



## Report to Sydney Central City Planning Panel

<b>SCCPP reference</b>	PPSSCC- 361
<b>DA No.</b>	493/2020 - Section 8.3 Review
<b>Date of receipt</b>	31 August 2020. Amended plans or revised/additional information received: <ul style="list-style-type: none"><li>• 9.8.22</li><li>• 28.9.22</li><li>• 6.10.22</li></ul>
<b>Proposal</b>	Construction of two residential towers comprising 708 apartments above the existing seven storey podium, the use of existing basement levels 1-5 for residential parking and various adjustments to the existing building to allow for the integration of those towers.
<b>Street address</b>	189 Macquarie Street, Parramatta
<b>Property Description</b>	Lot 1, DP 1214839
<b>Applicant</b>	Toplace Pty Ltd
<b>Owner</b>	JKN PARA Pty Ltd
<b>Submissions</b>	Less than 10 unique submissions
<b>Relevant s4.15 matters</b>	<ul style="list-style-type: none"><li>• Environmental Planning and Assessment Act and Regulations</li><li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li><li>• State Environmental Planning Policy No. 65</li><li>• State Environmental Planning Policy (BASIX) 2004</li><li>• SEPP (Transport and Infrastructure) 2007</li><li>• SEPP (State and Regional Development) 2011</li><li>• SEPP (Biodiversity and Conservation) 2021</li><li>• State Environmental Planning Policy (Planning Systems ) 2011</li><li>• Parramatta Local Environmental Plan 2011</li><li>• Parramatta Development Control Plan 2011</li></ul>
<b>Attachments</b>	Attachment A - Detailed planning assessment. Attachment B - Reasons for refusal Attachment C – Selected plans Attachment D – DPE Satisfactory Arrangements Certificate

<b>Summary of s4.15 matters</b>		Yes
Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report ?		
<b>Legislative clauses requiring consent authority satisfaction</b>		Yes
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 ?		
<b>Clause 4.6 Exceptions to development standards</b>		N/A
If a written request for a contravention to a development standard has been received, has it been attached to the assessment report?		
<b>Special Infrastructure Contributions</b>		No
Does the DA require Special Infrastructure Contributions conditions (S94EF)?		
<b>Conditions</b>		N/A
Have draft conditions been provided to the applicant for comment ?		
<b>Recommendation</b>	Refusal	
<b>Report by</b>	Brad Roeleven, Executive Planner	

## 1. Executive summary

An application for a Review of the determination of DA/493/2020 was lodged on 20 May 2022 seeking a reconsideration of the decision of the Panel on 20 December 2021 to refuse the application. Consistent with the requirements of section 8.3(7) of the Environmental Planning and Assessment Act 1979 (the Act) a decision on the Review must also be made by the Panel.

The report presented to the Panel in December 2021 concluded this application was unsatisfactory, and Panel refused the application for the following reasons:

- 1. The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the requirements of clauses 101 and 104 of State Environmental Planning Policy (Infrastructure) 2007 are not satisfied.*
- 2. The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that there is insufficient information to demonstrate the compliance with the gross floor area provisions of clause 7.9 of Parramatta LEP 2011.*
- 3. The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposal has not satisfied the design excellence provisions of clause 7.9 of Parramatta Local Environmental Plan 2011.*

4. *The application is not satisfactory for the purposes of section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the following elements of the proposal are not satisfactory:*

- a) *The proper assessment of wind impacts and the identification and provision of appropriate mitigation measures.*
- b) *The provision of appropriate mitigation measures to manage reflectivity impacts.*
- c) *Transport for NSW will not permit any element of Tower A to encroach over the boundary with Macquarie Street.*

Some of those matters have been since been resolved via this section 8.3 review, however the following key circumstances remain outstanding:

- An unsatisfactory built form which:
  - Is contrary to certain Design quality principles within State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development:
  - Is contrary to relevant objectives and design controls within the Parramatta Development Control Plan 2011
  - Prevents the scheme from satisfying relevant qualitative design excellence considerations within Parramatta LEP 2011
- Adequate mitigation measures for wind and reflectivity impacts to Macquarie Street.

To resolve those concerns:

- Tower A must have a reduced floorplate length and area, and must be setback from the street edge of the podium.
- Tower B requires resolution and detailing of both blank eastern and western facades
- For both towers, façade detailing must be refined and properly detailed and documented

Given those circumstances, the application on balance remains unsatisfactory when evaluated against section 4.15 of the Environmental Planning and Assessment Act 1979. Accordingly, this report recommends that the Panel confirm its decision to refuse the application, for the reasons set out at **Attachment B**.

## **2. Site location, description and related applications**

### **2.1 Site location and description**

The land the subject of this application is a single allotment legally described as Lot 1 in Deposited Plan 1214839 and known as 189 Macquarie Street, Parramatta. This allotment was previously under the ownership of the City of Parramatta Council, but on 24 March 2019 Council resolved to sell the site, with applicant becoming the owner on 24 May 2019.

The site is located on the eastern periphery of the Parramatta City Centre, about 400m east of the Parramatta Railway station. It is irregular in shape, with an area of 5,211 m<sup>2</sup> and with frontages to both Macquarie and Hassall Streets of 40.2m and 51.6m respectively. It is located

250m south west of the Parramatta River and 85 metres north of the Clay Cliff Creek, a Sydney Water asset which is defined by a concrete channel.



Figure 1: Locality plan

Surrounding development comprises a mix of uses consistent with the locality's mixed-use zoning given its fringe CBD location. The area however is transitioning towards a higher proportion of high density mixed use developments.

Stage 1 of Parramatta Light Rail is currently under construction, including along Macquarie Street immediately adjacent to this site. Once PLR is complete, the Macquarie Street carriageway will comprise two sets of tracks, a shown below plus a single public vehicle travel lane adjacent the northern kerb, allowing for one way (eastbound) movement.



Figure 2: PLR tracks now constructed in Macquarie Street, immediately adjacent to this site.

The site is significantly affected by the 1 in 100-year ARI flood and is completely impacted during



a Probably Maximum Flood Event (PMF). Local heritage items located opposite the site in Hassall Street have been incorporated into a recent high density development.

This land was previously operated by Council as an at grade open air public carpark, however construction of mixed-use building approved under DA 852/2013 has commenced with the podium levels largely complete. That project however is subject to a Stop Work Order.



Figure 3: Existing podium from Macquarie Street



Figure 4: Existing Podium from Hassall Street

## 2.2 Related applications

This site has an extensive and complex history as summarised below:

Table 1: Summary of related matters

DA/852/2013	<p>This application was <b>approved</b> by the Sydney West JRPP on 15 April 2015. Key elements of that project are:</p> <ul style="list-style-type: none"> <li>• 10 car parking levels (4 basement and 6 above ground) providing 715 public spaces and 389 private spaces;</li> <li>• 24 residential storeys above the 6-storey parking podium, providing 425 apartments;</li> <li>• 317m of ground floor retail space.</li> </ul> <p>Determination of this DA was contingent upon the site-specific PP which was gazetted on 20 February 2015. A Planning Agreement was also entered into on 15 April 2015.</p>
DA/852/2013/A	<p>This modification application sought to amend the approved development to:</p> <ul style="list-style-type: none"> <li>• Allow an additional two basement levels to provide a further 36 car parking spaces for residential use, increasing the total to 425 car parking spaces;</li> <li>• Relocate the substation from Basement Level 1 to Upper Level 1 so it can be accessed at ground level and be above the 1 in 100-year flood level; and</li> <li>• Reconfigure the layout to the Upper Level 1 and Basement Levels 1, 2 and 3 for the retail spaces, car parking, plant rooms, storage areas, stormwater drainage and ancillary services.</li> </ul> <p>The application was <b>refused</b> by the JRPP in February 2016.</p>
Unauthorised Works	<p>In March 2016, Council became aware of the following circumstances:</p> <ul style="list-style-type: none"> <li>• The construction of the additional basement levels (4 and 5) refused via DA 852/2013/A had already been completed;</li> <li>• That a further (6th) basement level was constructed to hold a hydraulic tank with pump for the purposes of dewatering; and</li> <li>• That all basement levels were not waterproofed (tanked).</li> </ul>

