Height variation iv. Acid Sulphate Management Plan v. Documentation to satisfy Sydney Trains requirements vi. OSD Calculations and OSD Plans as requested by Council's Development Engineer. <p>Accordingly, the proposal fails to satisfy Section 4.15(b),(c) & (e) of the Environmental Planning and Assessment Act, 1979.</p>	<p>The review application is accompanied with revised plans and documentation and addresses the insufficient documents as follows:</p> <ul style="list-style-type: none"> • A current and correct survey plan has been submitted. • Revised architectural plans have been submitted which have been amended to comply with the FSR and reduce the building height. • A Clause 4.6 variation statement has been submitted. • A Geotechnical Report was submitted with the review application that concluded that based on the laboratory test results, the soils within the maximum sampling depth of 9m did not provide positive indications of Actual Acid Sulphate Soils or Potential Acid Sulphate Soils and that an Acid Sulphate Soils Management Plan is not required for this site. • Additional documentation was submitted with this application and satisfies Sydney Trains requirements. • OSD calculations and plans have been submitted to the satisfaction of Council's Development Engineer.
<p>The proposal fails to satisfy the relevant considerations under Section 4.15(1)(c) Environmental Planning and Assessment Act 1979 for built environment, suitability of the site, and the public interest.</p>	<p>An assessment of the proposal under this review application has been undertaken and it is considered that the proposal satisfies the relevant considerations under Section 4.15(1)(c) of the Environmental</p>

	Planning and Assessment Act 1979 with regard to built environment, suitability of the site and the public interest.
The proposal fails to satisfy the relevant considerations under Section 4.15(1)(e) Environmental Planning and Assessment Act 1979 in that the adverse impacts generated by the development due to non-compliances with the applicable planning controls is not beneficial for the local community and as such, is not in the wider public interest	An assessment of the proposal under this review application has been undertaken and it is considered that the proposal is generally compliant with the relevant planning controls, will have a benefit to the local community and is in the wider public interest.

The documentation and plans submitted with this application satisfactorily address the reasons for refusal under the original application. As such, a recommendation for approval subject to conditions is made.

WATER MANAGEMENT ACT 2000

The proposed development is integrated development under Section 4.46 of this Act. The groundwater table will be intercepted as a result of the proposed pile excavation. The original application was referred to Water NSW and general terms of approval have been obtained. The review application was referred back to Water NSW and no further conditions or changes to the previous conditions are recommended.

Section 91 of the Water Management Act 2000 is applicable as the development involves a controlled activity approval as a result of the proposed piles. The application was referred to the Water NSW and general terms of approval have been provided.

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 – Remediation of Land

Chapter 4 of this Policy requires that the consent authority must consider if land is contaminated and, if so, whether it is suitable, or can be made suitable, for a proposed use.

The site is not identified in Council's records as being contaminated. The site appears to have been largely residential premises until the 1950s where the site was used for various commercial / industrial land uses. Since then, the site has been used for activities such as mechanical repairs, car wash, warehouse and storage facilities.

No areas of the site or directly neighbouring properties are listed on 'Contaminated Land Record of Notices' or 'List of NSW contaminated sites notified to the EPA'.

A Preliminary Site Investigation (PSI) was submitted with the original application and notes that the key areas of concern for this site relate to potential impact of soil and groundwater from the previous commercial / industrial land use, the adjacent railway corridor, and the presence of fill (which may contain former building demolition rubble). A Remediation Action Plan was submitted with this review application.

However, as no basement works are proposed, further investigations to soil and groundwater would not be required in this instance.

As demolition of the existing structures are proposed, the following associated works were recommended:

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

Council's Environmental Health Officer has reviewed the application and raises no objections subject to recommended conditions of consent.

Therefore, in accordance with Chapter 4 of this policy, the land is suitable for the proposed development being a mixed use development, which includes a residential component.

STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

The application has been assessed against the requirements of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

Chapter 2 seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

Chapter 10 seeks to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained, and to provide a set of clear planning principles for land within the Sydney Harbour Catchment

Clause	Comment
Chapter 2 – Vegetation in non-rural areas - Part 2.3 Council permits for clearing of vegetation in non-rural areas	
Clause 2.6 – Clearing that requires permit or approval	The proposed development involves removal of one tree from the site identified as a Weeping Bottlebrush tree. Council's Tree and Landscape Officer has reviewed the application and raise no objections to the removal of the vegetation from the site subject to conditions.
Chapter 10 – Sydney Harbour Catchment – Part 10.2 Planning Principles	
Clause 10.10 – Sydney Harbour Catchment	The site is not located on the foreshore or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of this clause are not applicable to the proposed development. The proposal is consistent with this clause.

STATE ENVIRONMENTAL PLANNING POLICY – BASIX 2004

The application is accompanied by a BASIX certificate that lists commitments by the applicant as to the manner in which the development will be carried out. A BASIX certificate was submitted with this application. Conditions are recommended to ensure BASIX commitments are fulfilled during the construction of the development.

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Clause	Comment
Clause 2.48 Development likely to affect an electricity transmission or distribution network	<p>The application is subject to Clause 2.48 of the SEPP as the development proposes works within the vicinity of electricity infrastructure. A padmount substation is currently located within the site and is proposed to be removed to accommodate a pocket park along the north-east corner. Provisions of a new substation to service the development will be accommodated within the built form.</p> <p>Endeavour Energy has reviewed this proposal and raised no objections subject to conditions of consent.</p>
Clause 2.97 Development adjacent to rail corridors	<p>The application is subject to Clause 2.97 as the site adjoins the railway corridor to the south. The proposal was referred to Sydney Trains for review and concurrence has been provided.</p> <p>The proposal satisfies the requirements of this clause.</p>
Clause 2.98 Excavation in, above, below or adjacent to rail corridors	<p>The application is subject to Clause 2.98 where ground penetration is required. Whilst the proposal does not accommodate a basement, it does require deep piles. The proposal was referred to Sydney Trains for review and concurrence has been provided.</p> <p>The proposal satisfies the requirements of this clause.</p>
Clause 2.99 Impact of rail noise or vibration on non-rail development	<p>The application is subject to Clause 2.99 as the proposal involves residential accommodation. An Acoustic Report was submitted reviewing the proposal in accordance with the LAeq levels specified under Clause 2.99 (3) of the SEPP.</p> <p>The Acoustic Report recommends noise attenuating measures to protect and achieve the acoustic levels appropriate for a residential development.</p> <p>Council's Health Officer reviewed the application and the Acoustic Report and raised no objections to the proposal subject to conditions of consent.</p>
Clause 2.118 Development with frontage to a classified road	<p>The application is not subject to Clause 2.118 of the SEPP as the site does not have frontage to a classified road.</p>
Clause 2.119 Impact of road noise or vibration on non-road development	<p>The application is not subject to Clause 2.119 of the SEPP as the average daily traffic volume of East Street is less than 20,000 vehicles.</p>
Clause 2.121 Traffic-generating development	<p>The application is not subject to Clause 2.121 of this Policy (Traffic Generating Development) as less than 300 dwellings are proposed. Notwithstanding, the original application was referred to Roads and Maritime Services (RMS), who did not raise any objection to the proposed development subject to recommended conditions of consent.</p> <p>The application was therefore not referred as part of this review application as the intensity of the development is less than the original development.</p>

STATE ENVIRONMENTAL PLANNING POLICY (PLANNING SYSTEMS) 2021

As this proposal has a Capital Investment Value of more than \$30 million, Schedule 6 of this Policy provides that the Sydney Central City Planning Panel is the consent authority for this application.

