



Report to Sydney Central City Planning Panel

SCCPP reference	PPSSCC-329
DA No.	16/2022
Regional development criteria	Capital Investment value of more than \$30 million
Date of receipt	11 January 2022. Amended plans, revised/additional information received 22.4.22, 10.5.22, 30.5.22, 22.12.22, 6.4.23, 20.6.23, 10.7.23, 5.10.23, 14.11.23
Proposal	Construction of a mixed use development comprising 5 basement levels, a 23 storey commercial office tower set above a 2 storey retail podium and 33 storey hotel.
Street address	197 and 207 Church Street and 89 Marsden Street Parramatta
Property Description	Lot 1 DP 710335 and Lot 1 DP 233150
Applicant	Think Planners
Owner	197 MCM Development Pty Ltd
Submissions	Two
Relevant s4.15 matters	<ul style="list-style-type: none">• Environmental Planning and Assessment Act and Regulations• State Environmental Planning Policy (Biodiversity & Conservation) 2021• State Environmental Planning Policy (Industry and Employment) 2021• State Environmental Planning Policy (Planning Systems) 2021• State Environmental Planning Policy (Resilience and Hazard) 2021• State Environmental Planning Policy (Transport & Infrastructure) 2021• Parramatta Local Environmental Plan 2011• Parramatta Development Control Plan 2011
Attachments	Attachment A – Detailed planning assessment. Attachment B – Design Jury advice from June 2022 and 15 March 2023. Attachment C - Selected plans Attachment D – General Terms of Approval

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 summarised in the Executive Summary of the assessment report ?	Yes
Clause 4.6 Exceptions to development standards	
If a written request for a contravention to a development standard has been received, has it been attached to the assessment report?	N/A
Special Infrastructure Contributions	
Does the DA require Special Infrastructure Contributions conditions (s7.24)?	No
Conditions	
Have draft conditions been provided to the applicant for comment ?	N/A

Recommendation	Deferral
Report by	Brad Roeleven, Executive Planner
Report date	23/9/2024

1. Status of this application

On 28 August 2024 the Panel ‘called in’ this development application (DA) for determination noting “*the extreme age of this matter with no clear pathway to resolution*”.

Council had previously submitted an assessment report in May 2023, recommending the DA be refused. A decision however was deferred to allow the applicant every opportunity to resolve all matters of concern. While significant progress has been made, particularly with design matters, further time – estimated at around 6 months on current advice - is needed to address the two remaining issues, being to secure owners’ consent and concurrence from Sydney Metro.

While acknowledging obligations around timely determinations, the significant benefits this application presents for the CBD are such that Council is recommending that the Panel defer this matter again.

2. Executive summary

The site is centrally located within the Parramatta CBD, occupying a strategic position at the

intersection of Church and Macquarie Streets, at the northwest edge of Centenary Square. By extension, the prominence of this site therefore encompasses the key public spaces of St Johns Cathedral and Parramatta Square.

This site has significant constraints, notably the:

- expected existence, and likely high significance, of contact and historic archaeology
- alignment of Parramatta Light Rail, immediately adjacent to the site
- alignment of Sydney Metro West, immediately below the site
- extent of flooding.

Council's assessment from May 2023 recommended this application be refused because the following threshold issues had not been resolved:

- securing of owners' consent from Sydney Metro to allow for structural elements of the building to be located within its stratum allotment
- concurrence from Sydney Metro as required by the Transport and Infrastructure SEPP
- concurrence from Transport for NSW as required by the Transport and Infrastructure SEPP
- confirmation of the expected existence, and likely high significance, of contact and historic archaeology within the site, and the support of Heritage NSW as to the means for the protection and interpretation of that archaeology
- satisfying Transport for NSW in relation to various matters
- various aspects of the built form and related matters prevented the scheme from meet the "design excellence" obligations under Parramatta LEP 2011
- demonstrating that a function centre (ballroom) within the basement is appropriate given flood risk and hazard.

Representations to both Council and the Panel at that time however resulted in a determination being deferred. Since that time:

- A way forward has been established to manage likely state significant archaeology
- Key design improvements have been secured, particularly:
 - deletion of the basement function centre
 - improvements at the Church Street frontage
 - improvements to the through-site link adjacent to the northern boundary
 - improvement to the detailing and materiality of the northern façade of the commercial building
 - improvements to the management of traffic egress to Marden Street
- ESD measures are improved and properly documented
- Reflectivity mitigation is now robustly documented and largely resolved.

However, key agency issues are outstanding, being:

- Land owners' consent from Sydney Metro; and
- Concurrence from Sydney Metro, as required by clause 2.99 of State Environmental Planning Policy (Transport and Infrastructure) 2021.

Excepting those two issues, the application is otherwise satisfactory (and has been since March 2024) when evaluated against section 4.15 of the Environmental Planning and Assessment Act 1979. Given the benefits of this project to the City, Council is comfortable if further time is afforded to allow those remaining matters to be resolved - see further comments at section 2.6 of **Attachment A**, below.

3. Site location, description and related applications

3.1 Site location and description

The site is legally described as Lot 1 DP 710335 and Lot 1 DP 233150, with street addresses of Nos. 197 and 207 Church Street and No. 89 Marsden Street, Parramatta. Street frontages are 52m to Church Street, 27m to Marsden Street and 55m to Macquarie Street. Total site area is approximately 4,342m². A mix of two and three storey retail and commercial buildings occupy the site, which includes the heritage listed Murray Brothers building from 1925, an item of local significance under Parramatta LEP 2011.



Figure 1: 197 Church Street Parramatta (Church Street façade)



Figure 2: 197 Church Street Parramatta (Macquarie Street façade)



Figure 3: 207 Church Street Parramatta



Figure 4: 89 Marsden Street Parramatta

The site is centrally located within the Parramatta central business district (CBD). Surrounding development is predominately office and retail uses, but also includes key landmarks and public spaces such as Centenary Square, Parramatta Town Hall, and St Johns' Cathedral.



Figure 5: Site and its immediate context

Evolution of the town centre as Sydney's dual CBD is evident through the significant extent of private and government investment, as shown at Figure 6 below.

Figure 6: Site context within CBD and extent of major developments



Key

Blue	Site
Orange	Route of Parramatta Light Rail
Purple	Location of Civic Link
Red	Major buildings either completed or under construction
Gold	Site of Museum of Applied Arts and Science
Green	Approximate location of Sydney Metro West

3.2 Related applications

Other matters related to this site and project are noted below:

Table 1: Summary of related matters

Planning Proposal (RZ/4/2015)	<p>This site specific PP was finalised on 30 June 2021 as Amendment No. 53 to PLEP 2011, and introduced the following controls:</p> <ul style="list-style-type: none"> • Increase maximum height of part 36 metres and part 12 metres, to part 105 metres and part 12 metres. • Increase maximum FSR of part 4:1 and part 3:1 to 10:1. • Insert new Clause 7.26 to: <ul style="list-style-type: none"> - Apply the full range of maximum car parking rates specified in the current Parramatta CBD PP. - Include a site-specific provision requiring a minimum provision of commercial floor space equivalent to an FSR of 1:1, and for any additional floor space for commercial premises in excess of this to be exempt from the maximum FSR
Design Competition (DC/1/2021)	<p>Held in May 2021. Retention of the Murray Brothers building heritage façade was a key provision of the competition Brief. The preferred scheme identified by the Jury, by Scott Carver, is now the subject of DA/16/2022.</p>

DA/802/2021	Consent granted 28.9.2022 for early works associated with this project, comprising demolition of existing buildings across the site down to slab level (but retaining the heritage façade of the former Murray Brothers department store building to Church and Macquarie Streets) and limited excavation for archaeological investigations
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4. The proposal

In summary the application includes the following primary elements:

- Excavation to accommodate 5 basement levels comprising:
 - 138 car parking spaces
 - 431 bicycle parking spaces
 - 4 loading bays and associated truck turntable
 - End of trip facilities
 - Storage, Back of House and staff amenities for the hotel
 - Various service, storage, communication and mechanical plant rooms
- Two storey podium to Church and Macquarie Streets comprising:
 - Retention of heritage listed facades of the former Murray Brothers department building (local item)
 - Ground floor consisting of:
 - o 12 retail tenancies
 - o multiple through site pedestrian links
 - o primary and secondary commercial tower lobbies
 - o basement entry ramp
 - o at grade porte cochere entry for hotel set down
 - First floor consisting of:
 - o 7 retail tenancies
 - o Substations and associated utility rooms, and amenities
 - o Pedestrian connection to hotel tower
- A 23 storey commercial tower at the Church Street/ Macquarie Sts corner of the site
- A 33 storey hotel tower at the Marsden Street frontage comprising:
 - 212 guest rooms
 - Ground floor lobby, reception, porte cochere, dining, administration and store rooms
 - Guest facilities, dining room, function room, boardroom, service areas on Level 1
 - Guest pool, gym, wellness spa and associated facilities at level 2
 - Bar at the top two levels



Figure 7: Commercial tower from Centenary Square / Macquarie Street



Figure 8: Hotel tower – Marsden Street frontage

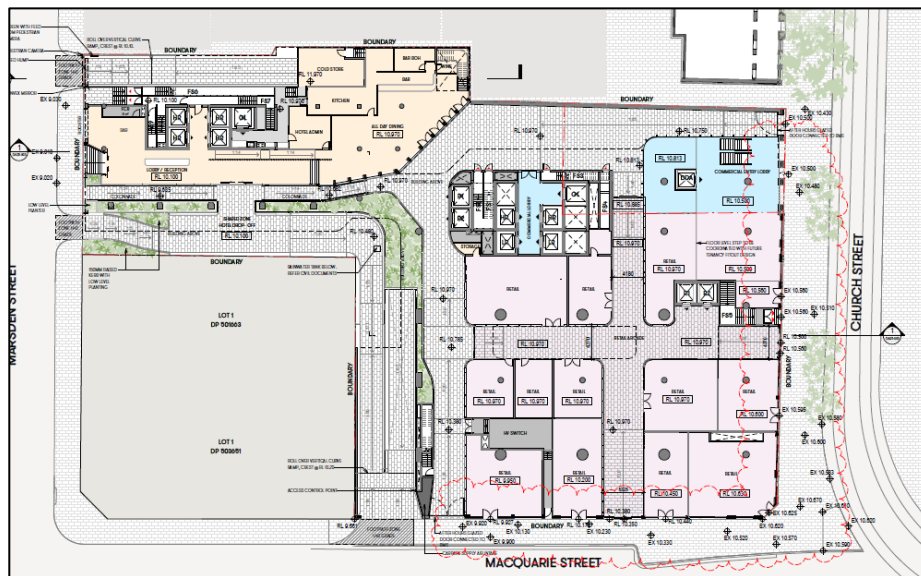


Figure 9: Ground plane

5. Design Excellence

A Design Excellence Competition conducted in May 2021 and the proposal satisfies the qualitative provisions of clause 7.11 of PLEP 2011. See further discussion at section 6.2 of **Attachment A**.

6. Public notification

One submission was received, and is addressed at section 8 in **Attachment A**.

7. Referrals

Table 2: Referrals

<i>INTERNAL</i>	
Landscape	Generally satisfactory. Remaining concerns able to be resolved by conditions. Refer section 6.2 of Attachment A
Development Engineer	Satisfactory - refer to section 6.4 of Attachment A
Heritage	Satisfactory - refer to section 6.3 of Attachment A
Traffic	Satisfactory - refer to section 6.5 of Attachment A
Waste Services Supervisor	No objections - conditions provided
Environmental Health (Waste)	No objections - conditions provided
Environmental Health (Acoustic)	No objections - conditions provided
Environmental Health (Contamination)	No objections - conditions provided
Urban Design (Public Domain)	No objections - conditions provided
City Design	Satisfactory – refer section 6.2 of Attachment A
Accessibility	No objections - conditions provided
Public Art	Concerns able to be resolved by conditions - refer to section 6.2 of Attachment A
Social Outcomes	No objections
Crime Prevention	No objections - conditions provided
Property Services	No objections - conditions provided
ESD	Satisfactory – refer to section 6.2 Attachment A
Reflectivity	Generally satisfactory. Remaining concerns able to be resolved by conditions – refer to section 6.6 Attachment A
Wind	Generally satisfactory. Remaining concerns able to be resolved by conditions – refer to section 6.6 Attachment A
<i>EXTERNAL</i>	
Heritage NSW	No objections - refer to section 6.3 of Attachment A
Sydney Water	No objections - conditions provided
Endeavour Energy	Refer to section 6.8 of Attachment A
TfNSW (PLR)	Concurrence issued - refer to section 2.6 of Attachment A
TfNSW (RMS)	Concerns resolved – refer to section 2.6 Attachment A
Sydney Metro	Land Owners consent not issued. Concurrence under Transport and Infrastructure SEPP not issued - refer to section 2.6 of Attachment A
Water NSW	GTAs issued for dewatering during construction

8. Environmental Planning and Assessment Act 1979

The matters for consideration in the evaluation of a development application are addressed at **Attachment A**. The following table summarises compliance other related provisions:

Table 3

Does Section 1.7 (Significant effect on threatened species) apply ?	No
Does Section 4.10 (Designated Development) apply ?	No
Does Section 4.46 (Integrated Development) apply ?	Yes
Are submission requirements within the Regulations satisfied ?	No – no owners' consent from Sydney Metro

9. Consideration of SEPPs

Consideration of the requirements of applicable SEPPs are addressed at section 2 of **Attachment A**. The following table identified key issues from that element of the assessment:

Table 4

Key issues arising from evaluation against SEPPs	Sydney Metro concurrence not received - refer to detailed discussion at Attachment A
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10. Parramatta LEP 2011

The savings provisions of PLEP 2023 are such that PLEP 2011 continues to apply. The table below presents a summary LEP assessment, however a detailed evaluation is provided at section 2.7 of **Attachment A**.