	<p>Council issued a <b>Stop Work Order</b> to cease all building work. That Order, dated 7 July 2017, remains in place. Advice from Council's solicitors is that the Order should not be revoked until the following matters are resolved:</p> <ul style="list-style-type: none"> <li>• The basement is tanked, or consent is granted for a dewatered basement</li> <li>• An updated Dewatering Management Plan is approved by Water NSW relative to the quantum of groundwater being pumped from the site.</li> <li>• The ongoing permanent dewatering of the site needs approval from Water NSW.</li> </ul>
Appeal to LEC	<p>The Applicant appealed to the Land and Environment Court (LEC) regarding both:</p> <ul style="list-style-type: none"> <li>• The refusal of the modification application; and</li> <li>• The Order issued by Council under (former) Section 121B of the Environmental Planning and Assessment Act 1979 to cease all building work.</li> </ul> <p>The Court <b>dismissed the Appeals</b> against the refusal of the modification application and the Order.</p>
Building Certificates	<p>Two (2) separate Building Information Certificates were subsequently issued by Council for the abovementioned unauthorised works. (BC/74/2018 and BC/75/2018 both issued 20.8 2018). The BIC's did not approve the use of those basement levels, nor did they approve method for the collection/discharge of groundwater.</p>
DA/252/2019	<p>This application sought consent for subdivision of the building approved by DA/852/2013 into five (5) stratum allotments. <b>Consent</b> was granted by Notice dated 13 September 2019.</p>
DA/252/2019/A	<p>This application sought to modify the consent for the stratum subdivision by deleting condition 14 from the approval. The application was <b>refused</b> by Notice dated 26 February 2020. The applicant subsequently lodged a request for <b>review under section 8.3</b> of the Act, however that could not be considered as it was submitted outside of the statutory timeframes nominated in clause 123I(1) of the EPA Regulation. An <b>appeal</b> against the refusal was then commenced by the applicant but ultimately <b>discontinued</b> on 10 August 2020.</p>
DA/283/2019	<p>This application sought consent for the construction of a permanent ground water dewatering system which would re-use water that water for irrigation and toilet flushing, with excess ground water being disposed of offsite using water tanker trucks. The application was <b>refused</b> by Notice dated 24 March 2020. The applicant's <b>appeal against that decision was upheld by the LEC</b> via a judgement dated 31 August 2021.</p>
DA/852/2013/B	<p>This application sought consent to modify DA 852//2013 to reduce the supply of public parking spaces from 715 to 695 and was <b>approved</b> on 23 July 2020.</p> <p>Notwithstanding, the applicant <b>appealed to the LEC</b> in relation to new conditions that were included in the modified consent at the request of TfNSW. Ultimately TfNSW agreed not to press those conditions and the matter was <b>resolved by agreement</b> and confirmed by Court Orders dated 8 December 2020.</p>
Planning Proposal (RZ/22/2015)	<p>This PP sought to amend the Parramatta Local Environmental Plan (LEP) 2011 in relation to the site-specific clause '7.9 – Development on land at 189 Macquarie Street, Parramatta'. The amendment seeks to:</p> <ul style="list-style-type: none"> <li>• Increase the building height from 91.3 metres to 167 metres;</li> <li>• Increase the Gross Floor Area (GFA) from 36,000sqm to 60,000sqm (excluding any floor space used for private balconies and communal open space); and</li> <li>• Introduce a new provision in relation to maximum car parking rates for private car parking (amendment to Clause 7.14).</li> </ul> <p>The PP was <b>gazetted</b> on 4 September 2020. The related VPA has been executed by both the applicant and Council, and post-execution tasks are ongoing.</p>

Design Competition (DC/11/2016)	The Brief for this scheme was endorsed in July 2019 and the competition conducted in September 2019. The purpose of the competition was to determine a scheme that would implement the outcomes of the concurrent site-specific PP being pursued by the applicant. The Jury report for the finalisation of the competition was prepared in June 2020.
DA/356/2020	This application sought consent to construct and operate a permanent groundwater reuse system that will capture and treat this groundwater, allowing it to then be re-used on site for toilet flushing and irrigation of landscaping. Any surplus groundwater would be discharged to Clay Cliff Creek via a private drainage lines separate from council's stormwater system. That DA was <b>approved</b> by Notice dated 13 April 2021.
DA/356/2020/A	This application sought to amend condition 3 in terms of timing for compliance with its requirements. That application was <b>approved</b> by Notice dated 10 August 2021.
DA/493/2020	Construction of residential flat building over an existing podium (two towers 45 and 54 storeys) with a total of 718 residential units over 5 basement parking levels, and associated works. That application was <b>refused</b> by Notice dated 21 December 2021 and is the now the subject of this report for a review under Section 8.3 of the Act.
Modified Stop Work Order	A <b>Modified Stop Work Order</b> was issued on 18 July 2022 for the purposes of allowing only those works necessary to implement the consent granted to DA 356/2020 (i.e. the groundwater reuse system). The Order requires the works to be completed by 18.1.23.

### 3. The proposal

In summary the application comprises the following primary elements:

- The erection of two towers above the existing seven storey podium level comprising 708 apartments as follows:
  - Tower A – 47 levels with 463 residential apartments
  - Tower B – 38 levels with 245 residential apartments
- Use of the existing basement levels 1, 2, 3, 4, 5 for residential car parking requiring the re-configuration of the layout of all levels, and installation of an additional lift to service Building A.
- Minor re-configuration of the units in the podium level to accommodate an additional lift
- Installation of an additional lift to service Building A in the public car parking levels at Lower ground, Upper ground, Levels 2, 3, 4, 5 & 6.
- Identification of the need to also modify DA/852/2013 to incorporate the additional lift and minor re-configuration of the units in the podium and deletion of towers A & B.

The overall development, including those elements already completed, would therefore comprise:

- 718 residential apartments (10 within the existing podium);
- 4 retail tenancies (existing at ground floor);
- 470 residential parking within the existing constructed basements, accessed via Macquarie Street; and
- 695 public parking spaces within the existing constructed podium, accessed via Hasall Street.

For the purposes of this Review application the proposal was revised as follows:

- Toilet facilities were added to the common terrace areas at Level 53 of Tower A and Level 44 of Tower B
- Tower A was altered to remove minor encroachments over the Macquarie Street property boundary
- Alternate wind treatment and glare mitigation measures were provided to Tower A
- The Macquarie Street driveway and loading dock was altered

The application was also supported by new or updated technical documentation, including a Tower façade design report.



Figure 5: View north towards Hassall Street



Figure 6: View west generally along Macquarie Street

#### 4. Design Excellence

The proposal is the subject of a Design Excellence Competition conducted in September 2019. The competition Jury continues to hold concerns with this proposal such that the provisions of clause 7.11 of PLEP 2011 are not satisfied. See section 7.4 of **Attachment A**.

#### 5. Public notification

The notification period was 31 May 2022 until 22 June 2022. Eight submissions were received, all raising objections to the proposal.

Noting the changes to the operation of Planning Panels which commenced on 1 August 2020, this matter is not required to be the subject of a public meeting as there is less than 10 unique submissions. Consideration of the issues raised is provided at section 9 in **Attachment A**.



## 6. Referrals

Table 2: Referrals summary

Are there matters arising from internal/external referrals which are not dealt with by conditions	Yes
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## 7. Environmental Planning and Assessment Act 1979

The matters for consideration in the evaluation of a development application via section 4.15 of the Act are addressed at **Attachment A**. The table below summarises compliance with any other related provisions of the Act.

Table 3: Summary of other EPA Act considerations

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 ?	No
Are submission requirements within the Regulations satisfied ?	Yes

## 8. Consideration of SEPPs

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

Table 4: SEPP summary

Key issues arising from evaluation against SEPPs	SEPP 65 provisions not satisfied, Refer to detailed discussion at <b>Attachment A</b>
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## 9. Parramatta LEP 2011

The table below presents a summary assessment against the terms of this LEP. A detailed evaluation is provided at section 2.8 of **Attachment A**.

Table 5: Summary of PLEP 2011 compliance

	<i>Comment or non-compliances</i>
Zones	<ul style="list-style-type: none"> <li>R4 High Density Residential</li> </ul>
Definition	<ul style="list-style-type: none"> <li>Residential flat building</li> </ul>
Part 2 Permitted or prohibited development	<ul style="list-style-type: none"> <li>Permissible in the zone</li> <li>Consistent with zone objectives</li> </ul>
Part 3 Exempt and complying development	Not applicable
Part 4 Principle development standards	Satisfied

Part 5 Miscellaneous provisions	All relevant provisions satisfied
Part 6 Additional local provisions	Satisfied
Part 7 Parramatta City Centre	Design excellence provisions not satisfied

## 10. Parramatta Development Control Plan 2011

The proposal is inconsistent with key built form provisions of the DCP. A detailed evaluation is provided at section 4 of **Attachment A**.

## 11. Planning Agreements and Contributions Plans

Two Planning Agreements operate in relation to this site, being:

- In connection with DA 852/2013 for the base building, which as noted is partially constructed; and
- In connection with the site-specific PP for significant uplift, which was finalised in September 2020

Council's section 94A Plan [section 7.12] Plan continues to operate despite those Agreements.

All matters are satisfied as discussed at section 4.1 of **Attachment A**.

## 12. Response to SCCPP briefing minutes

A Panel 'Kick-off Briefing' was held on 23 June 2022, with the minutes noting the following key issues:

**Table 6: Summary of Panel briefing minutes**

	<i>Status</i>
<i>Key Issues</i> <ul style="list-style-type: none"> <li>- Clarification of GFA</li> <li>- Receipt of TFNSW comments</li> </ul>	Resolved Received and issues resolved
<i>Outstanding Referrals</i> <ul style="list-style-type: none"> <li>- Design Excellence Jury</li> <li>- Traffic</li> <li>- Waste Services</li> </ul>	Unresolved - refer to section 7.4 at Attachment A Resolved Resolved

## Conclusion

The application has been assessed relative to Division 8.2 and section 4.15 of the Environmental

Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls.

On balance the scheme remains unsatisfactory and accordingly this report recommends that the Panel confirm its decision to refuse the application, for the reasons set out at **Attachment B**.

## **RECOMMENDATION**

- A. That pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979 the Sydney Central City Planning Panel refuse to grant development consent to Development Application DA/493/2020 for the reasons shown at **Attachment B**.
- B. That those persons who made a submission be advised of the Panel's decision.

# ATTACHMENT A - PLANNING ASSESSMENT

<b>SWCCP reference</b>	PPSSCC - 361
<b>DA No.</b>	493/2020 – Section 8.3 Review

## 1. Overview

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

This proposal is captured by clause 2.19 and Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 [i.e. development with a CIV > than \$30million] and therefore the Panel is the consent authority per sections 2.15 and 4.5(b) of the Act.