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

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

Design Quality Principles

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

Requirement	Comment
Principle 1: Context and Neighbourhood Character	The design of the proposal responds to the site context, particularly with regards to the desired future character of the area comprising of mixed use development. The built form generally responds to the height and FSR controls applicable for the site. The proposal is appropriate given the site context as it provides active street frontages along East Street and additional housing in close proximity to a major centre and transport interchange.
Principle 2: Built Form and Scale	The built form is appropriate for the site and is generally consistent with the building envelope and footprint controls prescribed by the Parramatta LEP 2011 and Parramatta DCP 2011. The proposal is consistent with the Apartment Design Guide requirements in terms of building alignments, proportions, type and manipulation of building elements. The proposal has been designed with respect to neighbouring buildings and is positioned within the site to minimise impacts arising from the close proximity to neighbouring developments.
Principle 3: Density	The proposal results in a density appropriate for the site and its context in terms of floor space yield, number of apartments and potential number of residents. The proposed density of the development is sustainable and responds to the availability of infrastructure, public transport, community facilities and environmental quality.
Principle 4: Sustainability	A BASIX Certificate has been submitted with the application and the required design measures are incorporated into the design of the building. Additional BASIX requirements will be addressed at the Construction Certificate stage of the development.
Principle 5: Landscape	The proposed landscaping on the site is located on primarily on the ground and podium levels and provides amenity for the communal open spaces and retail spaces on these levels. The landscaping is consistent with the landscape character of the locality.
Principle 6: Amenity	The proposed development is satisfactory with regards to amenity and has been designed to optimise internal amenity through orientation, visual and acoustic privacy, solar access, natural ventilation, apartment layout, storage areas and service areas.
Principle 7: Safety	The proposal satisfactorily addresses safety and provides opportunities for passive surveillance to the street frontage and communal areas of the site through the use of balconies addressing the street frontage and glazed openings. The car park area has

Requirement	Comment
	been designed for secure access to ensure that the area remains accessible to only the building occupants and their visitors.
Principal 8: Housing Diversity and Social Interaction	The proposal comprises a mix of apartments ranging in type, size and affordability in order to provide housing choice for different demographics, living needs and budgets in close proximity to public transport. The development provides housing which suits the existing and future social mix and provide for the desired future community.
Principle 9: Aesthetics	The built form is appropriate with regard to the composition of building elements, textures, materials and colours which reflect the use, internal design and structure of the building. The building responds aesthetically to the environment and context, and appropriately contributes to the desired future character of the area.

Architectural Design Excellence Jury

An Architectural Design Excellence Competition was held for this site and the development proposal subject of this application was referred to the Design Excellence Jury for their review. As such, the application was not required to be referred to City of Parramatta's Design Excellence Review Panel. Refer to Referrals section of this report for comments provided by the Design Excellence Jury in relation to this proposal.

Apartment Design Guide

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

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

Clause	Design Criteria	Comments	Comply
Part 3 – Siting the Development			
3A Site Analysis	Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	A site analysis has been submitted.	Yes.
3B Orientation	Buildings along the street frontage define the street, by facing it and incorporating direct access from the street. Where the street frontage is to the east or west, the rear buildings should be orientated to the north. Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west.	Pedestrian entry is provided off East Street. The street frontage along East Street is oriented north-east. The building is oriented to the street frontage. East Street is oriented to the north-east. There is one building proposed on the site.	Yes. Yes. Yes.

3C Public Domain interface	<p>Transition between private and public domain is achieved without compromising safety and security.</p> <p>Amenity of the public domain is retained and enhanced.</p>	<p>The proposal provides a transition between the private and public domain interface. Apartments are located above the ground level and provide passive surveillance to the ground level.</p> <p>Public domain plans have been submitted and the public domain is retained and enhanced.</p>	<p>Yes.</p> <p>Yes.</p>												
3D Communal and public open space	<p>Communal open space (COS) has a minimum area equal to 25% of the site, with minimum 3m dimensions.</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm mid-winter.</p> <p>Facilities are provided within communal open spaces and common spaces for a range of age groups (see also 4F Common circulation and spaces), incorporating some of the following elements:</p> <ul style="list-style-type: none">• seating for individuals or groups• barbecue areas• play equipment or play areas• swimming pools, gyms, tennis courts or common rooms	<p>Required: 374.03m² Proposed: 384m² (26%)</p> <p>The submitted shadow diagrams indicate that the proposed communal open space, which is north facing, achieves minimum of 50% direct sunlight to the usable part of the communal open space for a minimum of 2 hours between 9am and 3pm mid-winter.</p> <p>Outdoor seating areas and communal areas are provided on the podium level.</p>	<p>Yes.</p> <p>Yes.</p> <p>Yes.</p>												
3E Deep soil zones	<p>Deep soil zones are to meet the following minimum requirements:</p> <table><tr><th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr><tr><td>Less than 650m²</td><td>-</td><td></td></tr><tr><td>650m² – 1,500m²</td><td>3m</td><td>7%</td></tr><tr><td>Greater than 1,500m²</td><td>6m</td><td></td></tr></table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m ²	-		650m ² – 1,500m ²	3m	7%	Greater than 1,500m ²	6m		<p>Proposed: 202m² (14%) not considering minimum 3m dimensions.</p> <p>Deep soil areas are provided at the ground and podium level. While the proposal is non-compliant when considering the minimum dimensions for deep soil, the deep soil area provision is acceptable given that a number of smaller areas are provided on the podium level which are capable of mature tree planting.</p>	<p>NO but acceptable.</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)													
Less than 650m ²	-														
650m ² – 1,500m ²	3m	7%													
Greater than 1,500m ²	6m														

	<div>Greater than 1,500m² with significant existing tree cover</div> <div>6m</div> <div>Required: 104.7m²</div>														
3F Visual Privacy	<div>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</div> <table><tr><th>Building Height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>	Building Height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	<div>The site contains one street frontage and adjoins a railway corridor. As such, the northern and southern boundaries are sufficiently separated from buildings to the north and south.</div> <div>Up to 4 Storeys (podium level) Nil setback (western boundary) 3m (eastern boundary)</div> <div>5-8 Storeys 9m-12m (eastern boundary) 9m (western boundary)</div> <div>Over 9 Storeys 9m-12m (eastern boundary) 9m (western boundary)</div>	NO – refer to discussion below.
Building Height	Habitable rooms and balconies	Non-habitable rooms													
up to 12m (4 storeys)	6m	3m													
up to 25m (5-8 storeys)	9m	4.5m													
over 25m (9+ storeys)	12m	6m													
Non-compliance discussion – Building separation It is noted that the building separation for the south-eastern part of the development on levels over nine storeys) do not meet the minimum building separation requirements under the ADG. A variation can be considered in this instance as the site is effectively an isolated site and there are minimal windows along the elevation of the adjoining residential flat building. The site adjoins Sydney Trains owned land to the west. As such, it is considered that no significant adverse privacy impacts result from the non-compliance.															
3G Pedestrian access and entries	<div>Building entries and pedestrian access connects to and addressed the public domain.</div> <div>Access, entries and pathways are accessible and easy to identify.</div>	<div>Pedestrian entries are located off East Street.</div> <div>Pedestrian access through the site is satisfactory. Entries achieve equitable access to all parts of the development.</div>	<div>Yes.</div> <div>Yes.</div>												
3H Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	Vehicular access from East Street is provided. Separate pedestrian access is provided.	Yes.												
3J Bicycle and car parking	<div>For development in the following locations:</div> <div>- on sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area: or</div> <div>- on land zoned, and sites within</div>	Based on RMS guidelines, the required number of parking spaces is 118 spaces.	No, but considered acceptable.												