Table 5: Summary of PLEP 2011 compliance

	<i>Comment or non-compliances</i>
Part 1 Preliminary	<ul style="list-style-type: none"> Aims of the Plan are satisfied
Part 2 Permitted or prohibited development	<ul style="list-style-type: none"> Site zoned B4 Mixed Use All elements are captured by land use definitions which are permissible with consent within that zone. Zone objectives are satisfied
Part 3 Exempt and complying development	<ul style="list-style-type: none"> Not applicable
Part 4 Principle development standards	<ul style="list-style-type: none"> Yes, noting that site specific controls prevail in some instances
Part 5 Miscellaneous provisions	<ul style="list-style-type: none"> Heritage and flood planning provisions satisfied
Part 6 Additional local provisions	<ul style="list-style-type: none"> Flood plain risk management provisions satisfied
Part 7 Parramatta City Centre	<ul style="list-style-type: none"> Heritage management provision satisfied

11. Parramatta Development Control Plan 2011

The proposal is generally consistent with the provisions of the DCP. A detailed evaluation is provided at section 3 of **Attachment A**.

12. Planning Agreements and Contributions Plans

It is noted that:

- A 3% contribution (based on cost of works) required under the Parramatta CBD Development Contributions Plan 2007 (Amendment 5) would be secured by way of a condition of consent: and
- There is a Planning Agreement to be considered - refer to comments at section 4.1 of Attachment A.

13. Response to SCCPP briefing minutes

A Panel briefing was held on 26 May 2022. The issues noted in the 'Record of Briefing' issued by the Panel Secretariat at that time are addressed below:

Table 6: Response to SCCPP issues

<i>Issue</i>	<i>Comment</i>
Flooding: a function centre is proposed to be included at basement level 1. Concerns have been raised by Council regarding this high population and high intensity use where flooding poses a risk. The need to ensure safety is a priority supported by the Panel.	Resolved – function centre is deleted.
Heritage: the intention of the applicant is to retain and incorporate the façade of the site's department store. In addition to this item however, there is a high potential for buried archaeological artefacts to be found on the site, which was the location of the first school in NSW. Possible evidence of first contact between Aboriginal and European people may also be found on the site. As the preference of the Heritage Council is for retention of artefacts on site, rather than removal and preservation, the proposed design may be required to be varied substantially. Panel members observed that the Heritage Council's advice will be paramount in this situation.	Resolved - refer to section 6.3 of Attachment A.
Access and egress: the proposal does not currently comply with access and egress as set-out in the site specific DCP. Moreover, Transport for NSW (TfNSW) / RMS, despite having been party to the formulation of the site specific DCP, are now seeking all access / egress from Marsden Street, which would have significant implications for ground floor planning	Resolved – the scheme has been amended to reflect the site specific DCP for the location of basement access and egress points, which is acceptable to TfNSW.

Parramatta Light Rail: comments have not yet been received in relation to the Parramatta Light Rail (TfNSW). Such comments are required in order to progress the assessment.	Resolved - refer to section 2.6 of Attachment A.
Early works DA: Separate DA/802/2021 for early works (including demolition) was refused by the Local Planning Panel, by Notice dated 20.5.22.	The early works DA was subsequently approved by notice dated 28.9.22 following a section 8.3 Review application.
Adjacent site: An adjoining site is earmarked for a Hilton Hotel. TfNSW have expressed a preference for combined access and parking for the two proposed hotels.	Council has not received any preDA or DA for this adjacent site.

Conclusion

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

Whilst the application is supportable, and merit considerations are satisfactory, or are capable of being made so via conditions of consent (since March 2024) the two key threshold obligations relating to Sydney Metro are not satisfied.

Both the applicant and Sydney Metro have indicated that there are possible measures that can be taken to provide further comfort to Sydney Metro. It is estimated that it will take 6 months for the applicant to undertake these measures, which include the digging of a series of temporary holes, and for Sydney Metro to issue concurrence and owners' consent.

Given the benefits of this project to the City, Council is comfortable if the Panel defers a determination to enable those matters to be addressed.

RECOMMENDATION

- A. That the Sydney Central City Planning Panel defer determination of Development Application DA/16/2022 for a period of 6 months to allow sufficient time for the applicant to resolve outstanding issues with Sydney Metro.
- B. That those persons who made a submission be advised of the Panel's decision.

ATTACHMENT A - PLANNING ASSESSMENT

SWCCP reference	PPSSCC - 329
DA No.	16/2022

1. Environmental Planning and Assessment Act

The sections of the Environmental Planning and Assessment Act 1979 which require consideration are addressed below:

1.1 Section 1.7: Biodiversity Conservation Act 2016 & Fisheries Management Act 1994

The application is not captured by the Biodiversity Conservation Act 2016 as the scope of works is not likely to significantly affect threatened species given:

- The current condition of the site, and its location in an established CBD area
- No biodiversity offsets scheme applies; and
- The site is not in a declared area of outstanding biodiversity value.

The application is not captured by the Fisheries Management Act 1994.

1.2 Section 2.15: Function of Sydney District and Regional Planning Panels

The Panel is the consent authority as the proposal has a CIV of more than \$30 million.

1.3 Section 4.15(1): Evaluation

The relevant matters for consideration under this section of the Act noted below:

Table 7: Matters for consideration

Provision	Comment
Section 4.15(1)(a)(i) - Environmental planning instruments	Refer to section 2 below
Section 4.15(1)(a)(ii) - Draft planning instruments	Not applicable
Section 4.15(1)(a)(iii) - Development control plans	Refer to section 3 below
Section 4.15(1)(a)(iiia) - Planning agreements	Refer to section 4 below
Section 4.15(1)(a)(iv) - The Regulations	Refer to section 5 below
Section 4.15(1)(b) - Likely impacts	Refer to section 6 below
Section 4.15(1)(c) - Site suitability	Refer to section 7 below

Section 4.15(1)(d) - Submissions	Refer section 8 below
Section 4.15(1)(e) - The public interest	Refer to section 9 below

1.4 Section 4.47: Integrated development

'Integrated development' requires a related approval under certain other legislation in addition to any consent required by the Act. It is relevant in this instance because excavation for the basement would intercept the groundwater table, triggering the need for dewatering such that a Water Management Work Approval under section 90(2) of the Water Management Act 2000 would be required.

WaterNSW has provided its General Terms of Approval for that related WMA Act approval as required by section 4.47 of the Act.

2. Environmental planning instruments

2.1 Overview

The instruments applicable to this application comprise:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Resilience and Hazard) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Parramatta Local Environmental Plan 2011

Compliance is addressed below.

2.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 6 (Water Catchments) applies land identified as 'Sydney Harbour Catchment' which, by extension, is all land within the City of Parramatta local government area. Part 6.2 (Development in regulated catchments) is relevant, which sets controls for development generally. These provisions however are largely not applicable, as shown in the following table:

Table 8: Summary of section 6.2 of Biodiversity and Conservation SEPP

Provision	Comment
Water quality and quantity	The matters for consideration are either not applicable, or would be resolved via conditions of consent if the application was supported.
Aquatic ecology	Not applicable
Flooding	Not applicable (relates to wetlands and riverine ecosystems)
Recreation and public access	Not applicable
Total catchment management	Not applicable

2.3 State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 of this Policy deals with advertising and signage, its aims being to regulate signage and to ensure its location and presentation is of a high standard that is compatible with the amenity and character of an area.

This application does not seek consent for any specific signage, and notes that full signage details will be provided within future detailed application. However, the plans provided with this application do nominate likely signage zones for the retained heritage façade and both towers.

Those signage zones indicate an intention to ensure future signage is appropriately located to integrate into the design of the buildings. A condition would be recommend requiring all tenancy signage to be the subject of a future application, at which time a full assessment against this Policy would be made.

2.4 State Environmental Planning Policy (Planning Systems) 2021

This application is categorised as 'regionally significant development' via section 2.19 and Schedule 6 of this Plan, being development with a Capital Investment Value of more than \$30 million. Accordingly, the Panel is consent authority for this application.

2.5 State Environmental Planning Policy (Resilience and Hazard) 2021

Chapter 4 (Remediation of land) is relevant in the assessment of any development application, as clause 4.6 requires the consent authority to consider:

- If land is contaminated and,
- if so, whether it is suitable, or can be made suitable, for a proposed use.

The application is supported by a Detailed Site Investigation report which in summary notes:

- The site has been continuously used for commercial purposes since at least the 1920s.
- Surrounding land uses were also mostly commercial, but with some activities (dry cleaner/mechanical workshop) potentially impacting the site
- The site is not affected by any Notice or listing in terms of:
 - Contaminated Land Management Act 1997
 - Protection of the Environment Operations Act 1977
 - List of NSW Contaminated Sites Notified to the EPA
- Five boreholes were able to be installed for soil sampling, an long with 1 groundwater monitor. These were located only at the north eastern part of the site, due to access limitations.
- Investigations indicates that concentrations of metals, TRH, BTEX, PAHs, OPPs, PCBs, phenols and asbestos were present in fill and natural soils that were tested, but were at levels below adopted human health and ecological criteria.
- Nevertheless, further investigations are required to determine the depth and quality of
- soils in the central and southern parts of the site.

- Concentrations of TRH F1,F2 and F3 found groundwater are likely caused by natural organics and not petroleum sources, however further testing is prudent
- Concentrations of zone exceeded relevant criteria, however results represented typical background concentrations of groundwater within the local disturbed urban environment.

That report subsequently concludes that “.....based on the proposed development plans provided and the localised contamination identified the land can be made suitable for its intended commercial use subject to the recommendations..”.

The recommendations in the report, in summary requires the preparation of a Remediation Action Plan which:

- Addressed data gaps through additional soil and groundwater testing once the buildings are demolished
- Provides procedures and requirements for the classification and disposal of soil that would be excavated for the basement levels
- Includes procedures for unexpected finds and the preparation of a Site Validation report to demonstrate the site is suitable for its intended purpose.

Council’s Environmental Health team has reviewed and accepted the that detailed site investigation report. The obligations under clause 4.6 of the Policy are therefore satisfied.

2.6 State Environmental Planning Policy (Transport and Infrastructure) 2021

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State. Multiple provisions of this Policy are triggered because the site:

- immediately adjoins the route of the Parramatta Light Rail
- is immediately above the route of the Sydney West Metro and
- has frontage to a classified road.

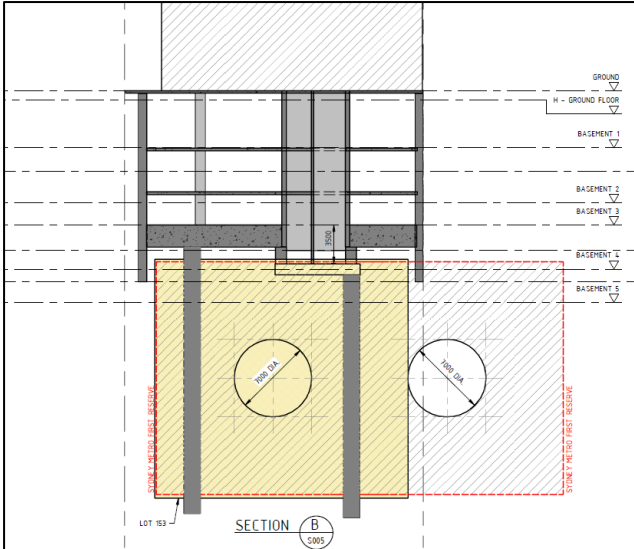
Further, it also needs to be noted that Macquarie Street, between Church and Marsden Streets, is the location for a future PLR turnback facility, which is a layover space for light rail vehicles. TfNSW has shared preliminary plans for those works, which will limit public vehicle movements to a single eastbound travel lane located at the northern edge of Macquarie Street.

Consideration of the relevant provisions of this Policy is provided in the following table:

Table 9: Summary of T+ISEPP assessment

Clause	Referral or Concurrence	Agency response
Clause 2.98 Development adjacent to rail corridors	Referral	<p><u>TfNSW and Sydney Metro</u></p> <p>This clause requires consideration of the rail authority comments where a development would:</p> <p>(a) is likely to have an adverse effect on rail safety, or</p>

		<p>(b) <i>involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or</i></p> <p>(c) <i>involves the use of a crane in air space above any rail corridor, or</i></p> <p>(d) <i>is located within 5 metres of an exposed overhead electricity power line that is used for the purpose of railways or rail infrastructure facilities.</i></p> <p>TfNSW have not raised any concerns or objections in relation to this clause.</p> <p>Sydney Metro advises that bulk earth works, structural elements, and building loads, present a risk to the Metro rail tunnel which is directly beneath the site.</p>
<p>Clause 2.99 Excavation in, above, below or adjacent to rail corridor</p>	<p>Concurrence</p>	<p><u>TfNSW</u></p> <p>This clause is relative to Parramatta Light Rail because the scheme proposes excavation of more than 2m within 25m of that rail corridor. The matters for consideration relative to concurrence are:</p> <p>(a) <i>the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:</i></p> <p>(i) <i>the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and</i></p> <p>(ii) <i>the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and</i></p> <p>(b) <i>what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.</i></p> <p>In May 2023 when this application was first reported to the Panel, TfNSW had not issued its concurrence because multiple technical matters were unsatisfactory. Those matters were subsequently resolved with concurrence, subject to conditions, issued 25.10.23.</p> <p><u>Sydney Metro</u></p> <p>This clause is relative to Sydney Metro West because the scheme proposes excavation within and above the Metro rail corridor, which passes directly beneath this site.</p> <p>SM first identified the need for further information in its initial letter of 24.1.2022. Despite revised reports and plans SM advised on 13.2.2023 it was still unable to make a decision on granting concurrence until the following significant matters are resolved:</p> <ul style="list-style-type: none"> • Provision of more rigorous geotechnical and structural reports/drawings based on improved testing and analysis of nominated matters