### 1.3 Section 4.15(1): Evaluation

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

Table 7: Matters for consideration

<b>Provision</b>	<b>Comment</b>
Section 4.15(1)(a)(i) - Environmental planning instruments	Refer to section 3 below
Section 4.15(1)(a)(ii) - Draft planning instruments	Refer to section 3.8 below
Section 4.15(1)(a)(iii) - Development control plans	Refer to section 4 below
Section 4.15(1)(a)(iiia) - Planning agreements	Refer to section 5.1 below
Section 4.15(1)(a)(iv) - The Regulations	Refer to section 6 below
Section 4.15(1)(b) - Likely impacts	Refer to section 7 below

Section 4.15(1)(c) - Site suitability	Refer to section 8 below
Section 4.15(1)(d) - Submissions	Refer section 9 below
Section 4.15(1)(e) - The public interest	Refer to section 10 below

## 1.4 Referrals

The following table is a summary of all internal and external referrals:

**Table 8: Referrals**

<i>INTERNAL</i>	
Landscape	No objections – conditions provided
Development Engineer	No objections – conditions provided
Traffic	No objections – conditions provided
Waste Services Supervisor	No objections – conditions provided
Environmental Health (Waste)	No objections – conditions provided
Environmental Health (Acoustic)	No objections – conditions provided
Social Outcomes	No objections
Accessibility	No objections – conditions provided
Public Art	Concerns resolved - see section 7.4
Crime Prevention	No objections – conditions provided
BCA	No objections – conditions provided
Quantity Surveyor consultant	Cost of works confirmed, and relevant fees paid.
External ESD consultant	No objections – conditions provided
Reflectivity	Concerns raised - see section 7.5
External wind consultant	Concerns raised – see section 7.5
<i>EXTERNAL</i>	
Sydney Water	Concerns resolved - see section 7.7
Endeavour Energy	Concerns resolved - see section 7.7
TfNSW	Concerns resolved - see section 3.6
Federal Department Infrastructure, Transport, Regional Development and Communications	Controlled activity approval granted

## 2. Division 8.2 of the Environmental Planning and Assessment Act

The relevant requirements of this Division of the Act are satisfied as follows:

**Table 9: Compliance with Division 8.2 EPA Act**

Section 8.2 Determinations subject to Review	<ul style="list-style-type: none"> <li>Section 8.2(1) allows for a review of a determination made by a regional planning panel</li> <li>This DA is not a type excluded from this process by section 8.2(2)</li> </ul>
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Section 8.3 Conduct of Review	<ul style="list-style-type: none"> <li>• The determination of the Review must be made by 20 December 2022 to satisfy the time frame per section 8.3(2)</li> <li>• Notwithstanding the project has been modified for this Review, it satisfies the “substantially the same” test [as would be used for a section 4.55 application] and therefore satisfies section 8.3(3)</li> <li>• The Review is to be undertaken by the Panel consistent with section 8.3(7)</li> </ul>
Section 8.4 Outcome of Review	<ul style="list-style-type: none"> <li>• Section 8.4(4) allows for the consent authority to either confirm or change the determination or decision.</li> </ul>

Given the above, this matter is able to be the subject of the Review process, and this report recommends the Panel confirm its prior decision to refuse consent for this application.

### 3. Environmental planning instruments

#### 3.1 Overview

The instruments applicable to this application comprise:

- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy No. 65
- State Environmental Planning Policy (BASIX) 2004
- SEPP (Transport and Infrastructure) 2007
- SEPP (State and Regional Development) 2011
- SEPP (Biodiversity and Conservation) 2021
- Parramatta Local Environmental Plan 2011

Compliance is addressed below.

#### 3.2 State Environmental Planning Policy 55 – Remediation of land

Clause 7 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.

This issue was addressed and resolved in conjunction with the assessment of DA/852/2013, and the 7 storey podium of that development is now essentially complete. Given those circumstances:

- Consideration has been given to whether the land is contaminated;
- No contamination report is warranted particularly as consent is not being sought for a change in land use of a type nominated in clause 7(4) of the Plan; therefore
- The site is suitable for the land use proposed by this application.

That said, the applicant’s failure to tank the constructed basements created a circumstance not contemplated during the assessment of prior DA/852/2013. The groundwater penetrating all basement levels is contaminated. Resolution of that issue is inexorably linked to the Stop Work Order noted at Table 1 above, and consequently was the subject of two separate DAs (283/2019

and 356/2020 - also referenced at Table 1 above) for the installation and operation of a permanent groundwater capture, treatment and reuse system. That treated groundwater would serve the residential component of the development for the purposes of toilet flushing and landscape irrigation.

DA/356/2020 was approved as the applicant was able to demonstrate that all relevant water quality issues for the permanent groundwater capture, treatment and reuse system were properly addressed. The applicant has since confirmed its intention to implement that consent.

Noting the above, the requirements of clause 7 of this Policy have been satisfied.

### 3.3 State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development

This Policy aims to improve the design quality of residential flat development. This proposal has been assessed against the following matters relevant to SEPP 65 for consideration:

- Design Excellence Advisory Panel;
- The 9 SEPP 65 Design Quality Principles; and
- The Apartment Design Guide (ADG).

#### Design Quality Principles

Part 4 of the Policy introduces 9 design quality principles. These principles do not generate design solutions but provide a guide to achieving good design and the means of evaluating the merits of proposed solutions. A response to those design principles, prepared by the project architect, supports the application as required by the Environmental Planning and Assessment Regulation.

The following table provides an assessment of the proposal against those principles having regard to the comments of the Design Jury and assessment by Council's officers:

Table 10: Response to SEPP 65 design principles

<b>Principle</b>	<b>Comment</b>
<b>Context and neighbourhood character</b>	The locality is transforming to a high density residential/mixed use precinct. The development does not accord with the desired future character nominated by the LEP and DCP – refer to sections 3.7 and 4 below.
<b>Built form and scale</b>	The bulk and scale of the proposal is not acceptable given its inconsistency with certain DCP controls.
<b>Density</b>	Density is consistent with the specific controls in the LEP. Those controls were developed with regard to the context of the site in terms of availability of infrastructure, public transport, community facilities and environmental quality.
<b>Sustainability</b>	Details provided regarding compliance with energy and water efficiency targets under SEPP (Basix) 2004 are achieved. Allowing for acknowledged constraints, the design is consistent with best practice criteria for cross ventilation under the ADG. Solar access outcomes relative to the ADG are less than the best practice target but are acceptable on merit as discussed elsewhere in this report.
<b>Landscape</b>	The landscape treatment is satisfactory.

<b>Principle</b>	<b>Comment</b>
<b>Amenity</b>	Amenity for some apartments is not satisfactory when tested against best practice design criteria in the ADG, even allowing for exceptions noted elsewhere in this report.
<b>Safety</b>	Appropriate outcomes achieved through the design generally, and otherwise by conditions of consent.
<b>Housing diversity and social interaction</b>	An appropriate mix of unit sizes has been provided. The required number of adaptable housing units is provided.
<b>Aesthetics</b>	The composition of building elements and materials is generally satisfactory, however various design issues remain unresolved. The development has not met the threshold for 'design excellence' required by PLEP 2011.

### Apartment Design Guide (ADG)

The SEPP requires consideration of the ADG, which supports the 9 design quality principles by providing greater detail on how proposals can meet those principles through good design and planning practice. The table below considers this proposal against key ADG matters:

**Table 11: Response to ADG**

<b>Element</b>	<b>Comment</b>	<b>Complies</b>
Building separation	Separation distances between Towers A and B are achieved	Yes
	Tower A separation distances with adjacent sites are about 3m less than preferred for a building of this height under the ADG, however, setbacks are generally consistent with DCP controls for the CBD	<b>No</b> , but acceptable on merit
	Tower B separation distances to the western boundary comply	Yes
	Tower B setbacks to the eastern boundary are up to 5.5m less than the nominated ADG criteria, and between 2.7m-5m less than the DCP criteria. However acceptable given design treatment and relationship with existing adjacent building.	<b>No</b> , but acceptable on merit
Apartment size and layout	<ul style="list-style-type: none"> <li>Minimum unit sizes are achieved</li> <li>Apartment layouts are efficient</li> </ul>	Yes
Balconies	Minimum areas and dimensions are generally achieved, and the provision of good quality and evenly spaced communal open space areas is sufficient to ensure the amenity of future applicants.	Yes
Common open space	<ul style="list-style-type: none"> <li>Common open space provided is about 1,850m<sup>2</sup>, or 36% of site area, inclusive of podium, sky gardens and rooftop terraces. The criterion is 25%</li> </ul>	Yes
	<ul style="list-style-type: none"> <li>Min 50% of COS to receive 2hrs sunlight at midwinter,</li> </ul>	Yes