	<p>400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre.</p> <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p>	<p>76 car parking spaces are provided which is a shortfall of 47 spaces.</p> <p>Maximum parking rates are also applied to some of the uses within the Granville Town Centre (refer to DCP compliance table). For this reason, it is considered that lower parking provision will help to mitigate traffic and parking implications of the proposed development on the surrounding road network.</p> <p>Council's Traffic and Transport Engineer has reviewed the proposal and raises no objection to the parking shortfall and 76 car parking spaces is considered adequate for the proposed development.</p>	
Part 4 - Amenity			
4A Solar and daylight access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.	84% of units comply – see Principle 4 – sustainability above.	Yes.
4B Natural ventilation	<p>Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>70% of all apartments are cross ventilated.</p> <p>The balconies of the apartments at 10 storeys or greater allow adequate natural ventilation and cannot be enclosed with the exception of a number of apartments located on the south-western portion of the development that contain winter gardens that can be fully enclosed. A condition of consent is included requiring adequate permanent openings in these areas to allow for ventilation.</p> <p>No cross over or cross through apartments exceed 18m in depth.</p>	<p>Yes.</p> <p>Able to comply.</p> <p>Yes.</p>

4C Ceiling heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:			3.1m floor to floor with slab thickness no greater than 300m are provided throughout the development.	Yes.
	Minimum Ceiling Height				
	Habitable rooms	2.7m			
	Non-habitable	2.4m			
		2.7m main living area			
	For 2 storey apartments	2.4m second floor where it does not exceed 50% of the apartment area.			
	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope.			
	Located in mixed use areas	3.3m for ground and first floor to promote future flexibility of use.			
4D Apartment Size and Layout	Studio 35m ² 1 bedroom 50m ² 2 bedroom 70m ² 3 bedroom 90m ²			Studio N/A 1 bedroom 50m ² (min.) 2 bedroom 70m ² (min.) 3 bedroom 90m ² (min.)	Yes.
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.			Complies.	Yes.
	Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry)			Complies.	Yes.
	Habitable room depths are limited to a maximum of 2.5 x ceiling height. 2.5 x 2.7 = 6.75m			Refer to below as units have open plan layouts.	N/A.
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.			Complies.	Yes.
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).			Complies.	Yes.
	Bedrooms have a minimum dimension of 3m.			Complies.	Yes.
	Living rooms or combined living/dining rooms have a minimum width of: - 3.6m for studio and 1 bedroom apartments. - 4m for 2 and 3 bedroom apartments.			Complies.	Yes.
4E – Private open space	Primary balconies as follows			The proposal complies.	Yes.
	Dwelling type	Minimum Area	Minimum Depth		

and balconies	Studio	4 m ²	-	The proposal complies.	Yes.
	1 Bedroom	8 m ²	2m		
	2 Bedroom	10 m ²	2m		
	3 Bedroom	12 m ²	2.4m		
	The minimum balcony depth to be counted as contributing to the balcony area is 1m.				
For apartments at ground level <i>or on a podium or similar structure</i> , a private open space is provided instead of a balcony. It must have a minimum area of 15 m ² and a minimum depth of 3m.					
4F – Common circulation and spaces	Max. apartments off a circulation core on a single level is eight.			5 units are provided off a lift core within proposed Tower B	Yes.
	10 storeys and over, max apartments sharing a single lift is 40.			The building is more than 10 storeys. Three lifts are provided for 108 apartments.	Yes.
4G - Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided			Adequate storage areas are provided.	Yes.
Apartment type		Storage size volume	At least 50% of the required storage is to be located within the apartment.		
Studio		4 m ²			
1 bedroom		6 m ²			
2 bedroom		8 m ²			
3 bedroom		10 m ²			
4H Acoustic Privacy	Various objectives.			The proposal complies with the various objectives.	Yes.
4J Noise and Pollution	Various objectives.			The proposal complies with the various objectives. A podium is proposed which will assist in shielding noise to apartments above.	Yes.
Part 4 - Configuration					
4K Apartment Mix	Various objectives.			The proposal provides: 19 x 1-bed units (18% mix), 80 x 2-bed units (74% mix) and 9 x 3-bed unit (8% mix) which is consistent with the objectives.	Yes.
4L Ground floor apartments	Various objectives.			No ground floor apartments are proposed.	N/A.
4M Facades	Various objectives.			The proposal complies with the various objectives.	Yes.

4N Roof design	Various objectives.	The proposed roof design complies with the various objectives.	Yes.
4O Landscape design	Various objectives.	The proposal complies with the various objectives.	Yes.
4P Planting on structures	Various objectives.	Planting is proposed within the and podium level. Minimum soil depths are shown and meet the objectives of this section of the ADG.	Yes.
4Q Universal design	Various objectives.	The proposal complies and provides 10% of apartments as adaptable apartments and at least 20% of apartments incorporating the Liveable Housing Guideline's silver level universal design features.	Yes.
4R Adaptive reuse	Various objectives.	The proposal complies with the various objectives.	Yes.
4S Mixed Use	Various objectives.	The proposal complies with the various objectives.	Yes.
4T Awnings and signage	Various controls under SEPP 64 apply.	Building signage is shown on the submitted elevation detail drawings however no signage is formally included as part of the scope of works. Awnings are proposed along the East Street frontage.	Yes.
Part 4 - Performance			
4U Energy efficiency	Various objectives.	The proposal complies with the various objectives subject to the recommendations and conditions provided by Council's ESD consultant.	Yes.
4V Water management and conservation	Various objectives.	The proposal meets the objectives.	Yes.
4W Waste Management	Various objectives.	Refer to DCP compliance table further in this report.	No design criteria under SEPP 65.
4X Building Maintenance	Various objectives.	The proposal complies with the various objectives.	Yes.

PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2011

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

Development Standard	Compliance
Clause 2.3 Zone objectives and land use table	<p>The site is zoned B4 Mixed Use. The proposed development is defined as a mixed use development and is permissible with development consent within the B4 zone. The proposal meets the objectives of the B4 Mixed Use zone as the development:</p> <ul style="list-style-type: none"> • Provides a mixture of compatible land uses; • Integrates suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling; • Contributes to an active, vibrant and sustainable neighbourhood; • Creates opportunities to improve the public domain and pedestrian links; • Supports the higher order Zone B3 Commercial Core while providing for the daily commercial needs of the locality; and • Protects and enhances the unique qualities and character of special areas within the Parramatta City Centre.
Clause 2.7 Demolition requires development consent	Yes. Consent is sought for the demolition of the existing buildings on the site.
Clause 4.3 Height of Buildings Allowable = 82m Proposed = 82.66m	NO. Refer to Clause 4.6 discussion after this table.
Clause 4.4 Floor Space Ratio <u>Allowable:</u> 6:1 (8,976.6m ²) <u>Proposed:</u> 6:1 (8,968m ²)	Yes.
Clause 4.5 Calculation of floor space ratio and site area	The Floor Space Ratio and Site Area has been calculated in accordance with this clause.
Clause 4.6 Exceptions to development standards	Yes. A Clause 4.6 variation statement was submitted with this review application.
Clause 5.1A Development on land intended to be acquired for public purposes	N/A. The site is not identified on this map.
Clause 5.6 Architectural roof features	N/A. The applicant has indicated that an architectural roof feature is proposed however the panel indicated during the briefing meeting that the portion of the roof exceeding the maximum building height cannot be considered as an architectural roof feature. As such, the provisions of this clause have not been considered and the non-compliant building height is addressed via the provisions of Clause 4.6 of this LEP.
Clause 5.7 Development below mean high water mark	N/A. The proposal is not for the development of land that is covered by tidal waters.
Clause 5.10 Heritage Conservation	Yes. The site does not contain a heritage item and is not located within a heritage conservation area.

Aboriginal Places of Heritage significance	Yes. The site is identified as Low Aboriginal Heritage Sensitivity.
Clause 5.11 Bush fire hazard reduction	N/A. The site is not identified as bushfire prone land.
Clause 6.1 Acid Sulphate Soils	Yes. The site is classified as containing Class 4 and 5 Acid Sulphate Soils. While a basement is not proposed, the development requires deep piles which require works below 2m. A geotechnical report was submitted with the application and concludes that the soils within the maximum sampling depth of 9m did not provide positive indications of Actual Acid Sulphate Soils or Potential Acid Sulphate Soils and that an Acid Sulphate Soils Management Plan is not required for this site.
Clause 6.2 Earthworks	Yes. Council's Development Engineer has reviewed the application and considers that the proposed earthworks are satisfactory.
Clause 6.3 Flood planning	Yes. The site is not identified by council as being flood prone however is impacted by overland flooding. Council's Catchment and Development Engineer has reviewed this application and raises no objections to the proposed development. The development satisfies the objectives of this clause.
Clause 6.4 Biodiversity protection	N/A. The site is not identified on this map.
Clause 6.5 Water protection	N/A. The site is not identified on this map.
Clause 6.6 Development on landslide risk land	N/A. The site is not identified on this map.
Clause 6.7 Affected by a Foreshore Building Line	N/A. The site is not located in the foreshore area.
Clause 6.12 Design Excellence	Clause 6.12 is applicable to this development as it involves the erection of a new building which will have a height over 55m and has a capital investment value of over \$100 million. The building design is a winner of a competitive design process. An assessment of the relevant matters for consideration under this clause are provided below.
<p>Clause 6.13 Design Excellence generally</p> <p>(1) The objective of this clause is to ensure that development exhibits design excellence that contributes to the natural, cultural, visual and built character values of Parramatta.</p> <p><u>Comment:</u> The proposed development meets the objectives of this clause. The design was the winning entry of an architectural design competition. While some amendments to the design have been made between the design competition and Development Application stage, the key elements of the building that were commended by the design jury have been retained. The design jury has reviewed the architectural plans subject of this assessment and consider that the building design exhibits design excellence.</p> <p>(2) <i>This clause applies to development involving the erection of a new building or external alterations to an existing building on land identified as "A" on the Design Excellence Map.</i></p> <p><u>Comment:</u> Noted.</p>	

(3) In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters—

(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,

Comment:

A high standard of architectural design, materials and detailing that are appropriate for the building type and location will be achieved. The design provides for a high level of solar access and cross ventilation to apartments and a high level of solar access to the commercial floor area, which is desirable for a high-density development within the Granville Town Centre. The location and design of communal shared spaces foster interaction between building occupants.

The materials are of high quality and are practicable for the scale and type of development in terms of construction methods. The materials and finishes used create articulation of the building facade. The façade treatment used across the car park levels allows light to penetrate through which are appropriate for the proposed above ground parking levels.

(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,

Comment:

The proposed development has been designed to enhance the public domain. The ground floor provides an activated street frontage along East Street by providing retail uses at the ground level and a pocket park with outdoor seating. The proposed vehicular access is located off East Street away from the pedestrian entry and pocket park. The proposed substation is located adjacent to the vehicular access driveway. The landscaping provided at the ground level softens the streetscape appearance and provides a transition between the private and public domain. Overall, the form and external appearance of the building is attractive and blank walls are minimised.

(c) whether the proposed development detrimentally impacts on view corridors,

Comment: The proposed development is not considered to detrimentally impact on view corridors.

(d) how the proposed development addresses the following matters—

- (i) the suitability of the land for development,
- (ii) the existing and proposed uses and use mix,
- (iii) any heritage and archaeological issues and streetscape constraints or opportunities,
- (iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
- (v) the bulk, massing and modulation of buildings,
- (vi) street frontage heights,
- (vii) environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,
- (viii) the achievement of the principles of ecologically sustainable development,
- (ix) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network,
- (x) the impact on, and any proposed improvements to, the public domain,

- (xi) the impact on any special character area,
- (xii) achieving appropriate interfaces at ground level between the building and
- (xiii) the public domain, excellence and integration of landscape design.

Comment:

The site is zoned B4 Mixed Use, and the proposed development is suitable for the site being a mixed-use development. The site is not located in a particular special character area however is located within the Granville Town Centre. The proposed building envelope and built form is appropriate for a mixed-use tower development with podium. The site is located within a precinct undergoing transition with existing mixed-use buildings and retail development, and benefits from its location close to public transport, recreational facilities and the existing Granville Town Centre, making the site suitable for high-density mixed-use developments.

The proposed development responds appropriately to adjoining buildings by providing adequate setbacks to these buildings.

The proposed built form utilises a podium structure with a modulated tower form as well as high quality materials, which reduce the appearance of overall building bulk and mass and provide an appropriate building height at the street frontage.

The proposed development takes advantage of the orientation of the site and maximises solar access and privacy. Documentation submitted with the Development Application supports the proposal with regards to the impacts of noise, wind and reflectivity. Ecologically Sustainable Development measures are proposed throughout the development and are satisfactory subject to recommended conditions of consent.

The proposal includes retail tenancies at the ground level which provides an opportunity to create an active street frontage along East Street. Landscaping on this level softens the built form, is well integrated and provides a transition between the public and private domain. This transition is also enhanced by a lack of level changes between the street and the ground floor of the development. The proposed ground floor treatment is an improvement on the existing public domain transition of this site.

Clause 6.20 Development on land at 38-42 East Street, Granville

In calculating the gross floor area of proposed development on land to which this clause applies for the purpose of applying a floor space ratio, the consent authority may exclude, up to a maximum of 400 square metres across the proposed development, the floor area of enclosed balconies with a frontage on to the railway line.