		<ul style="list-style-type: none"> • Provision of structural documentation relative to loads on the rail corridor and infrastructure, ground movements and settling, particularly if construction of this development was to occur prior to Metro tunnelling works • Provision of a construction methodology including structural support to be provided to both the development and rail corridor during excavation • Provision of cross sectional drawings of the structural elements of this development and the Metro corridor • Further information around surveying of the boundary between the site and the Metro corridor (stratum lot) and infrastructure • Further information regarding crange, acoustic and vibration matters and certain technical Corridor Protection guidelines issued by SM. <p>To better understand those issues on 23.2.2023 Council met with SM, at which time SM noted:</p> <ul style="list-style-type: none"> • It had acquired a stratum allotment beneath the development site on 3.2.2023. • Structural elements of this proposal encroach into that stratum allotment. SM's preference is for a structural redesign to remove all encroachments. If that is not possible, then SM is able to grant a 'concession' that could permit the encroachments to remain. Timing for a decision on granting a 'concession' is unknown, but is likely to take months. If successful, the applicant would then need to be granted 'owners' consent' from SM for this DA.  <p>Figure 10: Example of encroachment into SM stratum lot. SM advise that the exact location of structures is not yet certain as inadequate details have been provided to it by the applicant.</p> <ul style="list-style-type: none"> • It would only be AFTER that point that SM would make a decision in the DA space as to whether it would issue its concurrence for this provision in the T+ I SEPP. • Even if the stratum encroachment issue is resolved, SM still has significant concerns regarding ground movement and loading on the metro tunnel as a consequence of this development, plus impacts from managing DA construction works relative to timing of works for the Metro.
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		<p>On 5.4.2023 SM advised it had again received further information from the applicant, but that was of a high level only, and not adequate to resolve to progress any of its issues of concern. In consequence, it could not issue its concurrence as required by this clause.</p> <p>Since May 2023 Council acknowledges that both SM and the applicant have committed significant time and resources to address what is clearly a technically complex matter. On 12 September 2024 Council was, informally, made aware that a way forward is crystalising which, if effective, would clear the way for SM to issue its (likely heavily conditioned) concurrence and owners' consent. It involves:</p> <ul style="list-style-type: none"> - Undertaking temporary site works (drilling) which would provide technical data to SM to allow for evaluation of the impacts on its infrastructure. - Those works would need consent to proceed, to be achieved via a Modification to the associated early works DA for this site (DA 802/2021). Heritage NSW would need to agree those works, noting the archaeological values of the site. - The applicant would undertake those works and report to SM. Assuming the outcomes are satisfactory, this would enable SM to issue a concurrence (likely heavily conditioned) and owners consent <p>The applicant has suggested to SM a timeframe of completing the above by mid-January 2025. SM would then need time to consider the matter and prepare its concurrence determination.</p>
Clause 2.119 Development with frontage classified road	N/A	<p>This clause is matter for council to consider and provides that consent must not be granted on land that has a frontage to a classified road unless the consent authority is satisfied that:</p> <p><i>(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and</i></p> <p><i>(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development</i></p> <p><i>(c) the development is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</i></p> <p>Items (a) and (b) above have been the subject of particular consideration by TfNSW and Council. The arrangements now nominated for vehicle entry/exit points, on site servicing and restricted turn movements at Marsden Street are such that those considerations are satisfactorily resolved.</p> <p>Item (c) is similarly satisfactory noting the mix of land uses proposed and the mitigation measures nominated in the acoustic report supporting the application.</p>

Clause 2.122 Traffic Generating development	Referral	<p><u>TfNSW</u></p> <p>Consent must not be granted to development of a certain type/size and location relative to a classified road unless the consent authority has considered:</p> <ul style="list-style-type: none"> • <i>any submission from TfNSW</i> • <i>the accessibility of the site concerned, including the efficiency of movement of people and freight; and</i> • <i>the potential to minimise the need for travel by car and to maximise movement of freight; and</i> • <i>any potential traffic safety, road congestion or parking implications of the development.</i> <p>In May 2023 when this application was first reported to the Panel, TfNSW had identified various matters which were unsatisfactory. Since then, progress has been made such that TfNSW, by letter dated 11.8.23, provided conditions for inclusion in any consent.</p>
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2.7 Parramatta Local Environmental Plan 2011

PLEP 2011 was repealed following the commencement of PLEP 2023 on 2 March 2023. However, the savings provision of the new Plan are such that PLEP 2011 continues to apply. Further, Amendment 56 to LEP 2011 commenced on 14 October 2022, after this DA was lodged. However, that Amendment also had no savings provision, and so the following assessment is based on PLEP 2011, as revised by Amendment 56.

Aims and objectives

The particular aims of this Plan are to:

- (aa) *protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *encourage a range of development, including housing, employment and recreation, that accommodates the needs of the existing and future residents, workers and visitors of Parramatta,*
- (b) *foster environmental, economic, social and physical wellbeing so that Parramatta develops as an integrated, balanced and sustainable city,*
- (c) *identify, conserve and promote Parramatta's natural and cultural heritage as the framework for its identity, prosperity, liveability and social development,*
- (d) *improve public access to the city and facilitate the maximum use of improved public transport, together with walking and cycling,*
- (e) *minimise risk to the community in areas subject to environmental hazards, particularly flooding and bushfire, by restricting development in sensitive areas,*
- (f) *protect and enhance the natural environment, including areas of remnant bushland in Parramatta, by incorporating principles of ecologically sustainable development into land use controls,*
- (g) *improve public access along waterways where natural values will not be diminished,*
- (h) *enhance the amenity and characteristics of established residential areas,*
- (i) *retain the predominant role of Parramatta's industrial areas,*

- (j) *ensure that development does not detract from the economic viability of Parramatta's commercial centres,*
- (k) *ensure that development does not detract from the operation of local or regional road systems,*
- (l) *ensure development occurs in a manner that protects, conserves and enhances natural resources, including waterways, riparian land, surface and groundwater quality and flows and dependant ecosystems,*
- (m) *protect and enhance the viability, identity and diversity of the Parramatta City Centre and recognise it as the pre-eminent centre in the Greater Metropolitan Region,*
- (n) *encourage development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles.*

Following the additional work done since May 2023, this proposal is now satisfactory when considered against these aims and objectives.

Zoning and permissibility

The site is zoned B4 'Mixed Use'. The proposed uses within the development are captured by the following definitions, all of which are permissible with consent within that zone:

- *Commercial premises*
- *Function centre*
- *Hotel or motel accommodation*

Zone objectives

Clause 2.3(2) requires the consent authority to have regard to the zone objectives when determining a development application. The objectives for the B4 zone are to:

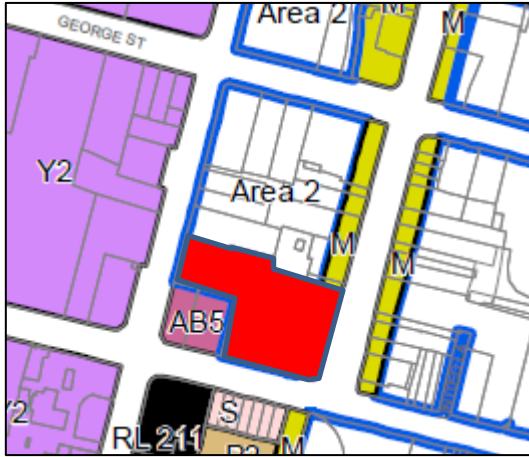
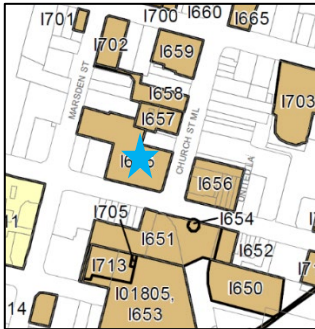
- *provide a mixture of compatible land uses.*
- *integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *encourage development that contributes to an active, vibrant and sustainable neighbourhood.*
- *create opportunities to improve the public domain and pedestrian links.*
- *support the higher order Zone B3 Commercial Core while providing for the daily commercial needs of the locality.*
- *protect and enhance the unique qualities and character of special areas within the Parramatta City Centre.*

The proposal is now satisfactory when considered against these objectives following the additional work done since May 2023.

Remaining provisions

Consideration of the remaining provisions of the Plan that may be relevant to this application are addressed in the following table:

Table 10: PLEP 2011 compliance table

Part 4 – Principal development standards		
Clause	Comment	Complies
Clause 4.3 Building height	<ul style="list-style-type: none"> When the application was lodged, prior to the commencement of Amendment 56, the mapped height control was partly 12m (to Church Street) with the balance of the site being 105m. Following commencement of Amendment 56, the extent of the 12m height control remained unchanged. Building height for the rest of the site is now subject to clause 7.5 - Sun Access  <p>Figure 11: Extract from PLEP height map - site in red</p>	<p>N/A</p> <p>Yes – for that part of the site with a 12m limit.</p> <p>Also, see 7.5 below.</p>
Clause 4.4 Floor space ratio	<ul style="list-style-type: none"> Following Amendment 56 the mapped control remains at 10:1 The proposal does not comply, but relies upon bonuses available from other controls elsewhere in the LEP 	N/A
Part 5 – Miscellaneous provisions		
Clause	Comment	Complies
Clause 5.6 Architectural roof features	This clause is not relevant as the tower buildings (which are outside the part of the site with a 12m height limit) are not subject to a mapped development standard for building height. Instead, the maximum height limit for most of the site is to be determined by the Sun Access provisions at clause 7.5.	N/A
Clause 5.10 Heritage	<p>The site is Item 655 (shop and potential archaeological site), a heritage item of local significance as shown on the extract from PLEP heritage map below</p>  <p>Figure 12: Extract from PLEP heritage map - site marked with star</p>	<p>Yes, as required consent triggers are satisfied, required documentation is provided, and impacts are satisfactory with mitigation as required.</p>

	<p>It also adjoins or is otherwise in the vicinity of multiple heritage items including:</p> <ul style="list-style-type: none"> • Item 650 - Parramatta Town Hall (and potential archaeological site) • Item 651 - Bicentennial Square and adjoining buildings; • Item 652 - Murray's Building (and potential archaeological site); • Item 653 - Wardens Cottage • Item 654 - Centennial Memorial Clock, Bicentennial Square; and • Item 656 - Façade and potential archaeology • Item 657 - Former post office and potential archaeology <p>In summary, assessment against clause 5.10 reveals:</p> <ul style="list-style-type: none"> • 5.10(1) – the objectives of this clause are satisfied • 5.10(2) – Complies, in that consent is sought for demolition of ground floor slab of existing buildings and modification to the facades of the former Murray Brothers building • 5.10(3) - Not applicable • 5.10(4) - Heritage impacts discussed at section 6.3 below • 5.10(5) - Heritage Impact Statement provided • 5.10(6) - Conservation Management Plan provided • 5.10(7) - Not an archaeological site (ie known relic) but see discussion at section 6.3 below • 5.10(8) - The site is not an Aboriginal place of significance, but see discussion at section 6.3 below • 5.10(9) - The site is not a nominated State heritage item • 5.10(1) - The conservation incentive provisions do not apply 	
Clause 5.21 Flood planning	<p>Consent not to be granted unless the following matters are satisfactory:</p> <p>(a) the impact of the development on projected changes to flood behaviour as a result of climate change,</p> <p>(b) the intended design and scale of buildings resulting from the development,</p> <p>(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,</p> <p>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</p> <p>Refer to refer to section 6.4 below for further comment.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
Clause 6.1 Acid sulphate soils	<ul style="list-style-type: none"> • The site comprises "Class 4" acid sulphate soils (ASS) • Consent for the proposal is required via subclause (2) <p>An ASS Management Plan has been provided as required</p>	Yes
Part 6 – Additional local provisions		
Clause	Comment	Complies
Clause 6.2 Earthworks	<p>This clause prescribes various objectives and qualitative measures to be considered before granting consent to earthworks. This proposal is able to meet the objectives and controls requiring protection of cultural heritage given the likelihood of disturbance to relics.</p>	Yes

Part 7 – City Centre additional local provisions		
Division 2 – Development standards		
Clause	Comment	Complies
Clause 7.5 Sun access	<ul style="list-style-type: none"> This control applies to the majority of the site. Precludes additional overshadowing on June 21 between midday and 2pm to the nominated portion of Parramatta Square, a key element of the public domain The applicant has provided a report demonstrating no new shadows on protected area between 12noon and 2pm. The accuracy of those details was confirmed by Council's Urban Design team. 	Yes
Clause 7.7 Airspace operations	Not applicable, the building is below the RL of concern. (RL 156).	N/A
Clause 7.8 Active frontages	The podium provides active frontages at the ground floor all street frontages as required.	Yes
Clause 7.9 Floodplain risk management	Consent not to be granted unless a building contains an area above the PMF, and which meets other nominated criteria, that can be used for 'shelter in place'.	Yes. Refer to section 6.4
Part 7 – City Centre additional local provisions		
Division 3 – Design excellence		
Clause	Comment	Complies
Clause 7.11 Design Excellence	The proposal adequately responds to the qualitative considerations prescribed in this clause - refer to section 6.2 below.	Yes
Clause 7.12 Competitive Design Process	The relevant provisions of this clause are satisfied - refer to section 6.2 below.	Yes
Clause 7.13 Additional height and FSR	<ul style="list-style-type: none"> If design excellence is achieved this clause allows for a bonus of up to 25% on both height and FSR, for the preferred entry of a competitive design process. It is not possible to grant a 25% bonus for building height, as there is no mapped control. Instead, most of the site is limited by the Sun Access controls at clause 7.5 above The scheme relies upon the granting of the 25% bonus for FSR (proposed FSR is 11.36:1) 	<p>Noted</p> <p>N/A</p> <p>Noted</p>
Part 7 – City Centre additional local provisions		
Division 4 – Car parking		
Clause	Comment	Complies
Clause 7.15 Car parking – general	Satisfied - refer to section 6.5 below	Yes