<b>Element</b>	<b>Comment</b>	<b>Complies</b>
Ceiling heights	Minimum internal heights are achieved	Yes
Storage	Required supply of storage for each unit is achieved	Yes
Solar access and daylight	<ul style="list-style-type: none"> <li>Design criteria is at least 70% of units and POS to receive &gt;2hrs solar access at midwinter between 9am and 3pm <ul style="list-style-type: none"> <li>54% of units comply</li> </ul> </li> <li>11.5% get no solar access (Max criteria is 15%)</li> </ul>	<b>No</b> – see discussion at section 6.5  Yes
Natural ventilation	<ul style="list-style-type: none"> <li>Design criteria is min 60% of units in first 9 storeys to be naturally ventilated <ul style="list-style-type: none"> <li>Claimed at 63.4% but considered to only be 54%</li> </ul> </li> </ul>	<b>No</b> – see discussion at section 6.5
Visual privacy	Satisfactory despite eastern boundary separation distances	Yes
Common circulation	<ul style="list-style-type: none"> <li>Design criteria of maximum 8 units off a circulation core <ul style="list-style-type: none"> <li>Building A: 11 - 13</li> <li>Building B: 5 - 8</li> </ul> </li> <li>Number of units per lift (criteria is 40/lift) <ul style="list-style-type: none"> <li>Building A: 97 units/lift</li> <li>Building B: 81units/lift</li> </ul> </li> </ul>	<b>No</b> Yes  <b>No</b> - but a satisfactory level of service could be achieved
Common open space	<ul style="list-style-type: none"> <li>Common open space provided is about 1,850m<sup>2</sup>, or 36% of site area, inclusive of podium, sky gardens and rooftop terraces. The criterion is 25%</li> <li>Min 50% of COS to receive 2hrs sunlight at midwinter,</li> </ul>	Yes  Yes
Deep soil	Design criteria for sites greater than 1,500m <sup>2</sup> is 7% of site area (363m <sup>2</sup> ) with 15% desirable. The proposal achieves 3% or 155m <sup>2</sup> .	<b>No</b> - This is a legacy of DA 853/2013
Apartment mix	<ul style="list-style-type: none"> <li>122 x 1 bedroom apartments (17%)</li> <li>541 x 2 bedroom apartments (75%)</li> <li>55 x 3 bedroom apartments (8%)</li> </ul>	Yes

### 3.4 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The purpose of this Policy is to reduce household electricity and water use by setting minimum sustainability targets for new and renovated homes.

Consistent with the provisions of the Regulations and this Policy, the application is supported by the required Certificate and associated supporting plans and reports, which have been assessed as satisfactory by Council's s ESD consultant.

### **3.5 State Environmental Planning Policy (Biodiversity and Conservation) 2021**

Chapter 10 (Sydney Harbour Catchment) applies to all of the City of Parramatta local government area. It aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing principles and controls for the whole catchment.

There are no specific controls which directly apply, except for the objective of improved water quality as nominated in the Planning Principles for the Harbour catchment (clause 10.10). That outcome would be achieved through the imposition of suitable conditions to address the collection and discharge of stormwater water during works, and upon completion.

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

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State. Chapter 2, Part 2.3 (Development Controls) of the Policy is relevant.

The following clauses are satisfied and do not require discussion:

- Clause 2.98 - Development adjacent to rail corridors
- Clause 2.100 - Impact of rail noise or vibration on non-rail development

While the following clauses are also satisfied, a discussion is provided as these matters informed a key element of the grounds for refusal of the DA [reason 1]:

- Clause 2.119 - Development with frontage to classified road
- Clause 2.122 Traffic-generating development

These clauses apply because the site is adjacent to a classified road and because of the total number of parking spaces provided. Combined, the clauses require consideration of the following matters, including consultation with TfNSW:

- Access is achieved other than via the classified road where possible;
- The safety, efficiency and operation of the classified road is not adversely affected by the design of the access, the activities of the proposal and the type/volume of traffic attending the site; and
- The development is not sensitive to noise or vehicle emissions
- The accessibility of the site has been evaluated with regard to the efficiency of movement to and from the site, the extent of multi-purpose trips, potential to minimise travel by car and to maximise movement of freight;
- Any potential traffic safety, road congestion or parking implications.

It is noted that:



- the podium element is already constructed, and residential vehicle access is only via Macquarie Street
- PLR works are essentially complete, and include traffic signals to control vehicle movements access the PLR tracks, as shown below.



Figure 7: PLR traffic signals at the site.

TfNSW advised it could not support the original DA for the following reasons:

1. *Current practice is to limit the number of vehicular conflict points along the arterial road network to maintain network efficiency and road safety, as per Section 6.2.1 of TfNSW of the Guide to Traffic Generating Developments, which states ‘access across the boundary with a major road is to be avoided wherever possible’.*

*Macquarie Street in this location has been declared a transitway pursuant to section 52A of the Roads Act 1993 where transport efficiency of through traffic is of great importance. Further, clause 101(2a) of ISEPP, states: “The consent authority must not grant consent to development on land that has frontage to a classified road unless it is satisfied that:*

*“where practicable, vehicular access to the land is provided by a road other than the classified road”.*

*TfNSW needs to be satisfied that the existing driveway access can safely accommodate the proposed increase in usage by the additional units. Swept paths reviewed by TfNSW indicate that the proposed service vehicles that would ingress and egress the subject development cannot do this concurrently when the driveway is occupied by another vehicle. In addition, swept paths indicate encroachments into the building structure and adjacent travel lanes.*

2. *A review of the SIDRA file and the Transport Impact Assessment (TIA) indicates that the increased vehicle movements and access arrangements of the proposal impact the*

*operation of the transitway. In this regard any additional vehicle access to the proposed site via Macquarie Street cannot be supported.*

3. *The architectural plans indicate that there is encroachment of the building over the property boundary, which TfNSW does not support. It is advised Macquarie Street in this location has been declared a transitway pursuant to section 52A of the Roads Act 1993.*

Since then, in the lead up to the lodgement of this Review application and during the course of its assessment, the applicant met with TfNSW and also provided the additional information it requested. TfNSW is now satisfied with the proposal noting:

- The applicant had prepared a redesign of the loading dock at Macquarie Street which involved deleting 1 x retail tenancy to allow for separated entry and exit driveway. This was done to resolve TfNSW concerns that the 'as built' loading dock would create conflict with vehicles entering and leaving the site, and would result in queuing extending back into Macquarie Street, thereby affecting PLR operations.

Ultimately however, TfNSW concluded the 'as built' loading dock and access is in fact preferable to the revised design it had been seeking, for the following reasons:

- It avoids the need for significant civil works to recently completed PLR infrastructure
- It avoids the need to alter the operational requirements of PLR which would otherwise be necessary to ensure both light rail and pedestrians could safely negotiate the intersection at the Macquarie Street driveway

Although the preference for the 'as built' layout was conveyed to the proponent, the most recent plans still show the revised arrangement TfNSW had been seeking. If the DA was to be approved this matter could be resolved by conditions.

- Concerns regarding an increase in traffic movements via the Macquarie Street driveway are resolved as follows:
  - In peak period the traffic signals control in movements will give priority to pedestrian and light rail, with resultant vehicle queueing occurring within the site
  - A Freight and Servicing Management Plan is required to limit the use of the loading dock to outside of peak times
  - A Green Travel Plan is required to reduce private travel during peak times.
- Any approved DA must not permit encroachment of the building over the Macquarie Street boundary.

### **3.7 Parramatta Local Environmental Plan 2011**

It is noted that Amendment 56, which specifically relates to the Parramatta CBD, came into effect on 14 October 2022.

#### Zoning and permissibility

The site is zoned R4 'High Density Residential'. The use is defined as a '*residential flat building*', which is permissible within that zone.

### 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 R4 zone are to:

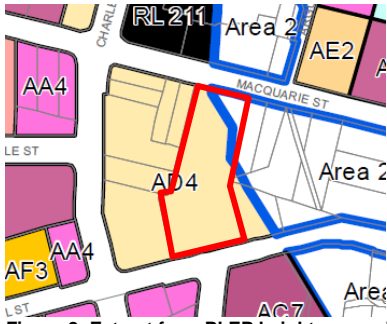
- *Provide for the housing needs of the community within a high density residential environment.*
- *Provide a variety of housing types within a high density residential environment.*
- *Enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *Provide opportunity for high density residential development close to major transport nodes, services and employment opportunities.*
- *Provide opportunities for people to carry out a reasonable range of activities from their homes if such activities will not adversely affect the amenity of the neighbourhood.*

The proposal is consistent with those objectives.

### Remaining provisions

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

Table 12: PLEP 2011 compliance table

<b>Part 4 – Principal development standards</b>		
<b>Clause</b>	<b>Comment</b>	<b>Complies</b>
Clause 4.3 Building height	<ul style="list-style-type: none"> <li>• Prior to Amendment 56 the mapped control was 54m, but that was superseded by clause 7.9 (site specific controls)</li> <li>• Following Amendment 56 the mapped control is mostly 145m and partly 'area 2' at the north east corner of the site.</li> </ul>  <p>Figure 8: Extract from PLEP height map - site in red</p> <ul style="list-style-type: none"> <li>• However, the mapped control is superseded by the site specific controls in clause 7.28.</li> </ul>	N/A
Clause 4.4 Floor space ratio	<ul style="list-style-type: none"> <li>• Prior to Amendment 56, the mapped control was 6:1, but that was superseded by clause 7.9 (site specific controls)</li> <li>• Following Amendment 56 the mapped control is 10:1</li> <li>• However, the mapped control is superseded by the site specific controls in clause 7.28.</li> </ul>	N/A