The development provides 240m² of winter gardens (enclosed balconies) which was not included in the gross floor area for the site.

CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS

Objectives of Clause 4.6 of Parramatta LEP 2011

The objectives of this clause are as follows:

- *to provide an appropriate degree of flexibility in applying certain development standards to particular development; and*
- *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6(3) states that:

“(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard”.

A written request under the provisions of Clause 4.6 of Parramatta LEP 2011 was lodged as the proposed development seeks a variation to the following development standards:

Clause 4.3 – Height of Buildings

The proposal does not comply with the maximum permissible building height of 82m stipulated within Clause 4.3 – Height of Buildings. The proposed maximum height of the structures is 82.66m and comprises the parapet and solar panels.

The development proposal exceeds the maximum permissible building height by 660mm which is a 0.8% variation to the development standard.

The applicant has submitted the following justification for the variation to the maximum building height permitted:

- The breach of the control is primarily due to two factors. Firstly, the slope of the land. The land falls approximately 1 metre from the west to the east. Given the frontage of the site, there is one central entry point with one bank of lifts to access the residential levels. The building platform therefore sits on a consistent level to ensure disabled access to all levels and to the communal open space at Level 4. This results in the minor variation of a maximum 330mm to the roof level. This is a better planning outcome than a change in level within the building.*
- Secondly, the detailed flood assessment was carried out and it resulted in a requirement to provide a freeboard of 500mm. This resulted in the need to raise the finished floor level by 300mm. This directly contributes to the breach of the parapet and solar panels.*
- The areas of the top of the building that are non-compliant do not result in any additional adverse shadow to adjoining properties and or the public domain beyond what would be expected by a compliant scheme. As the variation is limited to the parapet and solar panels there will be no unreasonable impact.*
- The parapet is an integral design element of the building that completes the top of the building with a continuation of the materials and form. Without the parapet the building will be incomplete.*
- There are no views or view corridors that will be affected by the non-compliant component of the roof.*
- The proposed development achieves the objectives the B4 Mixed Use zone.*
- The proposed development meets the objectives of the development standard notwithstanding the breach of the height control.*

Assessment of the exception under Clause 4.6:

In assessing the applicant's request to vary a development standard, the provisions of Clause 4.6 state that:

“(4) Development consent must not be granted for development that contravenes a development standard unless:

- (a) *the consent authority is satisfied that:*
- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *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, and*
- (b) *the concurrence of the Secretary has been obtained".*

In assessing an exception to vary a development standard, the following also needs to be considered:

Is the planning control a development standard?

The planning control, Clause 4.3 Height of Buildings is a development standard pursuant to Parramatta Local Environmental Plan 2011.

What is the underlying object or purpose of the standard?

The underlying purpose of Clause 4.3 is to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan; to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development; to require the height of future buildings to have regard to heritage sites and their settings; to ensure the preservation of historic views; to reinforce and respect the existing character and scale of low density residential areas; and to maintain satisfactory sky exposure and daylight to existing buildings within commercial centres, to the sides and rear of tower forms and to key areas of the public domain, including parks, streets and lanes.

Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EPA Act?

Strict compliance with the development standard requires a non-compliance with the required flood planning levels, or a level change within the building which would have reduced amenity for building occupants. As such, reduction in the overall building height would be inconsistent with the relevant provisions of the Parramatta LEP 2011 which includes encouraging a range of development including housing that will accommodate for the needs of existing and future residents.

Compliance with the development standard in this case would hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EPA Act which include the promotion and co-ordination of the orderly and economic use and development of land.

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Compliance with the development standard is unreasonable in the circumstances of the case for the following reasons:

- A departure to the maximum height for the site in this location will have negligible impacts on residential or streetscape amenity.
- The departure to the standard does not hinder the development from achieving the objectives of the B4 Zoning of the site as it provides for the housing needs of the community in a high density residential arrangement.

- The development provides appropriate setbacks and landscaped areas to ensure adequate amenity to adjoining properties and future occupants and therefore maintains an appropriate streetscape amenity.
- Enforcing compliance with the development standard will restrict a development that would otherwise be appropriate on the site. The site is capable of being developed without unduly impacting on adjoining properties which has been demonstrated through the building envelopes. The proposed works maintain general compliance with the majority of controls within the Parramatta Development Control Plan 2011.
- The non-compliant portion of the proposed development does not result in an increased adverse overshadowing impact or increased adverse amenity impacts to adjoining public spaces and properties more than a compliant development would, with adjoining properties able to achieve adequate solar access.
- The proposed bulk and scale is compatible with the existing and desired future character of the site and the non-compliant portion of the building does not comprise any habitable floor space.

Is the exception well founded?

Chief Justice Preston of the NSW Land and Environment Court provided further guidance to consent authorities as to how variations to the standards should be approached. Justice Preston expressed the view that there are 5 different circumstances in which an objection may be well founded:

- The objectives of the standard are achieved notwithstanding non-compliance with the standard;
- The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
- The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
- The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
- The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

The findings in case *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* indicate that the consent authority must be satisfied that the applicant's written request adequately demonstrates that the compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the contravention; and that the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for the development within the relevant zone.

The applicant's written request demonstrates that compliance with the development standard is unreasonable or unnecessary and provides sufficient environmental planning grounds to vary the development standard. In this respect the Clause 4.6 variation is well drafted.

The intent of the development standard is to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan; to minimise visual

impact, disruption of views, loss of privacy and loss of solar access to existing development; to require the height of future buildings to have regard to heritage sites and their settings; to ensure the preservation of historic views; to reinforce and respect the existing character and scale of low density residential areas; and to maintain satisfactory sky exposure and daylight to existing buildings within commercial centres, to the sides and rear of tower forms and to key areas of the public domain, including parks, streets and lanes.

The proposed non-compliant building height does not defeat the underlying purpose of this clause as the visual impacts arising from the non-compliance are minimal given the lack of adverse privacy and solar access impacts to existing development.

In this case, the applicant written request is well drafted and adequate in addressing the matters required to be demonstrated by Clause 4.6(3) and the proposed variation is in the public interest as it is consistent with the objectives of the Height of Buildings Development Standard.

9. Draft Environmental planning instruments

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

LEP	Zoning	Height	FSR
LEP 2011	B4	82m	6:1
Draft LEP 2020	B4	82m	6:1

Whilst the draft LEP must be considered when assessing this application, under cl4.15(1)(a)(ii) of the Environmental Planning & Assessment Act, the LEP is neither imminent or certain and therefore limited weight has been placed on it.