Part 7 – City Centre additional local provisions		
Division 5 – Provisions other than for Area A		
Clause	Comment	Complies
Clause 7.20 Managing heritage impacts	<p>Consent not to be granted unless the following has been considered:</p> <p>(a) extent to which development affects the heritage significance of the relevant heritage item or heritage conservation area,</p> <p>(b) a heritage impact statement,</p> <p>(c) if the development involves a lot amalgamation, which includes a lot that contains, or is adjacent to, a heritage item—a heritage conservation management plan that identifies whether—</p> <p>(i) further lot amalgamations will be required to support the development of the land, while retaining the heritage significance of the heritage item, and</p> <p>(ii) the significance of the heritage item has been prioritised in the amalgamation of the lots,</p> <p>(d) the location of a tower, if proposed, having regard to the need to achieve an acceptable relationship with the heritage item or heritage conservation area on, or adjacent to, the land in terms of separation, setbacks, amenity and urban form</p>	<p>Yes - refer to section 6.3</p> <p>Noted</p> <p>Yes – while the CMP does not address this matter, the planning controls for this part of the street block address lot consolidation.</p> <p>Yes – refer to section 6.3</p>
Clause 7.21 End of journey facilities	Satisfied – provided at basement level 2	Yes
Clause 7.22 Dual water systems	Achieved be conditions of consent	Yes
Clause 7.24 Commercial premises B4 zone	A GFA equivalent of minimum 1:1 FSR must be used for commercial purposes	Yes
Part 7 – City Centre additional local provisions		
Division 6 – Site specific provisions		
Clause	Comment	Complies
Clause 7.38 Site specific provisions 197 and 207 Church Street and 89 Marsden Street Parramatta	<ul style="list-style-type: none"> Subclause (2) is satisfied in that part of the building is being used for commercial purposes, with that use equating to at least a FSR of 1:1 Subclause (3) allows for the FSR to be exceeded provided the extra floorspace is only used for non-residential purposes 	<p>Yes</p> <p>N/A</p>
Part 8 – Intensive urban development		
Clause	Comment	Complies
Clause 8.1 State public infrastructure	This clause does not apply because the proposal does not include residential accommodation.	N/A

Clause 8.2 Public utility infrastructure	All of the nominated public utility infrastructure (water, electricity, sewage) is available to the site. Any consent would include the requirements of relevant agencies.	Yes
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3. Parramatta Development Control Plan 2011

An assessment against the relevant controls in this Plan is provided below:

Table 11: PDCP 2011 compliance table

Part 2 – Site planning		Complies
2.4.1 Views and vistas	The towers will not impact upon visually significant topographical features, sites of historical significance or any nominated views and vistas	Yes
2.4.2 Water management	<ul style="list-style-type: none"> Flooding risk is to be satisfactorily managed. Waterways can be protected through control of stormwater and water quality during and post construction 	Yes Yes
2.4.3. Soil management	<ul style="list-style-type: none"> Sedimentation addressed by conditions ASS – refer to LEP above. 	Yes Yes
2.4.4 Land Contamination	<ul style="list-style-type: none"> Defer to SEPP (Resilience and Hazard) 2021 above 	Yes
2.4.5 Air Quality	<ul style="list-style-type: none"> Addressed by conditions 	Yes
2.4.8 Public Domain	<ul style="list-style-type: none"> Capable of compliance – to be addressed by conditions 	Yes
Part 3 – Development principles		Complies
3.1 Building envelope	Defer to consideration of the LEP and DCP provisions for City Centre.	N/A
3.2 Building elements	<ul style="list-style-type: none"> Defer to design excellence process 	N/A
3.3 Environmental amenity	<ul style="list-style-type: none"> Onsite landscape treatment not satisfactory but capable of compliance Further work on acoustic privacy required to satisfy agencies. ESD measures satisfactory Arrangements for stormwater disposal are satisfactory 	Yes Yes Yes Yes
3.4. Social amenity	<ul style="list-style-type: none"> Inadequacies with public art strategy addressed by conditions Equitable access and facilities ensured via compliance with BCA, DDA and relevant standards. Addressed by conditions. CPTED considerations satisfactory – conditions provided 	Yes Yes Yes
3.5 Heritage and archaeology	<ul style="list-style-type: none"> Satisfactory - refer to section 6.3 below. 	Yes
3.6 Movement & circulation	<ul style="list-style-type: none"> Parking supply and geometry of basement parking is satisfactory - refer to section 6.5 below. 	Yes

Part 6 – Parramatta City Centre		
6.1 – Introduction		Complies
<i>General objectives</i>	O.02 Create a legible, coherent and attractive City Centre characterised by lively streets of human scale and detail, and a distinctive skyline of tall, slender towers set back from the streets.	Yes
	O.02 Ensure that the spaces of the public domain - streets, squares and parks - are of high quality and amenity.	Yes
	O.03 Contribute to a thriving City Centre at street level with a well-designed interface at active frontages.	Yes
	O.04 Prioritise pedestrian movements to enhance pedestrian safety and enjoyment of the city.	Yes
	O.05 Promote urban and architectural design quality through planning procedures that foster design excellence.	Noted
	O.06 Protect public parks and places from undue environmental impacts from development.	Yes
	O.07 Reinforce the distinctive attributes and qualities of Special Areas in the City Centre.	Yes
	O.08 Protect and celebrate heritage and provide for its conservation and interpretation.	Yes
	O.09 Manage flood waters to protect and enhance the quality of the public domain and private property in the City Centre.	Yes
	O.10 Limit the impact of growth and development on the City Centre environment with reduced energy and water use, greenhouse gas emissions and urban heat.	Yes
	O.11 Protect and improve the natural environment.	Yes
6.3 – Built form		
6.3.1 Guiding principles	P.O1 In streets with active ground floor frontages, the development model for the city is for the lower 4-6 storeys to collectively define and articulate the spaces of the public domain, with towers set back as clearly distinct free standing buildings.	No – Marsden St frontage, but satisfactory on merit. See 6.2 below
	P.02 In streets with active ground floor frontages, street walls are designed at appropriate heights to create spatially defined streets that are well proportioned, humanly scaled and finely grained, with facades of tactile material quality.	No – Marsden St frontage, but satisfactory on merit. See 6.2 below.
	P.03 Towers are set back above street walls to reinforce the scale of the streets, mitigate wind and urban heat impacts,	Yes

	<p>enable views to the sky and protect amenity in streets and public places.</p> <p>P.04 The design of the street wall responds, where relevant, to the existing heritage context.</p> <p>P.05 Building depth, bulk and separation creates a city form that protects amenity, daylight penetration, views to the sky and privacy between adjoining developments and minimises the negative impacts of buildings on the amenity of the public domain.</p> <p>P.06 Towers are proportioned to maximise their slenderness of form.</p> <p>P.07 The design and materials selection of buildings and the public domain contribute to a high quality, durable and sustainable urban environment.</p> <p>P.08 The gross floor area permissible under the applicable maximum FSR for each Development Lot in some circumstances may not be achievable when all planning, urban design and assessment considerations are taken into account. These may include, but are not limited to, matters such as street and tower setbacks, width of street frontage, the shape and size of the site, heritage curtilage, significant trees being retained, and significant archaeology on the site.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Noted</p> <p>Noted</p>
6.3.2 Minimum site frontage	<p>Sites are required to have a minimum frontage of 35m, which applies to each frontage for a corner site..</p> <p>The Marsden Street frontage is about 27m – in such instances the DCP allows for a merit based assessment including consideration of impacts for adjacent sites. It is also noted that when this DA was lodged the DCP control required a minimum frontage of 20m.</p>	<p>Yes</p> <p>No</p>
6.3.3 Building Envelope	<p>6.3.3.1 - Street Setbacks</p> <p>CO.1a Comply with Figure 6.3.3.1.1 unless otherwise stated</p> <p>CO.1b The street wall must be built to the street boundary a minimum of 14 metres and a maximum of 21 metres above the footpath level.</p> <p>CO.1c Tower above street wall must be setback 6m from street boundary</p> <p>CO.1d Only 1 steep in built form between street wall and tower</p> <p>CO1.e Setback above street wall apply to both frontage of corner site</p> <p>C.02 Buildings with active frontage affected by widening on LRA map to comply with nominated controls</p>	<p>No - Refer to section 6.2 for street wall and tower setback discussion</p> <p>As above</p> <p>As Above</p> <p>No – OK on merit</p> <p>Noted</p> <p>N/A</p>

	C.O3 Buildings with a lane frontage to comply with nominated controls	N/A
	CO4 Buildings with residential ground floor to comply with nominated controls	N/A
	6.3.3.2 - Building Separation	
	CO.1 Commercial building in B3 zone to be separated 12m above street wall height. Separations to be equally apportioned to inform side and rear setbacks	N/A
	CO.2 Residential buildings in B4 zone with active ground floor must be separated by 12m for up to 4 storeys, and 18m above 4 storeys	Defer to site specific DCP
	CO.4 For mixed use buildings in B4 zone that have an active ground floor, 18m separation above street wall height	Defer to site specific DCP
	6.3.3.3 - Tower Slenderness	
	CO.1 Maximum floor plate in B3 zone for a commercial tower is 2500m2	N/A
	CO.2 Maximum floor plate for a commercial tower in the B4 zone is 2000m2	No - below level 10
	CO.3 The maximum floorplate for a residential tower must be <ul style="list-style-type: none"> - 800m2 for building <75m high - 950m2 for building 75m-105m high - 1100m2 for building >105m high 	N/A
	CO.4 Floorplates subject to setback and separation controls	Noted
	CO.5 Maximum floorplate length for commercial tower in B3 zone is 60m	N/A
	CO.6 Maximum floorplate length for any tower in B4 zone is 45m	Partial. Individual towers comply but not where floorplates join (80m).OK on merit – see section 6.2 below
	6.3.3.4 - Floor Heights (Floor to floor)	
	CO.1 Commercial 3.8m	No – 3.7m
	Residential 3.1m	N/A
	Ground floor active street frontage 4.5	No - 4m

	<p>Above ground car parking</p> <ul style="list-style-type: none"> - B3 commercial 3.8m - B4 mixed use 3.1m 	N/A
6.3.4 Street wall	<p>CO.1 Must be built to the street alignment along its full frontage at a levels and otherwise meet nominated design criteria</p> <p>CO.2 Undercrofts or other interruptions of the street wall which expose the underside of the tower and amplify its presence on the street are not permitted</p> <p>CO.3 Green walls, screens and the like must not be used as an applied cover that masks the architectural attributes of the street wall facade</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
6.3.5.2 Ground floor Flood affected sites	<p>CO.1 Where Council considers it viable and in the public interest, particularly in a fine grain or heritage context, an area of the ground floor may be located at footpath level subject to meeting nominated design controls</p> <p>CO.2 Where the floor level required by Council for flood protection is a maximum of 1.5 meters above footpath level the active frontage may be set back from the street boundary with access and transition adjacent to the footpath</p> <p>CO.3 Where integration with adjacent frontage is not possible or desirable, active frontage may be located on or close to the street boundary, subject to the maximum height of any wall being 0.9 metres.</p> <p>CO.4 Where the floor level required by Council for flood protection is greater than 1.5 metres above footpath level, a raised frontage set back and adjacent to the footpath is unlikely to be practical, and the frontage may be activated with display windows</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>
6.3.5.2 Arcades	<p>CO.1 Arcades must be located in a mid-block position or where connections can be made between other public spaces as agreed with Council.</p> <p>CO.2 Arcades must not compromise or take precedence over the activation of adjacent streets.</p> <p>CO.3 Where possible, must be aligned with existing arcades or laneways across blocks</p> <p>CO.4 Arcades must provide clear access and sight lines from one end to the other and be designed to satisfy nominated criteria</p> <p>CO.5 Arcades must be publicly accessible 24 hours per day unless otherwise necessary</p>	<p>Defer Site specific DCP</p> <p>Yes</p> <p>Defer Site specific DCP</p> <p>No - OK on merit</p> <p>Yes</p>
6.3.5.5 Utilities	<p>CO.2 Wherever possible, be located on secondary street frontages, laneways or non-active street frontages. Substations in particular should be located at the first floor, or in a basement, whenever possible</p>	<p>Yes</p> <p>Yes</p>

	CO.3 Be designed and located to minimise the length of ground floor frontage occupied.	
6.5.4 Special Areas – Church Street	<p>O.02 Strengthen the framing of Church Street by providing a consistent street wall alignment and consistent building height limit as required by the Height of Buildings Map in Parramatta LEP 2011 and Figure 6.5.4.2. Allow views and vistas to reinforce Church Street's civic significance, defining and framing the view south from the River towards St John's Cathedral.</p> <p>C.01 Street wall heights and street setbacks must comply with Figure 6.5.4.3</p> <p>C.02 Tower development is prohibited within the Church Street view corridor, as indicated in Figure 6.5.4.1, to preserve views down Church Street and the silhouette of St John's Cathedral</p>	<p>Yes - refer section 6.2</p> <p>Yes</p> <p>Yes</p>
6.6 – Heritage		
6.6.1 Guiding principles	<p>P8 The heritage values of a heritage place, as well as the contribution of the broader context, including views, and the immediate setting, to the heritage values of the place (the relationship of a heritage place to its area), are understood prior to making decisions about changes to a place, including new development.</p> <p>P.11 New development is carefully designed to protect and enhance the setting of heritage places and to acknowledge and strengthen the relationships between heritage places in the City Centre.</p>	<p>Yes</p> <p>Yes</p>
6.6.2 Understanding the place	<p>O.01 Ensure that the nature of change to a place is determined by a proper understanding of its heritage significance.</p> <p>C.03 The heritage significance of local heritage places must be conserved and enhanced. The work must be guided by the management recommendations set out on Council's heritage inventory sheet for the place, or in a relevant heritage management document such as a conservation management plan that Council has found acceptable.</p>	<p>Yes</p> <p>Yes</p>
6.7 – Flood risk management		
6.7.1 Assessment and minimisation of flood hazards, risks and potential for harm	<p>O.01 Hazard, risk and safety assessments are required to demonstrate how risk and potential for harm to people, property, buildings, and the environment from floodwaters will be mitigated.</p> <p>O.02 A risk-based approach to floodplain development and mitigation of potential harm based on a merit assessment consistent with the Flood Plain Development Manual (2005 or as updated) is required.</p>	<p>Noted</p> <p>Noted</p>
6.7.2 Land uses and building levels	<p>C.02 The following uses within a building will not be supported below the FPL.</p> <p>a) Residential habitable rooms or uses, including those relying on flood gates, flood doors, barriers, crests, walls, windows or other physical barriers to exclude floodwaters up to the FPL.</p> <p>b) Gathering places such as places of worship and classrooms.</p>	<p>Yes These provisions are satisfied. Refer to</p>