<b>Part 5 – Miscellaneous provisions</b>		
<b>Clause</b>	<b>Comment</b>	<b>Complies</b>
Clause 5.6 Architectural roof features	The design of the roof feature satisfies the terms of this clause and therefore does not contribute to building height	Yes
Clause 5.10 Heritage	<ul style="list-style-type: none"> <li>Not a listed heritage item, nor within a conservation area.</li> <li>Numerous heritage items are in the immediate locality.</li> <li>The application is supported by a HIS. [clause 5.10(5)].</li> <li>Not a listed archaeological site [Clause 5.10(7)]</li> <li>Not a place of aboriginal significance [Clause 5.10(8)]</li> </ul> <p>See further assessment at section 6.6</p>	Yes
Clause 5.21 Flood planning	The relevant matters for consideration have been satisfactorily addressed as discussed at section 6.9 below.	Yes
Clause 6.1 Acid sulphate soils	<ul style="list-style-type: none"> <li>The site comprises “Class 4” acid sulphate soils (ASS)</li> <li>Works associated with this application will not disturb, expose or drain acid sulfate soils noting that all basement levels are already constructed.</li> <li>Consent is not triggered noting subclause (6)</li> </ul>	N/A
<b>Part 6 – Additional local provisions</b>		
<b>Clause</b>	<b>Comment</b>	<b>Complies</b>
Clause 6.2 Earthworks	<ul style="list-style-type: none"> <li>Consent is not triggered noting the scope of the application</li> </ul>	Yes
<b>Part 7 – City Centre additional local provisions</b>		
<b>Division 2 – Development standards</b>		
<b>Clause</b>	<b>Comment</b>	<b>Complies</b>
Clause 7.5 Sun access	<ul style="list-style-type: none"> <li>Applies to the north eastern part of the site with a mapped height as ‘Area 2’.</li> <li>Overshadowing criteria of nominated public spaces and heritage items are satisfied</li> </ul>	Yes
Clause 7.7 Airspace operations	Relevant agencies were consulted and approval was granted by the Federal Department of Infrastructure, Transport, Regional Development and Communications by Notice dated 14 January 2021.	Yes
Clause 7.8 Active frontages	The as built podium provides active frontages at the ground floor to both street frontages as required by this clause.	Yes
Clause 7.9 Floodplain risk management	The building can provide a satisfactory ‘shelter in place’ refuge above the probable maximum flood. Refer to section 7.9 below.	Yes

<b>Part 7 – City Centre additional local provisions</b>
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<b>Division 3 – Design excellence</b>		
<b>Clause</b>	<b>Comment</b>	<b>Complies</b>
Clause 7.11 Design Excellence	The development does not exhibit design excellence as required by this clause. Refer to discussion at section 7.4 below.	No
Clause 7.12 Competitive Design Process	A competitive design process was already completed prior to the commencement of this clause (ie as required by site specific controls in clause 7.28 – formerly clause 7.9)	Yes
<b>Part 7 – City Centre additional local provisions</b>		
<b>Division 4 – Car parking</b>		
<b>Clause</b>	<b>Comment</b>	<b>Complies</b>
Clause 7.15 Car parking – general	The residential parking supply satisfies the maximum rates nominated under this clause.	Yes
<b>Part 7 – City Centre additional local provisions</b>		
<b>Division 5 – Provisions other than for Area A</b>		
<b>Clause</b>	<b>Comment</b>	<b>Complies</b>
Clause 7.21 End of journey facilities	The proposal includes these facilities	Yes
Clause 7.22 Dual water systems	The requirement for dual water systems (potable and recycled water supply) would ordinarily be secured by way of conditions, however this site also has consent for a groundwater reuse system via related DA 356/2020 – refer to table 1 above.	Yes
Clause 7.22 High performing buildings	The proposal is a type of development captured by this clause, however the 5% FSR bonus cannot be pursued as this land is subject to site specific controls that cap the maximum possible GFA. Accordingly the additional energy and water targets nominated do not need to be met.	N/A
<b>Part 7 – City Centre additional local provisions</b>		
<b>Division 6 – Site specific provisions</b>		
<b>Clause</b>	<b>Comment</b>	<b>Complies</b>
Clause 7.28 189 Macquarie Street	<p><i>2(a) and (b) - Design Excellence</i></p> <ul style="list-style-type: none"> <li>The is to be the subject of a design excellence competition as required</li> <li>The building is to meet the qualitative design excellence criteria in clause 7.11(2)</li> </ul> <p>Refer to section 7.4 for further comment</p> <p><i>2(c) - Public carpark</i></p> <ul style="list-style-type: none"> <li>The scheme must include a public carpark</li> </ul> <p><i>2(d) - Building height</i></p>	<p>Yes</p> <p>No</p> <p>Yes (DA/852/2013)</p>



	<ul style="list-style-type: none"> <li>The maximum height is 167m above natural ground level. Tower A complies, and Tower B is significantly less than that.</li> </ul>	Yes
	<p>2(e) - Gross floor area</p> <ul style="list-style-type: none"> <li>Maximum GFA is 60,000m<sup>2</sup> excluding enclosed communal areas and enclosed private balconies to a maximum of 2,750m<sup>2</sup>.</li> </ul> <p>Refer to section 7.4 for further comment</p>	Yes
<b>Part 8 – Intensive urban development</b>		
<b>Clause</b>	<b>Comment</b>	<b>Complies</b>
Clause 8.1 State public infrastructure	For residential development within an intensive urban development area, the DPE must certify that satisfactory arrangements have been made to contribute to the provision of state public infrastructure.	Yes

### 3.8 Draft planning instruments

#### Draft Consolidated City of Parramatta Local Environmental Plan

This Planning Proposal (PP) applies to all land within the Parramatta LGA. It has been publicly exhibited and is therefore a matter for consideration for the purposes of section 4.15 of the Act. This PP was endorsed by Council in July 2021 and is with the Department for finalisation.

The primary purpose of this PP is to consolidate the various planning controls which apply across the City of Parramatta following the LGA amalgamations in 2016. It does not propose major changes to zoning or increases to density controls. However, to create a single LEP various changes are proposed to the planning controls in certain parts of the LGA. For this site however, no changes are nominated.

## 4. Parramatta Development Control Plan 2011

New controls for the Parramatta City Centre (**Part 6 of the table below**) were endorsed by Council on Monday, 28 November 2022 and take effect from 2 December 2022. Those controls were prepared to support the recently introduced new LEP controls for the CBD, which commenced on 14 October 2022. It is to be noted that:

- There are no savings provisions
- The built form controls (length of floor plate and tower setback) which are not satisfied by this proposal, applied under the previous version of the DCP.

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

Table 13: PDCP 2011 compliance table

<b>Part 2 – Site planning</b>		<b>Complies</b>
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"> <li>Flooding risk (1% ARI and PMF) satisfactorily managed by passive and active design measures.</li> <li>Waterways protected through control of stormwater and water quality during and post construction</li> </ul>	Yes
2.4.3. Soil management	<ul style="list-style-type: none"> <li>Sedimentation would be addressed by conditions</li> <li>ASS – refer to LEP above.</li> </ul>	Yes
2.4.4 Land Contamination	<ul style="list-style-type: none"> <li>Defer to SEPP 55 assessment above</li> </ul>	Yes
2.4.5 Air Quality	<ul style="list-style-type: none"> <li>Would be addressed by conditions</li> </ul>	Yes
2.4.8 Public Domain	Public domain treatment already completed via base building approval – DA 852/2013.	Yes
<b>Part 3 – Development principles</b>		Complies
3.1 Building envelope	Defer to Part 6 below	N/A
3.2 Building elements	<ul style="list-style-type: none"> <li>Defer to Part 6 below</li> </ul>	N/A
3.3 Environmental amenity	<ul style="list-style-type: none"> <li>Onsite landscape treatment satisfactory</li> <li>Visual and acoustic privacy satisfactory.</li> <li>ESD generally satisfactory</li> <li>Arrangements for stormwater disposal are satisfactory</li> </ul>	Yes
3.4. Social amenity	<ul style="list-style-type: none"> <li>Public art strategy is satisfactory</li> <li>Equitable access and facilities ensured via compliance with BCA, DDA and relevant standards. Can be addressed by conditions.</li> <li>Assessment against CPTED considerations is satisfactory. Could be addressed by conditions</li> </ul>	Yes
3.5 Heritage	<ul style="list-style-type: none"> <li>Satisfactory - refer to section 7.6 below.</li> </ul>	Yes
3.6 Movement & circulation	<ul style="list-style-type: none"> <li>Parking supply and geometry of basement parking is generally satisfactory.</li> </ul>	Yes
<b>Part 6 – Parramatta City Centre</b>		
<b>Part 6.1 – Introduction</b>		
	<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.	<b>No</b>
	O.02 Ensure that the spaces of the public domain - streets, squares and parks - are of high quality and amenity.	N/A
	O.03 Contribute to a thriving City Centre at street level with a well-designed interface at active frontages.	Existing via DA 852/2013
	O.04 Prioritise pedestrian movements to enhance pedestrian safety and enjoyment of the city.	As above
	O.05 Promote urban and architectural design quality through planning procedures that foster design excellence.	<b>No</b>
	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.	N/A
	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
<b>Part 6.2 – Design Quality</b>		
	Sets out criteria for the design competition briefs.	N/A
<b>Part 6.3 - Built Form</b>		
6.3.1 Guiding principles	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.	<b>No</b>
	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.	N/A Podium already built
	Towers are set back above street walls to reinforce the scale of the streets, mitigate wind and urban heat impacts, enable views to the sky and protect amenity in streets and public places.	<b>No</b>
	The design of the street wall responds, where relevant, to the existing heritage context.	N/A