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

10. Development Control Plans

Parramatta Development Control Plan 2011

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

Development Control	Compliance
Part 2 – Site Planning	
2.4.1 Views and Vistas	Yes. There are no significant views to or from the site identified within the DCP.
2.4.2 Water Management	
2.4.2.1 Flooding	Yes. The site is not flood prone however is impact by overland flooding. Council's Catchment and Development Engineer has reviewed the application and raises no objections to the proposed development.
2.4.2.2 Protection of Waterways	Yes. The proposal complies.
2.4.2.3 Protection of Groundwater	Yes. The proposal complies.
2.3.3 Soil Management	

2.4.3.1 Sedimentation	Yes. An Erosion and Sediment Control Plan was submitted with the Development Application and conditions of consent ensuring minimisation of soil erosion are recommended.
2.4.3.2 Acid Sulphate Soils.	Yes. Refer to LEP table.
2.4.3.3 Salinity	Yes. The proposal complies.
2.4.4 Land Contamination	Yes. Refer to body of report.
2.4.5 Air Quality	Yes. The proposal complies. Relevant conditions for air quality are recommended to ensure no adverse air quality impacts are generated from the development during demolition, construction and ongoing use.
2.4.6 Development on Sloping Land	Yes. The proposal complies and the design of the development responds to the site topography.
2.4.7 Biodiversity	Yes. The proposal complies.
2.4.8 Public Domain	Yes. The proposal satisfactorily addresses the public domain.
Part 3 – Development Principles	
3.1 Preliminary Building Envelope	
3.1.1 Height	Refer to LEP table.
<i>3.1.3 Preliminary Building Envelope Tables</i>	
Minimum Site Frontage Control	Refer to Part 4 of this table.
Front Setback Control	Refer to Part 4 of this table.
Side Setback Control: Assessed on merit	Refer to Part 4 of this table.
Rear Setback Control: Assessed on merit	Refer to Part 4 of this table.
Deep Soil and Landscaped Area: Assessed on merit	Refer to ADG table earlier in report. The level of landscaping proposed is considered satisfactory.
3.2 Building Elements	
3.2.1 Building Form and Massing Buildings are to be of a height that responds to the topography and the shape of the site. The proportion and massing of buildings is to relate favourably to the form, proportions and massing of existing and proposed buildings patterns in the street. Building height and mass should not result in unreasonable loss of amenity to adjacent properties, open space or the public domain. The form and massing of buildings is to provide a transition between adjoining land use zones and building types. For all mixed use developments, potential management arrangements, including ownership/lease patterns are to be considered at the design stage to ensure proper functioning of various components of the building.	Yes. The proposed building height responds to the site topography. Refer to Part 4 of this table for the applicable building form and massing controls. Yes. The proposal complies.
3.2.2 Building Facades and Articulation	Refer to Part 4 of this table for the applicable building façade controls.
3.2.3 Roof Design	Yes. The proposed roof design is compatible with the prevailing roof form in the street.
3.2.4 Energy Efficient Design	Yes. The proposal complies subject to recommended conditions of consent.
3.2.5 Streetscape	Refer to Part 4 of this table for the applicable streetscape and public domain controls.

3.3 Environmental Amenity	
3.3.1 Landscaping	Yes. The proposed landscaping is suitable for the type of development proposed and context of the site within the Granville Town Centre.
3.3.3 Visual Privacy	Yes. The proposal does not result in adverse overlooking impacts to adjoining properties.
3.3.4 Acoustic Privacy	Yes. An acoustic report was submitted with the Development Application. Council's Environmental Health Officer has reviewed the proposal and raises no objections to the proposed acoustic measures recommended within the acoustic report and recommended conditions of consent.
3.3.5 Solar Access and Ventilation	Yes. The proposed development complies with the solar access requirements under the ADG. The proposal results in overshadowing to a number of properties however the submitted shadow diagrams indicate that adjoining properties are able to receive the minimum 3 hours of solar access required under the DCP.
3.3.6 Water Sensitive Urban Design	Yes. The proposed development complies with the DCP controls relating to stormwater management. Refer to referral comments provided by Council's Development Engineer.
3.3.7 Waste Management	Yes. The submitted Waste Management Plan details the types, volumes and methods of waste disposal for the development during the demolition and construction phase. Council's Environmental Health Officer has reviewed the proposal and raises no objections with the proposed waste management measures subject to recommended conditions of consent.
3.5 Heritage	Yes. The site does not contain any heritage items, is not located within a heritage conservation area and is not in the vicinity of any heritage items or heritage conservation areas.
3.6 Movement and Circulation	
3.6.2 Parking and Vehicular Access	Yes. Refer to applicable parking rates further in this table.
3.6.3 Movement and Circulation	Yes. Information has been submitted to demonstrate that the proposed movement and circulation within the basement car park meets Australian Standards and the objectives and controls for this section of the DCP (refer to traffic referral comments in this report).
3.7 Residential Subdivision	
3.7.2 Site Consolidation and Development on Isolated Sites Development for the purpose of residential flat buildings, multi dwelling housing in the form of town houses, villas or the like is not to result in the creation of an isolated site that could not be developed in compliance with the relevant planning controls, including the Parramatta LEP 2011 and this DCP.	Yes. The development does not result in an isolated site as the adjoining property has already been built as a multi storey mixed use building.
Part 4 – Special Precincts – 4.1.6 – Granville Town Centre	
The site is located within the Granville Town Centre identified within the DCP.	
<i>Desired Future Character</i>	

The Granville town centre precinct will continue to be a vibrant place with a variety of activities within and surrounding the centre. This will be achieved through a mix of uses, building heights and densities to support the role and function of Granville. Throughout the precinct new development is to retain and enhance the heritage character of the precinct. Specific characteristics for parts of the town centre are detailed below.

Parramatta Road Corridor: Parramatta Road is to accommodate non-residential development including business and office uses, light industries and specialised 'retail' developments that require large floor plates. New development is to be set back from the roadway to improve pedestrian amenity.

Mixed use development: to be located between the railway line and Cowper Street with increased height limits and floor space ratios permitted on larger sites. The amalgamation of lots will be required to achieve the maximum building heights and floor space ratios prescribed in the Parramatta LEP 2011. Where the required site amalgamation does not occur, reduced building heights and floor space ratios apply (refer to the Parramatta LEP 2011). The prescribed maximum floor space ratios may not be wholly achievable on all sites due to urban design considerations or site configuration. Residential development will be located away from Parramatta Road to minimise adverse amenity impacts. The interface between development along Parramatta Road and residential development to the rear will be carefully designed to ensure that privacy and visual amenity are managed and protected.

Comment: The proposal is consistent with the desired future character of the Granville Town Centre, noting that specific design controls are applicable to the site.

Setbacks	Refer to site specific setbacks applicable for the development further in this table.
<u>Site Frontage</u> Required: minimum 30m for site area between 950m ² and 2100m ² Proposed: 51.075m	Complies.
<u>Land Amalgamation</u> The preferred pattern of land amalgamation is to be side by side to maximise lineal street frontage and to encourage east west built form for good solar access, as shown in Figure 4.1.6.5.	Yes. The proposal includes the amalgamation of a number of allotments consistent with the Planning Proposal on the site.
<u>Landscaping and Deep Soil</u> In the B4 Mixed Use zone between Parramatta Road and railway line, a minimum of 30% of the site is to be a deep soil zone, and not less than 40% of the site is to be landscaped. The required deep soil areas are to be predominantly located at the rear of the site to provide a landscape corridor and visual screening between buildings. Where a front building setback is required as shown in Figure 4.1.6.3 (with the exception of Parramatta Road), the front setback area is to be landscaped. Provision of street trees is required in this area.	Acceptable on merit. Deep soil for the site has been provided in accordance with the ADG and has been located predominantly on the proposed ground level. While this is inconsistent with this particular DCP control, the proposed landscaping is consistent with the winning design excellence proposal and site specific requirements. Landscaping is provided at the ground level along the building setbacks and adjoining public domain areas.
<u>Development between Parramatta Road and Railway Line</u> Residential and commercial apartments are to be designed to enable casual surveillance of public spaces. For development greater than 15 metres in height, buildings with large floor plates, must be expressed as separate building elements.	The proposal complies. The proposal has been designed to provide articulation across its building facades and is considered appropriate.