	<p>c) Uses such as child care centres, aged care facilities.</p> <p>d) Storage of valuable items including important records, archives and office files.</p> <p>C.03 Indoor, non-habitable floor space and corresponding uses may be permitted below the FPL, subject to a satisfactory flood hazard and risk assessment and appropriate flood mitigation measures. Such uses may include basement car parking and bicycle storage, loading docks and the like</p> <p>C.04 Outdoor uses below the FPL may be permitted provided the design is flood risk responsive and will not unreasonably expose patrons to harm from high hazard conditions</p> <p>C.05 Commercial and retail development at street level that is below the FPL within a building that occupies land subject to flooding in a PMF event may be permitted if nominated considerations for risk and hazard are satisfied</p> <p>C.06 Commercial and retail development within a basement below the FPL is, in general, not permitted within a building that occupies land subject to flooding in a PMF event.</p> <p>C.07 Notwithstanding C.06, Council may at its discretion permit some types of commercial and retail development within a basement of a building below the FPL that occupies land subject to flooding in a PMF event if nominated considerations for risk and hazard are satisfied</p>	<p>section 6.4 below</p>
<p>6.7.3</p> <p>Sensitive and critical uses</p>	<p>CO.1 Sensitive Uses and Facilities' and 'Critical Uses and Facilities,' in general, not permitted within a building that occupies land subject to flooding in a PMF event.</p>	<p>N/A</p>
<p>6.7.4</p> <p>Flood warning and emergency response planning</p>	<p>C.01 All development involving the construction of a new building or significant alterations to an existing building, and or intensification of a use must be supported by a Flood Emergency Response Plan.</p> <p>C.03 Horizontal evacuation measures are preferred for all building occupants (residents, workers and visitors) where nominated criteria can be satisfied</p> <p>C.04 Where horizontal evacuation is not feasible, Shelter In Place or vertical evacuation must be provided for all building occupants (residents, workers and visitors) that offers access to a safe indoor area of refuge or 'shelter in place' above the PMF</p> <p>C.05 Shelter In Place or vertical evacuation measures must satisfy the nominated requirements</p>	<p>Yes.</p> <p>Adequate SIP could be achieved</p> <p>Refer to section 6.4.</p>
<p>6.7.8</p> <p>Basement parking in flood prone areas</p>	<p>C.01 Council will only allow basement car parking in flood prone land if the proposal demonstrates:</p> <p>a) effective floodproofing and flood exclusion of the basement against all floods up to the PMF; and</p> <p>b) adequate safety for occupants of the basement and building including a flood free vertical evacuation path to a safe refuge above the PMF; and</p>	<p>Yes, but only in relation to low intensity basement uses.</p>

	c) consistency with other Council objectives (such as traffic management).	
6.8 - Environmental sustainability		
	Refer to discussion at section 6.2	Yes
6.9 - Vehicular access, parking and servicing		
6.9.1 Driveways and manoeuvring	<ul style="list-style-type: none"> Site specific controls prevail Agencies satisfied with details to demonstrate adequacy of movements and manoeuvring 	Noted Yes
6.9.2 Parking	<ul style="list-style-type: none"> LEP controls prevail for parking supply 	Yes
6.9.3.1 Bicycle parking	C.02 Bicycle parking spaces for new development is to be provided in accordance with the rates set out in Table 6.9.3.1: and meet nominated design criteria	Yes
6.9.3.1 End of journey facilities	C.01 For non-residential uses end of journey facilities are to be provided at the nominated rate and meet nominated criteria	Yes
6.10 – Site Specific DCP controls		
6.10.15.1 Desired future character	O.01 Capitalise on the site's strategic location within the Parramatta City Centre. O.02 Facilitate the fine grain network of pedestrian links through the site. O.03 Respect the heritage items on the site and the social significance of these items. O.04 Ensure the built form outcome is appropriate, having regard to Council's and the community's vision for the Parramatta CBD, and ensure the built form responds to the emerging built form context. O.05 Ensure development provides built form articulation and an attractive composition of building elements with an appropriate relationship between buildings and streetscape. O.06 Ensure building height is distributed across the site having regard for orientation and overshadowing. O.07 Provide opportunities for an appropriate level of active ground floor uses to be accommodated to increase pedestrian activity and use of public domain areas. O.08 Include stormwater management measures which appropriately address the level of flood affectation on the site and immediate surrounds. O.09 Ensure the design of the building addresses the local flood conditions and does not impede local overland flow paths.	Noted Yes Yes Yes Yes Yes Yes Yes Yes Yes

	<p>O.10 Minimise the risk to life by ensuring appropriate safe areas within the building to shelter during a flood, and safe access from the building during a medical or fire emergency.</p> <p>O.11 Allow uses and development on the site that are appropriate to the flood hazard.</p> <p>O.12 Facilitate redevelopment of the site as a high quality mixed use development.</p> <p>O.13 Ensure the building interfaces positively with the public areas and contributes to an attractive public domain and desirable setting for its intended uses.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
6.10.15.2 Built form	<p>C.01 The setbacks along Marsden Street are to be consistent with those shown in Figures 6.10.15.2 and 6.10.15.3.</p> <p>C.02 The parapet wall along Marsden Street is to align with the parapet height of the Marsden Street frontage of the adjoining development on 20 Macquarie Street. Refer Figures 6.10.15.2 and 6.10.15.3.</p> <p>C.03 A zero setback to Macquarie Street for the podium, with the tower element being setback a minimum of 6 metres to Macquarie Street.</p> <p>C.04 A zero setback to Church Street for the podium, with the tower element being setback a minimum of 12 metres from Church Street.</p> <p>C.05 The separation between towers used for non-residential uses on the site shall be a minimum of 12 metres.</p> <p>C.06 Setbacks to adjoining property boundaries will generally be a minimum of 6 metres for non-residential uses.</p>	<p>No – OK on merit. Refer section 6.2</p> <p>No - Tower setback is min 3m. OK on merit</p> <p>Yes</p> <p>Partial – OK on merit. Refer section 6.2</p> <p>NA</p>
6.10.15.3 Public domain	<p>C.01 A through-site pedestrian link from Church Street to Marsden Street is to be incorporated.</p> <p>C.02 A through-site pedestrian link from Macquarie Street, to the Church Street/Marsden Street through-site link is to be provided.</p> <p>C.03 Arcades must be located in a mid-block position or where connections can be made between other public spaces as agreed with Council.</p> <p>C.04 Arcades must not compromise, or take precedence over, the activation of adjacent streets.</p> <p>C.05 Where possible, arcades must be aligned with existing arcades or laneways across blocks.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Noted</p>

	C.06 Arcades must provide clear access and sight lines from one end to the other and be designed so to meet nominate criteria	No- but OK on merit
6.10.15.4 Traffic and transport	C.02 Loading/unloading facilities are to be designed to facilitate efficient use of dock areas.	Yes
	C.03 Vehicle access arrangements are for vehicles enter from Macquarie Street and exit onto Marsden Street	Yes
6.10.15.5 Heritage	O.01 The existing facade of the Murray Bros building along Church Street and Macquarie Street (including the awning) is to be retained.	Yes
	O.05 Opportunities to conserve local and State significant archaeological items are to be considered.	Noted
	C.02 An archaeological assessment will be prepared for the site and the recommendations of the assessment incorporated into the detailed design. This includes the conservation of local and State significant archaeology. Where this is not possible or practical, excavation, salvage, reuse and/or interpretation of the archaeology in accordance with an approved archaeological research design and excavation methodology is to occur.	No - refer to section 6.3
6.10.15.6 Street wall design	O.01 Define the space of the streets and articulate their edges.	Yes
	O.02 Design the street walls to provide appropriate scale and detail.	No -OK on merit. Refer section 6.2
	O.03 Design the street walls to achieve fine grain modulation in the street.	Yes
	O.04 Provide comfort and shelter for pedestrians.	Yes
	O.05 Minimise large expanses of inactive frontage.	Yes
	C.01 The street walls must be designed to meet nominated criteria	Yes
	C.02 Under crofts or disruptions of the street wall which expose the underside of the tower and amplify its presence on the street are not permitted.	Yes
6.10.15.7 Ground floor	C.01 The ground floor frontage should have active uses for a minimum of 70% of its length.	Yes
	C.02 Semi-recessed awnings must be provided on Marsden Street frontage (refer to Figure 6.10.15.3).	Yes
	C.03 The public domain on O'Connell Street to acknowledge the needs of Parramatta Light Rail Stage 1.	Noted
	C.04 Double height awnings are not permitted.	Yes
	C.05 Glass awnings are not permitted.	No but ok on merit

	<p>C.06 The ground floor frontage must be designed in detail and meet nominated criteria</p> <p>C.07 Security doors or grilles must be designed to meet nominated criteria</p> <p>C.08 Parking security grilles or doors must be recessed and aligned to the building edge.</p> <p>C.09 The frontage must not have deep recesses for entry lobbies that compromise safety.</p>	<p>Yes</p> <p>Noted</p> <p>Noted</p> <p>Yes</p>
<p>6.10.15.8 Flood management</p>	<p><i>Building footprint and uses</i></p> <p>C.05 Basement car parking is discouraged but may be permitted subject to satisfying nominated requirements the requirements set out below.</p> <p>C.06 Loading docks, garbage transfer areas, plant rooms, bicycle storage plus end of trip facilities, storage of low value items and other non-habitable uses may be permitted below the FPL subject to nominated safeguards.</p> <p>C.10 Wherever possible, critical services infrastructure that could be damaged by flooding such as electrical, lifts, sewer and water are to be placed above the PMF level, or, where that cannot reasonably be achieved, effectively floodproofed.</p> <p><i>Areas of Refuge and Evacuation Routes</i></p> <p>C.12 All building occupants (residents, workers and visitors) must have access to a safe area of refuge or 'shelter in place' above the PM</p>	<p>Yes</p> <p>Yes</p> <p>Yes – via conditions</p> <p>Yes. Adequate SIP could be achieved. Refer to section 6.4</p>

4. Contributions Plans

4.1 Planning Agreements

A Voluntary Planning Agreement is in place for this site, which has the following provisions:

Table 12: Summary of obligations under VPA

Clause 6.1	Monetary contribution is required if consent is granted for residential purposes
Clause 6.2	A covenant and easement for public access (2m deep and maximum 4.4m high) to be created across the entire Marsden Street frontage precluding that part of the site being used for any purpose except for enhancing the public domain. This space was required to enable the creation of a cycle lane on the eastern side of Marsden Street
Clause 7	Sections 7.11, 7.12 and 7.24 of the Act continue to apply

The public access easement obligation was subsequently made redundant following adoption of the Integrated Transport Plan by Council on 26 July 2021. That Plan relocates the cycle lane to the western side of Marsden Street. That change in circumstances has

allowed for the hotel building to be redesigned so it is set on the Marsden Street boundary, which is the preferred urban design outcome.

To formally manage this matter Council, at its meeting on 26 August 2024, adopted a Deed of Variation to that VPA.

4.2 Parramatta City Centre Development Contributions Plan

As the VPA does not exclude the operation of section 7.12 of the Act. This matter would be addressed by condition.

5. Environmental Planning and Assessment Regulation 2021

The application is:

- contrary to clause 23 because land owners consent from Sydney Metro has not been provided
- consistent with clause 24 (content of applications)
- satisfactory when considered against clause 61 (additional matters to consider) as relevant issues could be addressed by way of conditions of consent.

6. Likely impacts

6.1 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 any adverse physical impacts as follows:

- Appropriate arrangements will be made for the collection and disposal of stormwater;
- Arrangements for vehicle access, and traffic generation will not compromise safety for road users, and will not reduce the efficiency of the local road network
- The design and location of the building should not preclude surrounding land from being developed in accordance with planning controls
The proposal will not generate noise, cast shadows or diminish views that would be detrimental to adjacent and surrounding sites.
- Wind and reflectivity impacts are, or can be made, satisfactory

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:

- It provides for land uses contemplated by the planning controls
- The scale of the buildings is generally consistent with planning controls
- Street wall/podium design is satisfactory
- Tower location and design is satisfactory
- The public domain treatment will be satisfactory

6.2 Site planning and built form

Design Excellence competition

Various triggers within clause 7.12 of PLEP 2011 (building height/heritage listing/capital value >\$100M) require this proposal to be the subject of a competitive design process. That was completed as noted at Table 1 above.

Since lodgement of the DA, the same Jury has reviewed the scheme twice. In June 2022 the Jury advised:

- It was satisfied with street setbacks
- It was satisfied with a reduced separation between the hotel and commercial towers
- The public domain is well developed with a desirable outcome to Church Street. However, It noted the entry experience from Macquarie Street needs further work as it appears to be focussed more on an engineering response and needs to have an improved public domain outcome.
- It did not offer any comments regarding the interface with adjacent 20 Macquarie Street, the location of the substation, solar impacts on Parramatta Square, ESD or planning compliance matters
- In relation to the basement level ballroom and flooding, it noted that while the location is appropriate in design terms (large space not impeded by columns, with no need for natural light) the flood safety requirements need to be considered by the council's engineer.