	<p>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>Towers are proportioned to maximise their slenderness of form.</p> <p>The design and materials selection of buildings and the public domain contribute to a high quality, durable and sustainable urban environment.</p> <p>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><b>No</b></p> <p><b>No</b></p> <p><b>No</b></p> <p>Noted</p>
6.3.2 Minimum Site Frontage	Development lot must have a minimum street frontage width of 35 metres	Yes
6.3.3 Building Envelope	<p><i>6.3.3.1 Street Setbacks – Active frontage</i></p> <p>Comply with Figure 6.3.3.1.1 unless otherwise stated</p> <p>Street wall must be built to the boundary a minimum of 14m and maximum of 21m above footpath</p> <p>Tower above street wall must be setback 6m from street boundary</p> <p>Only 1 steep in built form between street wall and tower</p> <p>Setback above street wall apply to both frontage of corner site</p> <p>Active frontage affected by Widening on LRA map</p> <p>Buildings with a lane frontage to comply with nominated controls</p> <p>Buildings with residential ground floor to comply with nominated controls</p> <p><i>6.3.3.2 - Building Separation</i></p> <p>Commercial building in B3 zone to be separated 15m above street wall height. Separations to be equally apportioned to inform side and rear setbacks</p> <p>Residential buildings in B4 zone with residential ground floor must be separated by 12m for up to 4 storeys, and 18m above 4 storeys</p>	<p>Podium already built per DA 852/2013</p> <p><b>No</b></p> <p><b>No</b></p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>Tower A generally complies to side boundaries.</p> <p>Tower B complies</p>

		to west boundary and is acceptable on merit to east boundary
	For mixed use buildings in B4 zone that have active ground floor frontage , building separation above street wall height must be 18m, equally a portioned to inform side and rear setbacks	N/A
	6.3.3.3 - <i>Tower Slenderness</i>	
	Maximum floor plate in B3 zone for a commercial tower is 2500m2	N/A
	Maximum floor plate for a commercial tower in the B4 zone is 2000m2	N/A
	The maximum floorplate for a residential tower must be <ul style="list-style-type: none"> <li>- 800m2 for building &lt;75m high</li> <li>- 950m2 for building 75m-100m high</li> <li>- 1100m2 for building &gt;100m high</li> </ul>	N/A N/A <b>NO Tower A = 1,294m2</b>
	Floorplates subject to setback and separation controls	Noted
	Maximum floorplate length for commercial tower in B3 zone is 60m	N/A
	Maximum floorplate length for any tower in B4 zone is 45m	<b>NO Tower A = 59m</b>
	6.3.3.4 - <i>Floor Heights (Floor to floor)</i>	
	Commercial 3.8m	N/A
	Residential 3.1m	Yes
	Ground floor active street frontage 4.5	Existing
	Above ground car parking <ul style="list-style-type: none"> <li>- B3 commercial 3.8m</li> <li>- B4 mixed use 3.1m</li> </ul>	N/A Existing
6.3.4 The Street Wall	<p>Must be built to the street alignment with only minor modulation</p> <p>Satisfy nominated design criteria for modulation and character and architectural expression</p> <p>Include an awning</p> <p>Include a ground floor façade that intensifies the walking experience with a particular richness in detail</p> <p>Undercrofts or other interruptions not permitted</p>	Podium already built via DA 852/2013

6.3.5 Ground Floor	<p>6.3.5.1 - Non Flood affected site</p> <p>Controls do not apply</p> <p>6.3.5.2 - Flood Affected Site</p> <p>The podium is already constructed via DA 852/2013.</p>	<p>N/A</p> <p>N/A</p>
6.3.6 Above Ground Parking	The podium, which almost entirely above ground parking, is already constructed via DA 852/2013.	N/A
6.3.7 Residential Apartment Design Quality	Provides limited design criteria for natural light, ventilation and privacy	Yes
6.3.8 Wintergardens	<p>Wintergardens must be constructed as private external balconies and must not be a conditioned, weatherproof space.</p> <p>Minimum 80% of external wintergarden perimeter must be operable glass louvres</p> <p>Various design matters to be satisfied to address drainage, acoustics, solar absorption of glazing</p> <p>No heat rejection from and HCAV system within wintergarden</p>	The design includes enclosed balconies to the extent permitted by clause 7.28 of PLEP 2011.
6.3.9 Dwelling mix	<p><i>Dwelling mix guide</i></p> <ul style="list-style-type: none"> <li>• Studio / 1 Bedroom - 10 - 20% of total dwellings</li> <li>• 2 Bedroom - 55 - 70% of total dwellings</li> <li>• 3 Bedrooms - 10 - 20% of total dwellings</li> <li>• 4 Bedrooms - 5 - 10% of total dwellings</li> </ul> <p><i>Dual key apartments</i></p> <p>Will be considered subject to meeting nominated criteria</p>	<p>17% - Yes</p> <p>75% - No</p> <p>8% - No</p> <p>N/A</p> <p>N/A</p>
<b>Part 6.4 - Public Domain</b>		
	Through site links and the public domain treatment to Hassall and Macquarie Streets is already constructed via the consent to DA 852/2013 and its associated PA, plus the more recent works completed by PLR	Yes
<b>Part 6.5 - Special Areas</b>		
	Not applicable	N/A
<b>Part 6.6 - Heritage</b>		
6.6.1 Guiding Principles	The proposal is not a heritage item, nor within a heritage conservation area. However it is in proximity to heritage items. Refer to section 7.6 below.	Yes

Part 6.7 - Flood Risk Management		
	<p>This proposal is unusual in that the basements and podium elements are already constructed under prior approvals other formalised via other means as noted at Table 1.</p> <p>Council's provisions for the management of flood risk, as set out in this section the DCP have evolved since that prior approval. Within that context Council's Senior Development Catchment Engineer is satisfied with the measures which could be achieved to manage flood risk – refer to section 7.9 below..</p>	Yes
Part 6.8 - Environmental Sustainability		
6.8.1 High Performing Buildings	<p>The proposal has been submitted with appropriate BASIX and NaTHERS requirements.</p> <p>The proposal is not seeking the High Performing Building target and a NABERS Commitment Agreement has not been submitted.</p>	Yes
6.8.2 Dual Water Systems	Would be addressed by conditions	Yes
6.8.3 All Electric Buildings	Would be addressed by conditions	Yes
6.8.4 Electric Vehicle Charging Infrastructure	Would be addressed by conditions	Yes
6.8.5 Urban Cooling	<p><i>Roof Surfaces</i> Would be addressed by conditions</p> <p><i>Facades</i> Adequate solar reflectivity measures have not been demonstrated for Tower A.</p> <p><i>Heating and Cooling Systems – Heat Rejection</i> Dedicated on floor plant rooms are provided and are architecturally designed into the building,</p> <p><i>Green Walls or Roofs</i> Rooftop levels include landscape common open space areas</p>	<p>Yes</p> <p><b>No</b></p> <p>Yes</p> <p>Yes</p>
6.8.6 Solar Light Reflectivity	Not finally resolved for Tower A – refer to section 7.5 below.	<b>No</b>
6.8.7 Natural Refrigerants in Air Conditioning	Would be addressed by conditions	Yes
6.8.8 Bird Friendly Design	The façade treatment includes some of the types of mitigation measures nominated	Yes
6.8.9 Wind Mitigation	Not satisfactory – refer to section 7.5 below.	<b>No</b>

Part 6.9 - Vehicular Access, Parking and Servicing		
6.9.1 Vehicle Driveways and Maneuvering	Existing driveways are already constructed via the approval to DA 852/2013. TfNSW is now satisfied the existing driveway and loading dock arrangement at Macquarie Street is acceptable. Refer to section 3.6 above .	Yes
6.9.2 Onsite car parking	Parking supply and the design of parking areas is satisfactory.	Yes
6.9.3 Bicycle parking and End of Journey	These elements are provided and are satisfactory.	Yes
Part 6.10 - Site Specific Controls		
	Not applicable	

## 5. Planning Agreements or Contributions Plans

### 5.1 Planning Agreements

#### PA linked to DA 852/2013

A Planning Agreement (PA) exists between Council and the applicant relative to the base building consent, DA 852/2013, which requires the applicant to:

- Design, finance, construct and deliver to Council a public car park; and
- Deliver Road Works, Streetscape Works and Public Thoroughfare Works

Those works have been delivered however the matter was complicated by:

- Council's decision to no longer retain ownership of the public car park and the public thoroughfare (through site link);
- The fact that the constructed public car park only provided 695 spaces, and not the 715 spaces as approved; and
- The PA provided an incentive for additional public parking by reducing the required developer contributions by \$38,000 for each additional space above 650. The applicant therefore obtained concessions which it was not entitled to, based on the actual number of spaces constructed.

Those circumstances were resolved by:

- An amended PA which incorporated a mechanism to facilitate the repayment of the relevant developer levy concession; and
- A modification to DA 852/2013 to confirm the actual number of public parking spaces.

#### PA linked to Site Specific PP

A second PA, which has been executed, applies to this site as a consequence of the site specific PP. That agreement requires a cash contribution, part of which has been paid. The balance is to be paid in stages linked to construction and occupation certificates.



## 5.2 Parramatta City Centre Development Contributions Plan

The PA's specifically do not exclude the operation of section 7.12 of the Act. Any consent for this Da would therefore include a condition requiring payment of the required levy.

## 6. Environmental Planning and Assessment Regulation 2000

This application satisfies relevant clauses of the Regulation as follows:

Table 14: Relevant EPA Regulations

Clause 24 Content of development applications	The application is made in the approved form and contains the required information.
Clause 29 Residential Apartment Development	The nominated documentation is provided being: <ul style="list-style-type: none"><li>○ A design verification statement;</li><li>○ An explanation of the design in terms of the principles in SEPP 65</li><li>○</li></ul>
Clause 61 Additional matters for consideration	All building work will be carried out in accordance with the provisions of the Building Code of Australia.