<p>For development greater than 15 metres in height the horizontal dimension of any building façade must not exceed 35 metres.</p> <p>For development greater than 15 metres in height the maximum floor plate area of a non-residential buildings is 480m², with a maximum depth of 25 metres.</p> <p>Use light wells and courtyards to improve internal building amenity and cross ventilation.</p> <p>The roof forms of all buildings are to add interest to the skyline.</p>	<p>The proposed building does not comply with this control. Refer to site specific controls further in this table.</p> <p>Refer to site specific controls further in this table.</p> <p>The proposal complies.</p> <p>The proposal complies.</p>
4.3.7 Granville Precinct	
4.3.7.2 38-42 East Street, Granville – Site Specific DCP	
<p>Desired Future Character</p> <p>Future development at 38-42 East Street shall be designed to respond to the high density mixed use character developing in the precinct in its transition from light industrial uses as envisioned by the Parramatta Road Corridor Urban Transformation Strategy.</p> <p>Adjacent development is characterised by a podium and tower building typology with 4 storey street walls and residential towers above.</p> <p>The proposed mix of land uses includes retail/commercial uses at the ground floor with residential apartments above.</p> <p>Future development should establish active edges at ground level to enhance activity, movement and safety in the streetscape while providing opportunities for boutique retail, café and commercial floor space.</p> <p>A tall, slender tower form is encouraged within a podium of above ground parking to buffer the adjacent rail corridor</p>	<p>The proposal meets the desired future character for this site. A four storey podium with tower above is proposed and the development includes a mix of retail uses on the ground floor with residential apartments above.</p>
<p>Objectives</p> <p>To provide a mix of uses that support the role of the Granville Town Centre.</p> <p>To encourage high quality built form outcomes and achieves Design Excellence.</p> <p>To create an attractive and safe activated urban environment within East Street and the adjacent pocket park / future pedestrian link over the railway.</p> <p>To deliver housing growth directly adjacent to Granville Rail Station</p>	<p>Yes. The proposed development is consistent with the objectives for this site.</p>

Built Form and Massing																		
Maximum building heights																		
Maximum height of 82m (tower) and 15m for the podium.																		
Building setbacks		No, but acceptable. There are non-compliant setbacks for the rear setback. A variation can be considered in this instance for the following reasons: <ul style="list-style-type: none">The rear setback is limited to the podium level and is consistent with the design excellence competition winning scheme.The non-compliant portion of the building comprises car parking and building services and is unlikely to be impacted by adjoining use which is SP2 zoned land.																
Setback	Required		Proposed															
Front	4m (podium) 7m (tower)		4m (podium) 7m (tower)															
North-west	Nil (podium) 9m (tower)		Nil (podium) 9m (tower)															
Rear	3m		1.85m (podium) 3m (tower)															
South-east	3m (podium) 9m (tower)		3m (podium) 9m (tower)															
Podium, Ground Level and Public Domain																		
Retail shopfronts should provide step-free transition between indoor and outdoor space.		The proposal complies.																
Provide adequate space on the East Street and pocket park frontage for outdoor dining.		The proposal complies. Adequate outdoor dining space is provided.																
Awnings facing East Street are not to restrict tree growth.		The proposal complies.																
Separate the commercial and residential lobbies.		The proposal complies.																
Provide minimum articulation depth of 600mm to carpark facades.		The proposal complies.																
Ensure there are no direct sightlines from pedestrians to vehicles within carpark and to consider lighting and night views from streets into carpark areas		The proposal complies.																
Communal Open Space																		
Provide communal open space on the podium accessible off the lift core on the western edge.		Communal open space is provided on the podium level accessible via a lift core.																
Accommodate an undercover communal facility within the tower footprint adjacent to the open to the sky communal open space.		An open to the sky communal open space is provided on the podium as well as Level 25.																
Traffic and Transport																		
Car parking is to be provided at the following rates in accordance with the Parramatta Road Corridor Urban Transformation Strategy:		The proposal complies.																
<table><tr><th>Residential Use</th><th>Maximum spaces per dwelling</th></tr><tr><td>Studio</td><td>0.3 spaces</td></tr><tr><td>1 bedroom</td><td>0.5 spaces</td></tr><tr><td>2 bedroom</td><td>0.9 spaces</td></tr><tr><td>3 or more bedroom</td><td>1.2 spaces</td></tr><tr><td>Visitors</td><td>0.1 spaces</td></tr><tr><td>Motorcycles</td><td>1 space per 25 car spaces</td></tr><tr><td>Bicycles</td><td>0.5 spaces per dwelling in secure enclosure</td></tr></table>		Residential Use	Maximum spaces per dwelling	Studio	0.3 spaces	1 bedroom	0.5 spaces	2 bedroom	0.9 spaces	3 or more bedroom	1.2 spaces	Visitors	0.1 spaces	Motorcycles	1 space per 25 car spaces	Bicycles	0.5 spaces per dwelling in secure enclosure	Based on the parking controls within this section of the DCP, 107 car parking spaces, 5 motorcycle spaces and 55 bicycle spaces are required to be provided.
Residential Use	Maximum spaces per dwelling																	
Studio	0.3 spaces																	
1 bedroom	0.5 spaces																	
2 bedroom	0.9 spaces																	
3 or more bedroom	1.2 spaces																	
Visitors	0.1 spaces																	
Motorcycles	1 space per 25 car spaces																	
Bicycles	0.5 spaces per dwelling in secure enclosure																	
		76 car parking spaces, 54 bicycle spaces and 4 motorcycle spaces are proposed. It is noted that the rates provided are maximum parking rates.																

Commercial / Retail Use	Maximum generation	
Commercial	1 space / 100m ² GFA	
Retail	1 space / 70m ² GFA	
Bicycles	1 space per 200m ² GFA accessible to visitors	

<p>Provide at least 1 car share space.</p> <p>Buildings should be designed with car parking at podium levels (see 'Podium, Ground Level and Public Domain').</p> <p>Vehicular access to the site shall be via a single two way driveway with crest height in accordance with flood planning requirements.</p> <p>Loading space shall be provided on East Street subject to consultation with Council</p>	<p>A car share space has not been nominated but can be provided for the development.</p> <p>The proposal complies.</p> <p>The proposal complies.</p> <p>The proposal complies.</p>
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Substations	
<p>Substations are to be provided within buildings, not within the street, open spaces or setbacks, and are to be designed to ensure protection of residents from Electro Magnetic Radiation (EMR) emissions.</p> <p>Development Application shall include consultation with Endeavour Energy to relocate existing padmount substation.</p>	<p>Yes. The proposal complies.</p>

Flooding	
<p>Development Application for the site shall be accompanied by a detailed flood impact study.</p> <p>A 'flood planning / shelter in place' strategy shall be provided with any Development Application.</p> <p>Habitable uses and vehicular parking shall be provided at a height above relevant flood planning levels.</p>	<p>Yes. The proposal complies.</p>

Wintergarden Balconies	
<p>Wintergardens areas able to be excluded from GFA shall be those fronting the railway corridor and limited to the minimum balcony areas as noted in the Apartment Design Guide (ADG) or dwelling types: 8m² for 1 bedroom apartments, 10m² for 2 bedroom units, and 12m² for 3 bedroom units.</p> <p>The maximum wintergarden areas to be excluded from GFA is capped at 400m². Any wintergarden area exceeding 400m² will be included in the GFA calculations.</p>	<p>Yes. 240m² of wintergarden areas are proposed for the development and have been excluded from GFA calculations.</p>

11. Planning Agreements

The proposal is not subject of a planning agreement entered into under Section 7.4, or any other draft planning agreement that a developer has offered to enter into under Section 7.4.