In conclusion the Jury:

- Noted the site has multiple layers of complications stemming from the Metro, Light Rail, flooding, heritage, archaeology, which need to be recognised
- That design integrity has been retained on the majority of features of the proposal, and in particular to the ground floor and the clarity of organisation of spaces is now well-resolved. Nevertheless, additional work is needed to refine the vehicle access to Macquarie Street.

That design review work did not occur before the lodgement of amended plans in December 2022. Instead, the applicant advised:

- Between February and March 2023 it liaised with Jury to identify improvements and efficiencies in the design of the ground plane resulting in the following changes:

- Wider/grander stair arrival to hotel from Marsden Street
 - Adjustments to hotel façade within main east/west pedestrian link to improve sight lines. Also adjust design of ramps, stairs and planters within that pedestrian link
 - Increased the width of the north/south pedestrian link adjacent Macquarie Street entry with associated adjustments to planters
- The Jury noted that the confluence of cars, drop off and pedestrian movements remained too compressed. The design was therefore further amended to:
 - Allocate more space to the ground plane movement for pedestrians and cars
 - Reduce the GFA of the hotel lobby
 - The final outcome was confirmed in revised plans endorsed by the Jury on 15 March 2023 and lodged with Council on 6 April 2023.

Design Excellence

The role and “value add” of a Jury within the design competition process is acknowledged. However:

- The conclusions of a Jury do not fetter Council’s assessment of a DA; and
- A decision as to whether design excellence has been achieved rests not with the Jury, but the consent authority.

To that end, clause 7.11 of PLEP 2011 provides that consent must only be granted if the consent authority is satisfied:

- the development exhibits design excellence; and
- in considering that, regard must be had for nominated qualitative considerations.

On balance the scheme adequately responds to those qualitative controls, as summarised in the following table. Consequently, the design excellence obligations of the LEP are achieved.

Table 13: Evaluation against PLEP 2011 design excellence criteria

<i>Element</i>	<i>Comment</i>
whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,	Yes - refer to discussion below this table
whether the form and external appearance of the development will improve the quality and amenity of the public domain,	Yes - refer to discussion below this table
whether the development detrimentally impacts on view corridors,	Satisfactory
the suitability of the land for development,	Satisfactory – refer to sections 2.6, 6.3 and 6.4
existing and proposed uses and use mix	Satisfactory – refer to section 6.4

heritage and archaeological issues and streetscape constraints or opportunities,	Satisfactory – refer to section 6.3
the location of any proposed tower, having regard to the need to achieve an acceptable relationship with other existing or proposed towers on the same site or on a neighbouring site in terms of separation, setbacks, amenity and urban form,	Satisfactory – refer to discussion below this table
bulk, massing and modulation of buildings	Satisfactory – refer to discussion below this table
street frontage heights	Satisfactory – refer to discussion below this table
environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,	Satisfactory – refer to discussions below this table, plus at sections 6.6 and 6.7
the achievement of the principles of ecologically sustainable development,	Satisfactory – refer to discussion below this table
pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network,	Satisfactory – refer to sections 2.6 and 6.5
the impact on, and proposed improvements to, the public domain,	Satisfactory
impact on any special character area,	Satisfactory – refer to discussion below this table
achieving appropriate interfaces at ground level between the building and the public domain	Satisfactory – refer to discussion below this table
excellence and integration of landscape design.	Capable of complying

Built form

The following aspects of the scheme warrant discussion:

- *Gaps in street wall*

A key concern with proposal at the time of the deferred report to the Panel in May 2023 was the treatment along the northern site boundary, which created a large open to sky plaza as part of a thought site link connecting with Marsden Street. That arrangement was contrary to the Church Street “Special Area” controls in DCP 2011 which require the framing of Church Street by providing a consistent street wall.

The scheme has subsequently been amended to the satisfaction of Council’s Team Leader, Design Excellence, by:

- Providing a suitably scaled and detailed street wall at Church Street; and
- Replacing the open sky link with an arcade comprised of a two storey masonry wall on the northern boundary and a glazed roof.



Figure 13: Revised street wall treatment to Church Street

Those changes also provide the following further benefits:

- Screening of the otherwise exposed underside cantilever elements of the commercial tower
- Screening of the western end of the arcade space which is otherwise poorly resolved and visually dominant from Church Street.

Further opportunity however is available to improve the design qualities of the new arcade treatment, namely:

- Provision of opening within the northern arcade wall to reveal the adjacent, ornate sandstone building, and improve natural light/airflow into the arcade space
- Provision of landscaping within the arcade space

Those outcomes could be achieved by conditions.

- *Ground plane to Marsden Street*

At the time the site specific DCP was prepared the intention was to accommodate a cycleway on the eastern side of Marsden Street. To achieve that outcome and also ensure a satisfactory public domain, a 2m setback at the ground floor was included in those controls.

However, Council ultimately determined that the cycleway should instead be on the western side of Marsden Street. Given that, the scheme has been amended to locate the Marsden street façade at the street boundary.

- *Street wall height - Marsden Street*

The site specific DCP nominates a 14m street wall height control for Marsden Street, above which any tower must be setback 2m. That 2m tower setback is a concession on the usual 6m which was negotiated to ensure a 12m tower separation between the two towers on the site.

The scheme fails to comply with the 14m street wall height. Instead a 2m tower setback is not provided until the 10th storey, creating a street wall of about 37m - more than 2 ^{1/2} times higher than the design criteria.



Figure 14: DCP street wall / tower control for Marsden St

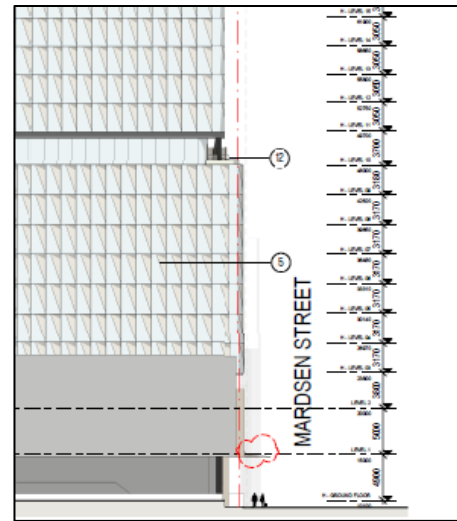


Figure 15: Proposed street wall / tower

The applicant's primary justification for its street wall is that intent of the control is achieved by design treatments which express a 14m height datum via a strong architectural reveal and break in the built form to create definition of a podium, as shown below:

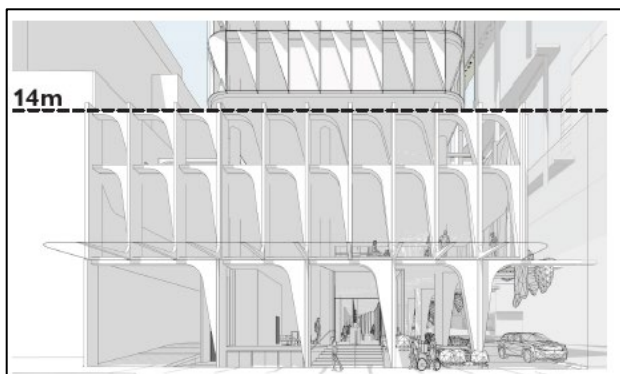


Figure 16: Proposed street wall / tower



Figure 17: Proposed street wall / tower

The fundamental principle of the street wall is to act as the defining element of the public domain. The street wall is to be designed as a separate element, distinct and different in character from the tower, but one that needs to complement other street walls. In the foreground, it acts as a mitigating element for the setback tower building; it is able to define the street at the appropriate height, and protect the street from the wind effects.

Within that context there has been considerable evaluation of the proposed departure from these site specific DPC controls. Ultimately it is concluded that the street wall/tower setback to Marsden Street can be supported for the following reasons:

- The building form is slim and has setbacks on either side.
- The absence of the setback of the tower/ podium to the street frontage will be limited in the oblique views along the street because 89 Marsden Street is located

mid-block. This means that existing and future development on either side of this site will provide visual 'cut-off' and minimize any negative visual impact.

- The built form of future development on adjacent 20 Macquarie Street will provide visual cut-off of the street wall from the intersection of Macquarie Street and Marsden Streets.
- The side walls of the tower/podium are articulated and glazed so that any views along the street to the part of the building that does not comply will not be into a blank wall.
- In the views from buildings across the street, the presentation is of a higher but narrow building form with generous separation on either side.
- There are no negative impacts on the adjacent sites to the north and south because the upper levels comply with the 6metre setbacks from the side boundaries above the podium.
- The building form has no additional impact on wind and minor, if any, impact on solar access.

It is to be noted that 14m street wall height control applies equally to the Marsden Street frontage of adjacent 20 Macquarie Street), which has its own site specific DCP. There is no desire by Council to abandon this control for either site.

- *Tower separation*

The site specific DCP prescribes a 12m separation, above podium, between towers used for non-residential purposes. This proposal fails that control as both towers are joined up until Level 10 of the commercial building – that is – for 8 floors above podium level. The purpose of the DCP control is to

- to ensure the towers can be read independently from each other and the podium.
- Avoid “linking” elements that otherwise result in an excessive length of façade (and total floor plate area) contrary to design principles which aim for tall slender buildings in the city centre.

In this specific instance however Council accepts the floorplate arrangement proposed because:

- The visual analysis by the applicant demonstrates a lack of impact when seen from the public domain in Macquarie Street, acknowledging there is no visual impacts for the other street frontages as a consequence of tower placement over the site.
- Above level 10, the commercial floorplate has been altered to achieve the 12m separation, enabling the towers to be read independently from each other and the podium.

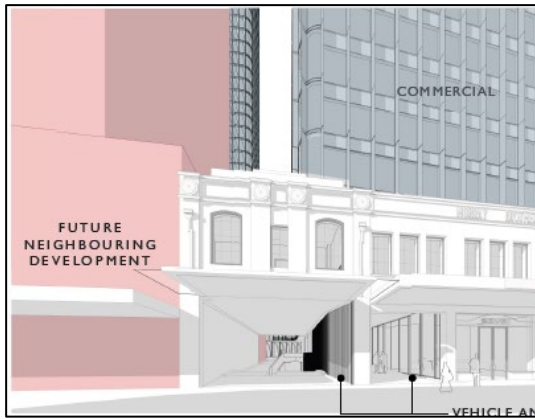


Figure 18: View from Macquarie Street (Scott Carver)

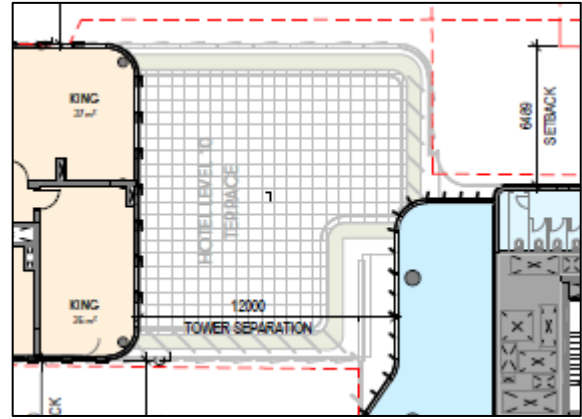


Figure 19: 12m tower septation above level 10

- *Tower setback to Macquarie Street*

The commercial building has a variable setback of 3m-6m above the podium to Macquarie street, contrary to the site specific DCP which requires a minimum setback 6m. The variable setback proposed is acceptable given the 3m matches the site specific controls for adjacent 20 Macquarie Street.

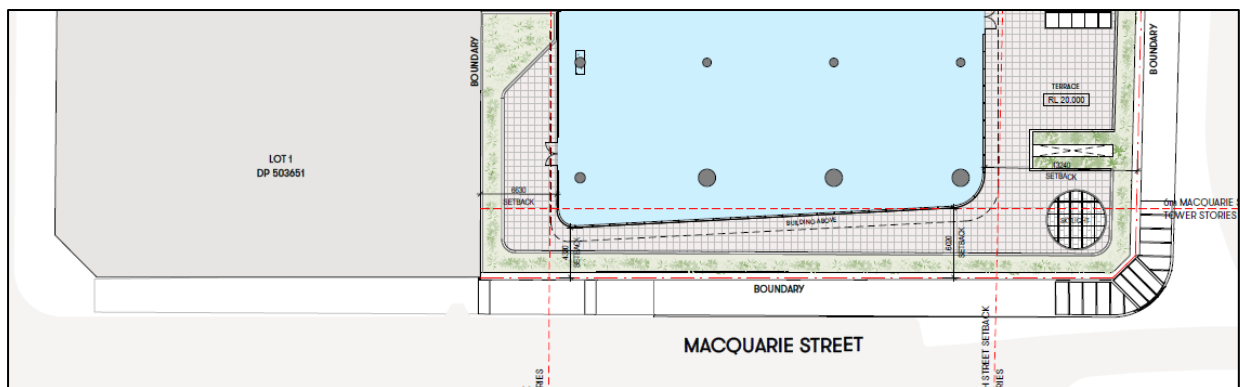


Figure 20: Tower setback to Macquarie Street

External materials

The schedule of external materials has been the subject of scrutiny by the Design Jury and ESD consultant, and are generally satisfactory, subject to details being submitted to Council for approval.

Accessibility

The application is supported by a technical report which concludes the proposal can readily achieve relevant accessibility requirements, subject to ongoing design refinement. Council's Project Officer Universal Access has reviewed and accepted that technical report, subject to conditions to ensure appropriate outcomes.

Sustainability

Ecologically Sustainable Development and environmental performance was a key objective of the Design Excellence Competition Brief. Those considerations are further underpinned by

provisions in both the LEP and DCP controls for the city centre.

To ensure continuity in the evaluation of these matters Council's sustainability consultant was engaged at both design competition and DA stages. In May 2023 when this application was first reported to the Panel, the scheme had failed to:

- progress various commitments to resolve ESD shortcomings identified at the design excellence stage, and
- had not adequately responded to the ESD measures the DCP.