## 7. Likely impacts

### 7.1 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;
- The design and location of the building will not preclude surrounding land from being developed in accordance with planning controls; and
- The proposal will not generate noise, cast shadows or diminish views that would be detrimental to adjacent and surrounding sites.

However, the following aspects of the proposal's physical impacts are not acceptable:

- Wind impacts – refer to section 7.5 below
- Reflectivity impacts – refer to section 7.5 below

*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 a land use contemplated by the planning controls;
- Site planning locates built elements in suitable locations to generally avoid negative amenity outcomes for adjacent sites or areas of public open space;
- ~~The scale of the buildings is generally consistent with planning controls,~~

However, the following aspects are not acceptable:

- Failure to achieve an outcome to satisfy the design excellence provisions of PLEP 2011.
- Unacceptable built form outcomes, particularly:
  - inadequate information regarding the material and detailing of the blank east and west facades of Tower B. The Design Excellence Jury had previously noted those elevations would be some of the tallest, blank elevations in the CBD and identified a lack of resolution and detailing which requires refinement to ensure a high architectural resolution with refined, durable integral finishes. This matter is not resolved via this Review application – refer to discussion of Design Excellence at section 7.4 below
  - inadequate detailing of the proposed tower facades. The Design Excellence Jury had previously noted it did not consider the proposed façade detailing would deliver an accurate realisation of the architecture of the development. The Jury further noted a lack of sophistication, systemisation and refinement of detailing combined with a rudimentary level of information that was not of a standard expected for a Design Excellence development of this size, complexity and scale. This matter is also not resolved via this Review application – refer to discussion of Design Excellence at section 7.4 below
  - the length and overall size of Tower A exceeds provisions within the DCP (refer section 4). That, In conjunction with a lack of a tower setback above the podium for Tower A relative to the Macquarie Street frontage, results in a built form which does not meet the underlying objectives and consequently the proposal will be incompatible with desired future character for the city centre. Refer also to section 7.4 and the comments provided by one Jury member.

## **7.2 Site works**

No excavation or tree removal is required noting the partial implementation of the building approved under DA 852/2013.

### 7.3 Natural and technological hazards

The only hazard identified relates to flooding – see further comments at section 6.9 below.

### 7.4 Site design and internal design

#### Masterplan

The purpose of the site specific Planning Proposal (SSPP) noted at Table 1 was to bring forward redevelopment opportunities for this site (height and FSR controls) consistent with the planning strategies underpinning Council's wider, but at that time incomplete, CBD Planning Proposal.

An element of the SSPP application was a site specific masterplan prepared by the proponent, with its stated purpose being to *"consider whether the site is justified in seeking a development of greater height given the recent changes in the new CBD Planning Strategy by Parramatta City Council."*

Council's documentation submitted to the (then) Department of Planning, Industry and Environment seeking finalisation of the SSPP noted the following in terms of that masterplan:

*"With regard to the broader urban design of the proposal, the Planning Proposal is accompanied by an Urban Design Report prepared by GMU on behalf of the applicant. Further to this, Antoniadis Architects were appointed by Elton Consulting on behalf of The City of Parramatta Council to provide an independent assessment of the adequacy of the Urban Design Report prepared by GMU. The Antoniadis Architects assessment agrees with the GMU report in terms of the massing of the two towers as being the most appropriate built form for the site (ie. the taller tower to the north facing Macquarie Street at 167m and the shorter tower to the south facing Hassall Street at 126m). The assessment, however, does note that the Macquarie Street tower, when viewed from the east has the potential to appear bulky and inarticulate. It recommends a more modulated architectural typology be provided which is able to be further detailed at the design stage."*

The Brief for the Design Excellence competition (DC/11/2016) which sought to realise the outcomes of the SSPP subsequently relied upon the building envelope nominated in that masterplan, although the Brief also stated:

*In addition, Council's Urban Design Unit recommend the following:*

- *Architects are encouraged to consider an alternative design approach that introduces a tower setback to Macquarie Street. Note - Council's DCP requires a minimum 6m tower setback above the podium / street frontage height.*
- *This setback will assist in reinforcing a low scale street wall, and assist in mitigating wind downdrafts on Macquarie Street.*
- *It is recommended that any residual floor space created by the setback is decanted onto the Hassall Street tower.*

In hindsight it is apparent that as this project transitioned from the SSPP space into the beginnings of the DA space, it was led by a design process that subverted the established

planning controls. That same approach then continued with the assessment of the DA, culminating in circumstances discussed below relative to 'design excellence' considerations.

A Review under Division 8.2 of the Act is not limited only to the matters for which a DA was originally refused. Within that context, several key departures from the DCP controls, previously justified by deference to the SSPP masterplan but no longer considered acceptable, prevent the scheme from realising 'design excellence'.

The masterplan provided for the SSPP was only a component of that process, and was not adopted by Council for any purpose. If it were to be argued that, by some extension of the SSPP process, it was an adopted policy of Council, then the criteria established by the LEC planning principle in *Stockland Development Pty Ltd v Manly Council* [10428 of 2004] indicates it would be of little to no weight, particularly given:

- It is incompatible with the objectives and provisions of the relevant development control plan; and
- It is significantly flawed when assessed against conventional outcomes accepted as appropriate for the site and the wider CBD.

Notwithstanding the masterplan informed the design brief for the design competition originally, that must be balanced against the focus of the DA assessment process, which has a statutory obligation under the design excellence provisions of the LEP to ensure that the best outcome is achieved.

### Design Excellence

The site-specific controls at clause 7.28 of the PLEP 2011 allow for development to exceed the mapped height and FSR controls in favour of those nominated in that clause provided:

- the scheme is the subject of a design excellence competition; and
- the consent authority is satisfied the development exhibits design excellence relative to the qualitative matters in clause 7.11(2); and
- the scheme maintains a public car park.

This proposal is the subject of Design Competition DC/11/2016 (the Brief for which was not endorsed until July 2019) with the Jury presentations held in September 2019. At that time the Jury was unanimous that none of the schemes achieved Design Excellence, but also agreed the entry by CD Architects had the potential to do so. That scheme became the basis for this DA.

Following completion of the design excellence process the applicant eschewed any preDA consultation, instead proceeding directly to the formal DA. By the end of its evaluation of the DA scheme the Jury had provided a caveated advice which:

- Indicated the Design Competition was based on a brief that included a site specific master plan and a number of significant constraints, and despite best efforts to work within these, the proposal nevertheless falls short of being an exemplar of Design Excellence in NSW; and

- Went on to identify the matters which became the basis for reason 3 of the grounds for refusal of the DA. (i.e: failure to achieve design excellence): being
  - Failure to provide toilet and associated facilities at all communal open space areas
  - Inadequate detailing of the blank eastern and western tower facades of Tower B
  - The detailing and level of information provided for primary tower facades is not at the standard expected for 'design excellence' for a development of this size and scale.

Through the evaluation of this Review application by Council it is now apparent those earlier caveats are fundamental, such that it has informed both the participation of the Jury and its views on the proposal.

- The Jury Chair has not participated in this Review application;
- A second Jury member advised of an inability to comment due to concerns regarding the project's prior history and current planning status; and
- The third Juror acknowledged and supported the second Jurors' advice, as well as provided the following key comments:

*The Jury does not award design excellence, the consent authority does. The Jury can only state that a scheme has the best potential to achieve design excellence. The Competition Jury was concerned from the outset that the bulk, scale and density of the master plan envelope upon which the design excellence competition was based was excessive for the site, and would struggle to comply with key ADG objectives for urban design and residential amenity. This was exacerbated by an existing above ground carparking podium and inadequate lift provision based on an earlier, lower density DA. Any major revision to the master plan envelope was considered by the Jury to be outside of its Terms of Reference for the competition assessment.*

### Gross floor area

The application contends that compliance with the site-specific GFA controls is achieved as follows:

- Building GFA is 59,774.9m<sup>2</sup> which is 226m<sup>2</sup> less than the 60,000m<sup>2</sup> maximum; and
- GFA of enclosed communal areas and enclosed private balconies is 2,355m<sup>2</sup> which is less than the 2,750m<sup>2</sup> maximum.

However, compliance with the building GFA is questionable for the following reasons:

- End of Trip facilities (EoT) on the lower first floor have, up until the plans received in November 2021, been excluded from GFA calculations which showed the scheme was at the maximum limit prescribed by the site specific LEP provisions. The most recent plans include GFA calculations which suggest the EoT has now been counted in the GFA, yet at the same time overall GFA is shown to reduce by 225m<sup>2</sup>.

It is unclear how that outcome has been achieved, given that no design modifications to remove GFA elsewhere have been stated by the applicant. Therefore, the figures provided are dubious.

As a related matter, the Design Excellence Jury's requirements for toilet facilities at all four communal terrace areas further threatens the scheme's compliance with the FSR control.