12. The Regulations

Conditions have been recommended to ensure the following provisions of the Regulation will be satisfied:

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

13. The likely impacts of the development

Context and setting

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

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

Response

This proposal will not result in unacceptable adverse physical impacts as:

- The design and location of the building will not preclude surrounding land from being developed in accordance with planning controls.
- The proposal will not generate noise or diminish views that would be detrimental to adjacent and surrounding sites.
- The proposal will not adversely impact upon the amenity of existing residents within the locality.

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

Response

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

- The scale, form and presentation of the building is consistent with planning controls, and the design and site planning is acceptable as independently assessed by Council’s Design Excellence Jury; and
- The built form does not result in any significant adverse impacts for adjacent sites.

14. Site suitability

Subject to the conditions provided within the recommendation to this report the site is suitable for this development given:

- It is an appropriate “fit” for the locality given the preceding analysis which demonstrates a lack of adverse built form and operational impacts; and
- The site attributes are conducive noting natural constraints/hazards; ecological and amenity impacts are able to be properly managed.

15. Submissions

The application was notified and advertised in accordance with Council’s consolidated notification procedures for a 28 day period between 9 November and 7 December 2021.

During this time, one unique submission was received. The issues raised within the submissions are addressed below.

Issue	Response
Adverse impact on quality of life of existing residents as a result of population density	The proposal is compliant with the relevant planning controls and the proposed density is consistent with that envisioned for the site.
Adverse impact on property owners as a result of rental returns	This is not a matter for consideration under Section 4.15 of the Environmental Planning and Assessment 1979.

Amended Plans Yes.

Summary of amendments

Amended architectural plans were submitted with the following changes:

- Additional window schedule details.
- Additional façade sections.
- Additional sketch drawings to respond to Design Excellence Jury requirements to be incorporated into the recommended conditions of consent.

Other amended documentation submitted includes:

- Revised site survey plan.
- Flood statement.
- Clause 4.6 variation statement.
- Revised NatHERS Certificates.
- Revised BASIX Certificate.
- Geotechnical report.

In accordance with Council's notification procedures entitled "*Notifications of Amended Development Applications Where The Development Is Substantially Unchanged*" the application did not require re-notification as the amended application is considered to be substantially the same development and does not result in a greater environmental impact.

CONCILIATION CONFERENCE

On 11 December 2017, Council resolved that:

"If more than 7 unique submissions are received over the whole LGA in the form of an objection relating to a development application during a formal notification period, Council will host a conciliation conference at Council offices."

Conciliation Conference – Not Required

The application received less than 10 unique submissions during the formal notification period and as a result a Conciliation Conference was not required to be held.

16. Public interest

Subject to resolution of the issues as addressed by the recommendation of this report, no circumstances have been identified to indicate this proposal would be contrary to the public interest.

17. Parramatta S94A Contributions Plan (Outside CBD) (Amendment No. 5)

The development is subject to development contributions. The Quantity Surveyor report submitted with the application (dated 10 September 2021) did not detail any exemptions. Accordingly, the Section 7.12 contributions will be calculated on the value of \$32,178,059.10 (as per Clause 25J of the EP&A Regulation 2000).

A relevant condition of consent pertaining to the payment of Section 7.12 contributions prior to the issue of a Construction Certificate is included within draft conditions of consent.

Summary and conclusion

After consideration of the development against Section 8.2-8.5 and Section 4.15 of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, the proposal is suitable for the site and is in the public interest. The proposal is recommended for approval subject to conditions for the following reasons:

1. The development as amended, satisfactorily addresses the previous reasons for refusal.
2. The development is permissible in the B4 zone and satisfies the requirements of all the applicable planning controls with one exception being non-compliance with Clause 4.3 – Building Height of the Parramatta Local Environmental Plan 2011.
3. A written request to vary the building height has been received. The variation sought is minor and will not have any significant adverse impacts. As such, compliance with the standard is unnecessary. Accordingly, Council believes that there are sufficient environmental planning grounds to justify the variation and finds that the application is satisfactory. Council is therefore satisfied that the Applicant's Clause 4.6 variation request has adequately addressed the matters required to be demonstrated in Clause 4.6(3) of Parramatta LEP 2011 and that the proposed development will be in the public interest because it is consistent with the objectives of the building height control and the objectives for development within the B4 zone in which the development is proposed to be carried out.
4. The development will be compatible with the emerging and planned future character of the area.
5. For the reasons above, approval of the application is in the public interest.

Recommendation

- a) **That** the Sydney Central City Planning Panel support a variation to Clause 4.3 – Building Height of the Parramatta Local Environmental Plan for the following reasons:
1. A written request to vary the building height has been received and is well drafted.
 2. The applicant has provided sufficient environmental planning grounds to warrant departure of the building height control in the circumstances of this case.
- b) **That** the Sydney Central City Planning Panel as the consent authority grant consent to Development Application No. DA/716/2020 for lot consolidation, demolition and construction of a 26 storey mixed-use development comprising 2 retail tenancies on the ground floor, 3 levels of podium car parking comprising 76 car spaces and 108 residential units above, at 38-42 East Street, Granville NSW 2142 for a period of five (5) years for physical commencement to occur from the date on the Notice of Determination subject to the conditions in Attachment 1. The reasons for the conditions imposed on this application are as follows:

- i. To facilitate the orderly implementation of the objectives of the Environmental Planning and Assessment Act 1979 and the aims and objectives of the relevant Council Planning Instruments.
- ii. To ensure that local amenity is maintained and is not adversely affected and that adequate safeguards are incorporated into the development.
- iii. To ensure that the development does not hinder the proper and orderly development of the subject land and its surrounds.
- iv. To ensure that the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 are maintained.

c) That submitters are advised of the decision.

The reasons for the conditions imposed on this application are as follows:

1. To facilitate the orderly implementation of the objectives of the Environmental Planning and Assessment Act 1979 and the aims and objectives of the relevant Council Planning instrument.
2. To ensure that the local amenity is maintained and is not adversely affected and that adequate safeguards are incorporated into the development.
3. To ensure the development does not hinder the proper and orderly development of the subject land and its surrounds.
4. To ensure the relevant matters for consideration under Section 4.15 of Environmental Planning and Assessment Act 1979 are maintained.