Subsequent to the application being deferred ongoing consultation has resulted in significant improvements to ESD outcomes, notably:

- Provision of suitable shading measures for both towers
- All electric design with centralised plant for chilled water
- Rainwater collection and re-use

The table below provides a summary assessment against ESD provisions within Part 6.8 (City Centre) of DCP 2011. Relevant outcomes would be implemented by condition.

Table 14: Compliance with DCP 2011 ESD measures

Element	Status
6.8.1 High performing buildings	Commitment to 5.5 star NABERS Energy for the office and 5 star NABERS Energy for the Hotel satisfied
6.8.2 Dual water system	Dual piping and rainwater collection will be provided
6.8.3 All electric buildings	Achieved
6.8.4 EV charging	Required infrastructure will be provided.
6.8.5 Urban cooling	Adequacy of office shading has been demonstrated
6.8.6 Solar light reflectivity	Generally satisfactory - see comments at section 6.6 below.
6.8.7 Natural refrigerants in air conditioning	Capable of complying
6.8.8 Bird friendly design	Capable of complying
6.8.9 Wind mitigation	Satisfactory - see comments at section 6.6 below.

Landscaping

No deep soil areas are provided. Instead landscaping would be located within set downs or

planter beds. Key landscape elements are located at the ground plane, in the primary east-west pedestrian link, and at the podium and each terrace of the commercial tower. The details provided are generally satisfactory although opportunity to reinstate landscaping within the pedestrian arcade at the northern edge of the site has been identified. All issues are able to be addressed by way of conditions.

Public Art

Parramatta DCP 2011 provides that new development having a capital value of more than \$5,000,000 in the CBD is required to provide public art as part of the overall development. The DCP provisions are supported by Council's Interim Public Art Guidelines for Developers.

Aspects of the Public Art plan provided are satisfactory (some artwork typologies and locations) however the fundamental problem is the conflation of heritage interpretation as an expression of contemporary public artwork. The two are separate disciplines, requiring different expertise.

This matter however is capable of resolution via the condition.

Relationship to public domain

The public domain treatment to all street frontages, and public spaces at the ground plane within the site, is generally acceptable, subject to resolution of better detailed public domain and landscape drawings.

These matters are capable of resolution via condition.

6.3 Heritage

Extent of listings

Lot 1 DP710335, being 197 Church Street with a secondary address of 89 Marsden Street, supports the following buildings:

- A two storey Federation department store (Murray Brothers)
- A three storey 1950's office building (to the Marsden Street frontage)

That site is a local heritage item under PLEP 2011 – the listing being “*Shop (and potential archaeological site)*”. The remainder of the site, being Lot 1 DP 233150 (207 Church Street) is not a heritage item.

Summary of historical development the site

The application is supported by a *Historical Archaeological Impact Assessment and Archaeological Research Design* report, which presents the historical development of this site in the following 4 phases:

Table 15: Historic phases of development

Phase 1 1788-1822 Convict and early development	This area was part of the earliest developed section of Parramatta and is associated with convict settlement. An 1822 plan shows the first state school in Australia, opened in 1810, which replaced a convict hut or huts on the site.
Phase 2 1823-1857 Urban growth	An 1844 plan shows an addition to the school which became the Church of England Denominational School. In March 1858 the land was granted to the Bishop of Sydney. The school was demolished in the same year and a new school was built.
Phase 3 1858-1924 Civic and commercial expansion	The primary school became a secondary school, St John's Grammar School, in the 1880s. It closed in 1900 and was demolished in 1924-25
Phase 4 1925- present Commercial dominance	Murray Brothers department store opened in 1926, which expanded over time and operated until 1979.

The location of former buildings across the site associated with those phases is shown below:

Figure 21: Location of former building



Key

Phase 1 = orange Phase 2 = purple Phase 3 = green Grey = no archaeological potential

Partial demolition of the Murray Brothers building

The Murray Brothers building occupies the southeast corner of the site, addressing both Church and Macquarie Streets. It is a two storey Inter-War Stripped Classical style building of cement stuccoed brickwork. The first floor is composed of regular bays within which are set multi paned non-original steel framed windows creating repetition along the facades.

The ground floor is composed of contemporary glass shopfronts set within the original structural grid. A main entrance has been added at the building corner. The street awning to Church and Macquarie Streets is an original feature. On the Church Street façade a balcony level has been added above the awing.

Internally the lower floor is comprised of numerous different sized tenancies. The first floor comprises a large single tenancy and one smaller tenancy. Interior works are contemporary with only some original fabric evident in the limited number of small square section columns in some areas of both floors.

The State Heritage Inventory provides the following statement of Significance for the site:

Building at 197 Church Street is of significance for the Parramatta area for historical and aesthetic reasons and as a representative example of Inter-War period Stripped Classical architectural style building that demonstrates the commercial role of Parramatta in the twentieth century. The building is a related place to a number of buildings associated with the Murray Bros, being a former major department store of this group. Today, it is an important element of the streetscape in Church Street, contributing strongly to the townscape. The site has potential to contribute to an understanding of the early urban development of the area.

Prior DA/802/2021 approved the demolition of all structures across this development site, including the majority of the Murray Brothers building which was considered to be of little to no heritage value. However, consistent with the site specific DCP controls, that consent requires the retention of the significant heritage fabric, being the Church and Macquarie Street facades, including the pedestrian awning.

In terms of this proposal:

- The incorporation of those heritage facades/awning into the design of this development is consistent with those site specific DCP controls, and Council's Heritage Advisor is satisfied with this component of this project.
- Council's Heritage Advisor agrees with the Conservation Management Plan prepared by the proponent in relation to the restoration and alteration of the facades and awning to enable that outcome.

Potential for the site to contain historic archaeology

The LEP heritage listing notes 197 Church Street Parramatta as a potential archaeological site. That prospect is supported by the 2003 Parramatta Historical Archaeological Landscape Management Study (PHALMS) from which three Archaeological Management Units (AMU) apply to this site, being:

- AMU 2910 – contains State significant archaeology with high archaeological research potential
- AMU 2913 & 2908 – considered to have no archaeological significance/research potential.

AMU 2910 corresponds with the south eastern portion of the site as shown below:

It is the removal of all archaeology which is a point of contention.

Related approvals for archaeological investigations

The scope of the early works (demolition) approved with related DA/802/2021 also allows for the removal of portions of the ground floor slabs across the site to enable 6 test trenches to be implemented, ranging in size from 5m x 5m up to a maximum of 15m x 25m. Those trenches will enable investigation of any Aboriginal and non-Aboriginal archaeology on the site. The location of those test trenches is shown at Figure 18 below.

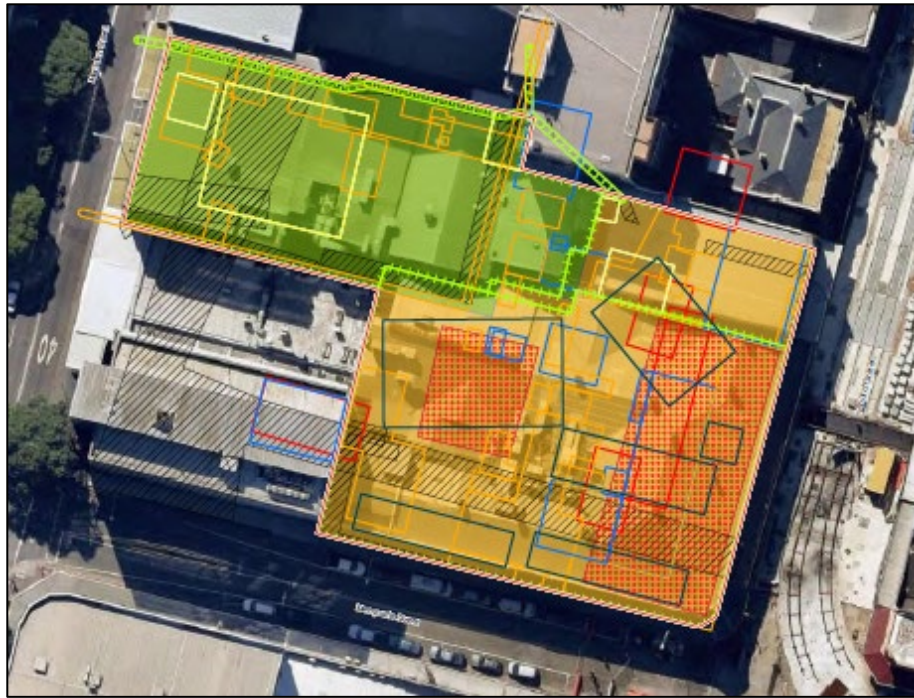


Figure 23: Test trenches shown in black

Heritage NSW has granted a permit under the Heritage Act 1977 for those test trenches. Key conditions of that approval are:

- C2: No permission to remove any State significant relics/archaeology
- C3: If substantial intact deposits and/or State significant relics not anticipated by the approved report are discovered, all works must cease and HNSW contacted.

Those investigations, which are now largely complete, will reveal the true extent and value of any archaeology on this site.

Evaluation of archaeological impacts

The likely archaeological value of this site and its consequential constraints upon redevelopment has been known for many years, and is acknowledged in the site specific development DCP. In response to this proposal Heritage NSW advised in March 2022:

The archaeological reports by Biosis confirms earlier research that the site may contain evidence of convict huts and the first government school in Australia. These archaeological

resources would be rare and be of State and National significance. Despite this, the current design proposal seeks to undertake a salvage excavation program to remove all potential archaeology from the site. This is not supported by HNSW, as the preferred management strategy for State significant archaeology is retention in-situ i.e. conserving it.

HNSW further noted:

- Its position on retaining archaeology *in-situ* is consistent with advice provided in 2015 for a similar proposal.
- It has repeatedly noted the need for a test excavation to determine the archaeological potential at this site to allow State significant archaeology to be confirmed and conserved through redesign
- This application should not be determined until the testing program has verified the archaeology on the site.

HNSW reiterated its position in February 2023 and, following representations from the proponent, confirmed in April 2023 that:

Due to the uniqueness of the site in its archaeological potential and the complexity of the proposed development, HNSW do not support the use of the proposed conditions to manage archaeology It is not possible to determine the appropriate archaeological mitigation measures for the subject site prior to test excavation, therefore, we cannot support a DA with basement levels before the results of test excavations are known.

HNSW has advised Council that the retention in-situ of state significant archaeology would mean:

- Redesign of the basement levels to avoid that archaeology; and
- Redesign of the ground plane to expose relics and allow for its interpretation.

In May 2023 when this application was first reported to the Panel, Council confirmed its agreement with the position of HNSW, and failure to resolve the issue of archaeological values being a key reason for refusal at that time.

Following deferral of this matter in May 2023 HNSW subsequently issued advice, in June, which nominated conditions of consent to manage significant archaeology. Those conditions included a requirement that if state significant relics are found, then prior to any Construction Certificate, a modification application or fresh development application was required in order to redesign the building to permit those relics to be retained in situ and, publicly accessible for interpretation.

Council was concerned the HNSW approach was not without risk, because:

- its conditions might be construed as deferring an essential 'matter for consideration' for later determination, such that the impacts would not have been properly assessed
- a consent authority does not have the ability to require a person to submit a development application or modification application; and
- a consent relying upon those conditions would not provide certainty as to the effectiveness of the eventual outcome.

After ongoing consideration Council has concluded the following two options are available to the Panel to manage the likely outcome that significant archaeology will be revealed on this site:

- a. Impose a condition that prohibits the applicant from commencing any works or carrying out any construction on the site until such time as it has followed an established protocol for the management of heritage objects discovered during the archaeological investigations; or
- b. Defer determination of this application until existing buildings have been demolished and archaeological investigations have concluded, in accordance with early works consent granted to DA/802/2021.

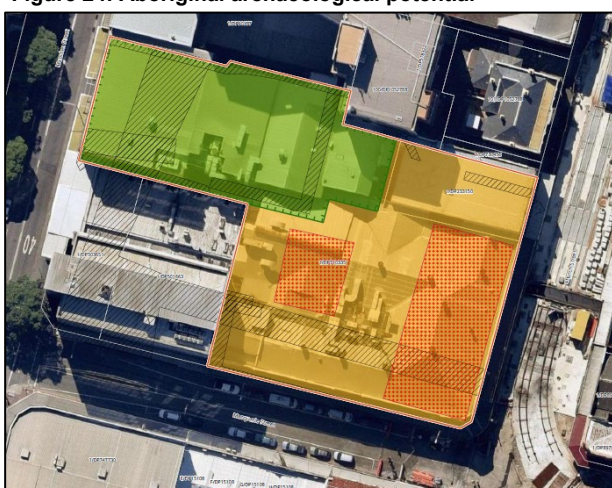
Option A is considered pragmatic and therefore an appropriate condition, agreed by HNSW, has been prepared.

Aboriginal cultural heritage

The application is supported by an *Aboriginal Cultural Heritage Assessment* report which in summary notes:

- The Aboriginal Heritage Information Management System (AHIMS) identified 90 Aboriginal sites within a 1.4 kilometre radius of the study area, with one site registered adjacent to the study area, and 14 sites within a 200 metre radius.
- Background research identified moderate potential for Aboriginal archaeological deposits to be present in the study area due to the high likelihood of the presence of the Parramatta Sand Sheet (PSS). The PSS is a layered depositional terrace 4-6 metres above the Parramatta River's normal water level.
- Assessment has determined that there is moderate potential for Aboriginal (pre-1788) archaeological deposits and moderate to high potential for contact archaeology to be present within the study area.

Figure 24: Aboriginal archaeological potential



Key

Green	Moderate potential for Aboriginal (pre 1788) archaeology
Yellow	Moderate potential for Aboriginal (pre 1788) and contact archaeology
Dots	Moderate to high potential for Aboriginal (pre 1788) and contact archaeology

In term of managing Aboriginal cultural heritage that report recommends:

- Those areas should be avoided where possible
- If that is not possible Test excavation works will identify the nature and extent of the subsurface archaeological resource and allow appropriate mitigation and management measures to be developed
- Depending on the results of the Aboriginal archaeological test excavations, further archaeological works in the form of salvage excavations may be required under a further AHIP to salvage and destroy.
- All evidence of Aboriginal occupation and association, physical and archival is used to create an integrated interpretation strategy that illustrates the development of this block and its relationship to Aboriginal country and the town of Parramatta, as well as the associations of specific people and their relationships to this place and its value to them.

As noted above, the test trenching nominated under the related early works DA approval (DA 802/2021) will also allow for the extent of Aboriginal Archaeology to be determined . To that end the applicant holds an Aboriginal Heritage Impact Permit (AHIP) under the National Parks and Wildlife Act 1974 for that purpose.

Pending the outcomes of those investigations a second AHIP for harm (removal) would be required if HNSW agrees to the salvage of any archaeology. HNSW has provided a condition for that purpose.

Historic view corridors

Section 6.4.7 of the Parramatta DCP 2011 identifies important views contribute to way finding and a sense of place and identity for the city. It specifically identifies historic views which are to be protected, including along Church Street, being the historic main street approach to the city centre and St John's Cathedral.

The scheme satisfies the relevant DCP provisions principally because the commercial tower building is setback 12m from the Church Street boundary, to allow the silhouette of the St John's Cathedral spires to be seen against the sky.

6.4 Water management

Flood impacts, hazard and risk

According to Council's 2005 modelling limited parts of the site and most the surrounding streets are impacted by the 1% AEP Parramatta River flood event as shown at Figure 25. Further, the applicant's 2D flood study, modelling overland flow, also affects the site and surrounds, particularly Marsden Street as shown at Figure 26.



Figure 25: Council's 1% AEP river flood modelling



Figure 26: Applicants 1% AEP overland flow modelling

The site would be completely inundated under a Probable Maximum Flood (PMF) event, with floodwaters being 12.7m AHD to Church Street; 12.8m AHD at Macquarie Street and 12.8m AHD at Marsden Street. PMF waters would therefore be about 2.3m above street level at Church Street, 2.9m above Macquarie Street and 3.8m above Marsden Street.

Current flood modelling indicates a low hazard affection during a 1% AEP river flood event. However, Council's flood study from June 2023 shows the following:

Table 12: Flood hazard

Event	Flood hazard	Location
1% AEP	H3 Unsuitable for vehicles, children and the elderly	Marsden Street
PMF	H6 Unsafe for people and vehicles.	All streets around the site

As discussed below, the flood risk can be managed.

Land uses

A key concern with this proposal at the time of the deferred report to the Panel in May 2023 was the inclusion of a function room (ballroom) of about 900m² at Basement level 2. Its size increased to about 2,300m² when taking into account associated ancillary spaces and facilities. That element of the scheme has now been removed.

Flood Protection - basement and ground floor levels

The basement egress driveway at Marsden Street includes a crest to the Flood Planning Level, which will manage stormwater inundation to the 1% AEP. For higher flood events up to the PMF that crest will be augmented by a mechanical flood barrier.

However, while a basement vehicle entry on Macquarie Street also includes a crest, it is about 900mm below the Flood Planning Level. Mechanical flood barriers will therefore be required to make up that shortfall, as well as also excluding flood events up to the PMF.

Certain ground floor retail tenancies along Macquarie Street have floor levels which are lower than the Flood Planning Level. Design amendments will be needed to resolve that circumstance. The implications are not significant.

All matters noted are able to be addressed by conditions.

Flood protection – construction

Noting the risk from flood hazard, the building, including relevant elements such as flood barriers and flood doors, must be designed to resist extreme loading resulting from extreme flood behaviour.

This matter is able to be addressed by conditions requiring certification by qualified structural and hydraulic engineers at both CC and OC stages. Such would satisfy the obligations under clause 7.9(3)(c) of the LEP.

Flood emergency management

Clause 7.9 (3)(a) and (b) of the LEP requires:

- An emergency access point to land above the 1% AEP; and
- Adequate Shelter in Place (SIP) for a PMF event.

Horizontal evacuation via Church Street is available for floods up to the 1% AEP event. For the PMF, when evacuation is not possible and SIP is required, the application is supported by a Flood Emergency Management Plan which, while sufficient to demonstrate that SIP will work, is not satisfactory. Accordingly, a consent condition would require the submission of a revised plan endorsement by Council.

Groundwater

Conditions of consent would require the basement to be of tanked construction to prevent ingress of groundwater, and for its design to allow for the movement of groundwater across the site.

On site stormwater collection and disposal

Arrangements for the onsite collection and disposal of stormwater are satisfactory.

Water quality – during construction

This matter would be addressed by conditions.

Water quality – during operation

The water quality targets outlined in CoPC DCP 2011 are able to be satisfied through a treatment system which includes pit inserts, filtration cartridges, and a rainwater tank.

6.5 Access, transport and traffic

Parking supply

The parking supply requirements in LEP 2011 prescribe a maximum 135 spaces as follows:

- 53 spaces for the commercial tenancies
- 42 spaces for the hotel
- 40 spaces for the retail tenancies.

136 spaces are shown proposed. This minor oversupply would be resolved by way of a condition.

In terms of DCP requirements:

- 2 car share spaces, consistent with relevant objectives.
- 6 motor cycle spaces are provided as required
- 431 bicycle parking spaces are provided, an oversupply of 108 spaces.

Parking access and design

Council's Traffic Engineer confirms that the design geometry of the at grade hotel porte cochere, basement access ramps and basement elements for vehicle parking and movement is satisfactory.

The design and operation of the basement exit driveway at Marsden Street is of concern, but will be acceptable subject various measures, able to be achieved via conditions, to ensure pedestrian and traffic safety including:

- Vehicle movements to be restricted to 'left out' only
- Mirrors, speed humps and a video feed to a screen to allow drivers to observe pedestrian movements along the Marsden Street footpath.

Service vehicles

Council's Traffic Engineer is satisfied with 12 basement loading bays proposed 9 2 x MRV/2 x SRV /8 x 9B99) to service the entire development, subject to the implementation of an acceptable Loading Dock Management Plan.

Construction Traffic

A Construction and Pedestrian Traffic Management Plan, endorsed by both Council and TfNSW, would be required prior to works commencing.

Operational Traffic

Council's Traffic Engineer advises the development is not expected to have significant impact

on the operation of the surrounding road network as the total GFA is consistent with that modelled by council when evaluating traffic impacts associated with the FSR controls introduced via the Parramatta CBD Planning Proposal. (Amendment 56 to PLEP 2011).

Note also that TfNSW is not satisfied regarding the impacts of operation traffic refer – refer to section 2.6.

6.6 Amenity considerations

Wind impacts

In May 2023 when this application was first reported to the Panel, the *Pedestrian Wind Study* accompanying the application was unsatisfactory for the following reasons:

- the methodology for applying the DCP criterion to the wind tunnel data is not explained
- It is not clear if the Bankstown Airport data was corrected to account for the effects for the nearby buildings, particularly for north-easterly winds.
- For locations 8 and 10 (ground plane, at the junction of the main east/west and north south pedestrian links) the wind condition increases to the walking criterion. However, the landscape plans identify those locations are an opportunity for hotel alfresco dining, for which the required criterion is outdoor sitting/sitting.
- The hotel level 10 terrace is noted as relying upon landscape measures to mitigate wind impacts. That approach is not acceptable. Fixed migration measures (screens or the like) are required, with any landscaping being for aesthetic purposes only.
- Localised wind activity is noted particularly at the exposed corners of the commercial tower terraces and mitigation measures were not clear, and not tested.
- The report would need to be updated to account for the required design changes necessary to ensure the hotel tower in particular, aligns with site specific DCP requirements for the street wall/podium design.

Following deferral of this application in May 2023 further information was provided adequately resolving those concerns. However it remains necessary that the mitigation measures for the level 10 terrace, and certain terraces of the commercial tower are wind tunnel tested to ensure efficacy. However, as there is sufficient comfort on that outcome, a condition of consent would be sufficient manage that matter.

Reflectivity

In May 2023 when this application was first reported to the Panel, Council's evaluation of the *Solar Reflection Screening Analysis* report supporting the application concluded:

- The methodology was generally acceptable.
- The report did not consider pedestrians.
- Glare thresholds are shown to be exceeded in the front of the Town Hall but are not addressed in the report.
- A recommendation within the report to mitigate glare for light rail drivers was not adopted in the design.

Following deferral of this application in May 2023 multiple discussions were held between the proponent and Council's experts, focusing particularly on the unresolved concern of glare impacts at the pedestrianised shared zone around the intersection of Macquarie and Church Streets, for both light rail drivers and pedestrians. Council's expert is now satisfied that glare impacts can be adequately alleviated, although further modelling is needed to confirm the extent of mitigation. However, as there is sufficient comfort on that outcome a condition of consent would be appropriate to manage this matter.

Noise generation

The application is supported by a *Noise and Vibration Impact Assessment* report which concludes that:

- Operational noise from mechanical plant can meet relevant noise criteria subject to the selection of good quality equipment and standard noise control methods
- Operational noise from the hotel bar and terrace can meet relevant criteria through the selection of suitable glazing, precluding the use of a PA system and otherwise implementing a noise management plan.

Council's Environmental Health team has reviewed and accepted that report.

6.7 Relationship with adjacent sites

Solar access to neighbouring buildings

The building height controls for the CBD introduced via amendment 56 to PLEP 2011, and maintained via PLEP 2023, will unavoidably create significant shadowing impacts. Shadow analysis indicates that new shading would result for parts of the eastern façade of the nearest residential building to the south of this site between 9am – 11am at midwinter.

6.8 Utilities

Endeavour Energy

The design includes a ground floor electrical substation, sleeved by retail tenancies, and a further two substation rooms and associated switch room at the first floor. Council supports those arrangements because it minimises the intrusion of those service elements at the ground plane. Endeavour Energy's review of the revised plans lodged in December 2022 was confusing, in that it stated there was no objection to the proposal, but also stated its initial concerns remain valid.

Sydney Water

While no objections were raised, potential for wastewater servicing constraints in the immediate area were identified. Sydney Water has recommended a feasibility application be lodged prior to applying for a Section 73 application. That application would need to be supported by detailed hydraulic demand and discharge figures including proposed connection points to the water and sewer network.

This issue was advised to the proponent but is not considered determinative in the assessment of this application.

6.9 Waste management

Construction phase

This matter would be addressed by way of condition.

Operation phase

The application is supported by an *Operational Waste Management Plan* addressing arrangements for the storage and collection of general waste/recyclables and trade waste. All uses within the development would need to be serviced contractors. Neither Council's Waste Services Supervisor nor the Council's Environmental Health has any objection to this element of the application.

6.10 Construction

Building Code of Australia

The application is supported by a *Building Code of Australia* report which states:

.....the proposed building depicted in the relevant plans is capable of complying with the BCA, and refers to potential Performance Solutions that could be developed by an appropriately qualified person at the construction certificate stage where compliance with some 'Deemed To Satisfy' Solutions is not proposed.

The applicant has also provided a separate statement which considers fire safety design aspects of the proposal. That statement advises:

The fire safety design will generally satisfy the Performance Requirements of the Building Code of Australia by complying with the Deemed-to-Satisfy provisions. However, there are some aspects of the design that required further refinement through performance-based fire engineering to satisfy the Performance Requirements of the Building Code of Australia. Based on our review of the project drawings the proposed development would be able to comply with the Performance Requirements of the Building Codes of Australia without significant redesign to the current plans.

Construction Management

Conditions of consent would require the preparation of various management plans to ensure construction works proceeded in a safe and orderly manner to maximise public safety and minimise public nuisance. Management plans would also need to address co-ordination with the requirements of Parramatta Light Rail and Sydney Metro.

6.10 Safety, security and crime prevention

Crime Prevention Through Environmental Design (CPTED) is a recognised model that provides that if development is appropriately designed it is anticipated to assist in minimising the incidence of crime and contribute to perceptions of increased public safety.

The application is supported by CPTED report which recommends various measures to mitigate potential crime risk associated with the development. That report was reviewed and accepted by Council's City Safety and Security team. Relevant conditions would implement all necessary CPTED measures.

6.11 Site works

The scheme includes 5 basement levels, the footprint for which occupies the entire site. In May 2023 when this application was first reported to the Panel, the basement could not be supported due to the following concerns:

- archaeology,
- flooding
- the requirements of Sydney Metro and TfNSW (PLR).

Since deferral of this application in May 2023 those matters have been resolved as discussed elsewhere in this report.

6.12 Natural and technological hazards

The only hazard identified relates to flooding – see further comments at section 6.4 below.

6.13 Social and economic impacts

Subject to the management of any archaeology of significance, no adverse social impacts have been identified. Positive economic outcomes would be expected through significant employment (construction and post construction) and a strengthening of the CBD through the provision of diverse and intensive commercial uses of this site.

7. Site suitability

7.1 Does the proposal fit the locality

The scheme is an appropriate “fit” following resolution of the issues of concern originally identified with the proposal.

8. Submissions

The plans as lodged, and subsequently amended in December 2022, were notified in accordance with relevant requirements. One submission was received each time, from the same submitter, objecting to the application for the following reasons:

- Loss of views and solar access for nearby residential apartments

- Loss of amenity (noise, dust) from extended construction period
- The two towers will ruin the identity/landscape/atmosphere of the city centre with its heritage and low rise buildings
- High rise commercial and hotel buildings are not needed when all other new towers in the city centre are almost empty. It makes no sense to destroy old buildings to deliver new ones that won't be used.

9. Public interest

Once resolution has been achieved in relation to the Sydney Metro matters, no circumstances have been identified to indicate this proposal would be contrary to the public interest.