- Substantial parts of the common corridors in both Towers A and B, as shown in the following figures

The justification for excluding these corridors from a GFA calculation is a design whereby the end of a corridor is "open to the weather" to allow for a semantic compliance with the LEP definition of 'gross floor area'. That treatment comprises fixed vertical louvres, independent from which sits a 1m glass balustrade, as shown below:

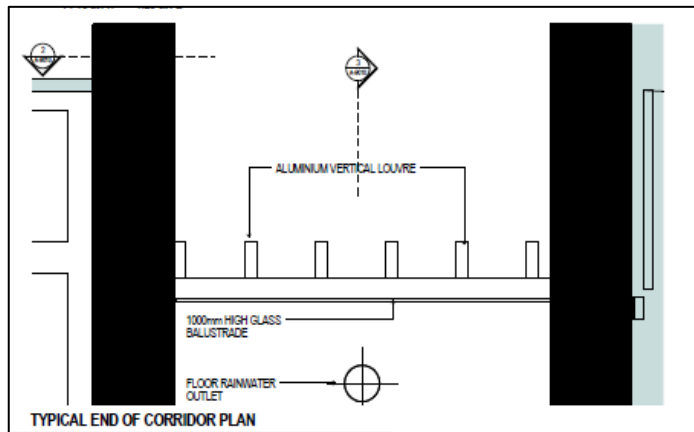


Figure 9: Plan view of corridor treatment

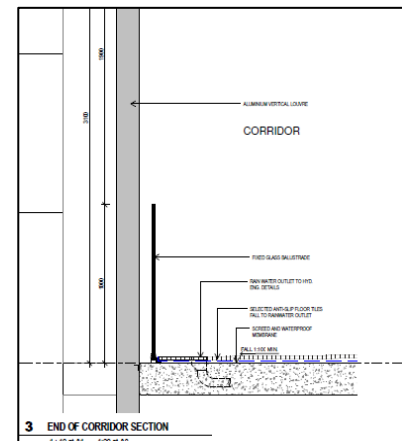


Figure 10: Section view of treatment

While it is acknowledged there would be certain genuine examples of where an external circulation corridor should be excluded from a GFA calculation, adopting that same approach for corridors which are essentially internal and proportionally insignificant within the overall façade, like those of this scheme, is a disingenuous design exercise which does affect building bulk, and provides a poor amenity outcome for residents.

That said:

- There are various decisions of the Land and Environment Court to support this approach;
- The application is supported by a desktop wind analysis which concludes conditions within the corridors will meet applicable comfort and safety criteria.

Therefore, it is accepted that those corridors can be excluded from the GFA calculation.

### External materials

The schedule of external materials has been the subject of scrutiny by the Design Jury and ESD consultant, and are broadly satisfactory. However, as outlined at section 7.5 above, the Jury has previously identified concerns regarding a lack of refinement of detailing of the facades generally, which combined with a rudimentary level of information, was not of a standard expected for a Design Excellence development of this size, complexity and scale.

### Accessibility

The application is supported by a technical report which concludes the proposal can comply with the relevant objectives and design code requirements of the BCA, DDA Premises Standards, SEPP 65 and the Parramatta City Centre DCP 2011 subject to resolution of nominated design matters. Those matters are minor and can be addressed at the time of the Construction Certificate.

Council's Project Officer Universal Access has reviewed and accepted that technical report.

### Sustainability

Parramatta DCP 2011 nominates the following sustainability outcomes for residential buildings:

- Compliance with Basix; and
- For development within the City Centre –
  - Residential developments with 4 or more floors should be built with energy and water saving technologies equivalent to a 5 Green Star Office Design
  - New developments should be connected to a source of recycled or reuse water wherever possible.

However consistent with obligations associated with the 'design excellence' provisions of the PLEP, the design competition imposed more stringent ESD objectives for this project, as follows:

- Building envelopes and façade articulation that are expressive and achieve high levels of solar protection and minimise reflected heat into public areas.
- Planning and facades that provide high levels of natural light and offer high levels of amenity to occupants.
- Planning and designs that provide optimal natural ventilation and winter sun access.

Those primary objectives were supported by more detailed aims, particularly focused around:

- Integration of solar power in area(s) of high sun exposure.
- Best practice energy and water efficient building services.
- Integration of Water Sensitive Urban Design with building architectural and landscape design and functions.
- Detailed requirements for façade objectives to minimise reflected heat to the public domain

The application is supported by an Energy Efficiency & Ecologically Sustainable Design Report which nominates various ESD measures seeking to achieve significant reductions in the energy and water required by the development both in building and operation, as well as ensuring that the residential units are more pleasant spaces to reside. Key features include:

- Central hot water boiler for residential apartments.
- Efficient individual reverse cycle 1-phase air-conditioning systems
- Solar PV systems
- Requirements for efficient electrical appliances, lighting and water fittings, and appliances
- Motion sensors for lighting in suitable locations

The report has been evaluated and confirmed as satisfactory by Council's Sustainability consultant.

It is to be noted however that the evaluation of sustainability overlaps with wider ESD obligations noted in the Design Competition brief, such as SEPP (Basix), SEPP 65 and the ADG. Those matters are discussed elsewhere in this report.

### Landscaping

The proposal includes landscape areas at the podium and the various communal sky gardens. Council's Tree Management and Landscape Officer is satisfied with the landscape treatment.

### Public Art

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

The Public Art plan originally provided with the application was unsatisfactory, as was a revised plan received in May 2021. A further submission received in September 2021 however resolved relevant concerns and is therefore satisfactory.

## **7.5 Amenity considerations**

### Solar access

The best practice ADG design criterion is for a minimum of 70% of apartments to receive a minimum of 2 hours solar access to a living room and balcony, at midwinter, between 9am and 3pm. Details provided indicate the following for the existing built form context:

- 54% of units will meet that target – a shortfall of 43 units; or
- 76% of units will meet the target if the hours are extended to 8am – 4pm.

Given that number of units which receive no solar access at mid-winter is below the maximum 15% ADG criterion and noting the high compliance for solar access at the slightly expanded period of 8am-4pm, the outcomes achieved are acceptable.

The application also provides solar access outcomes for a future context situation which considers the redevelopment of a nearby site based upon an existing approval. That information notes the solar access outcomes will be reduced as follows: 49% for 9am-3pm or 54% for the expanded period of 8am-4pm. Those outcomes reflect the reality of the future character for CBD based upon the impending new controls noted at section 2.9 above.

### Cross ventilation

The best practice ADG design criterion is for a minimum of 60% of apartments in the first 9 storeys of a building to be naturally cross ventilated. The application as lodged claimed compliance at 63.4% being 33 out of 52 units. Council's ESD consultant advised however that:

- Only 42% of apartments could properly be considered as naturally cross ventilated; and



- While the ADG states that units at 10 storeys or greater can be deemed as being naturally cross ventilated units, that is only possible where the design allows for adequate ventilation and where the balconies cannot be fully enclosed. The design details for the proposed wintergardens is contrary to that ADG criteria.

Design amendments and the provision of additional supporting information has resulted in 54% of units achieving cross ventilation requirements. While still short of the ADG best practice target, that outcome is satisfactory given the limitation arising from retrofitting this tower into the existing podium with its fixed core positions. Some further improvements for ventilation in relation to the boxed window detail have been identified and could be achieved by condition if the DA was supported.

### Wind impacts

The failure of the building to include adequate mitigation measures to manage wind impacts was part of the basis for the refusal this DA. [reason 4(a)]

By way of background :

- Wind impacts within private and communal areas of the site, and the adjoining/surrounding public domain is a primary consideration particularly noting:
  - The scale of the development, particularly Tower A; and
  - An inability to accommodate street trees due to limitations arising from the public domain treatment for PLR, which has severely restricted landscape opportunities on the southern side of Macquarie Street.
- Assessment of this matter with the original DA required the submission of 5 separate reports by the proponent to address various technical inadequacies identified by Council's independent wind expert, and to properly deal with the evaluation of impacts upon, and mitigation measures for, the Macquarie Street public domain.
- While the progression of updated technical assessments was able to resolve some concerns, at the time of reporting the DA to the Panel in December 2021 Council concluded:
  - It still remains unclear how easterly and westerly winds affecting the southern side of Macquarie Street are mitigated by landscaping on private property at the northern side of the street opposite the site;
  - The contention that all mitigation in the public domain is otherwise achieved by the awning, without a reliance on supplementary street trees is not borne out by the data provided.
  - landscaping in the public domain is not accepted to mitigate instances where safety criteria are exceeded, such as at location 12.

For the purposes of this Review application the proponent then provided a further submission from its expert contending that:

- The awning is effective in mitigating the wind impacts on the public domain; and

- Testing was done without the additional trees, and it confirmed the same conclusions.

Council's expert remained concerned that:

- Trees being used for wind mitigation, on the northern side of Macquarie Street, are outside the control of the developer; and
- No technical data was provided for the awning alone to support the claim that the awning is providing the majority of the wind mitigation.

Ongoing discussions, including a meeting between the respective experts, culminated in a further two submissions from the proponent.

The overall progress on this matter since lodgement of the 8.3 Review is summarised below:

- Pedestrian wind comfort reporting has been updated to include testing of mitigations measures relied upon to resolve exceedances of relevant criteria.
- However, in doing so, the proponent has changed the assessment criteria (from 'Davenport' to 'Lawson'), with the Lawson criteria being the more lenient.
- While such is unusual midway through project, and particularly without prior agreement, Council's wind expert notes that the Lawson criteria is the benchmark within the Parramatta CBD DCP, and is therefore acceptable.
- Even allowing for that more lenient criteria, location 18 still exceeds the comfort criterion and no mitigation strategies for that location have been investigated or tested.
- The various mitigation measures otherwise outlined in the proponent's submission of 6 October 2022 are otherwise satisfactory in terms of performance.

However, the following two issues of concern remain:

- Location 18 of the wind impact assessment is on the northern side of Macquarie Street, as shown at Figure 11. Preceding technical reports indicated a reliance upon landscaping to mitigate impacts at location 18. However as there are no street trees, only trees on private property are available for that purpose. Given the applicant has no control over the retention of that vegetation, such a circumstance is not acceptable.

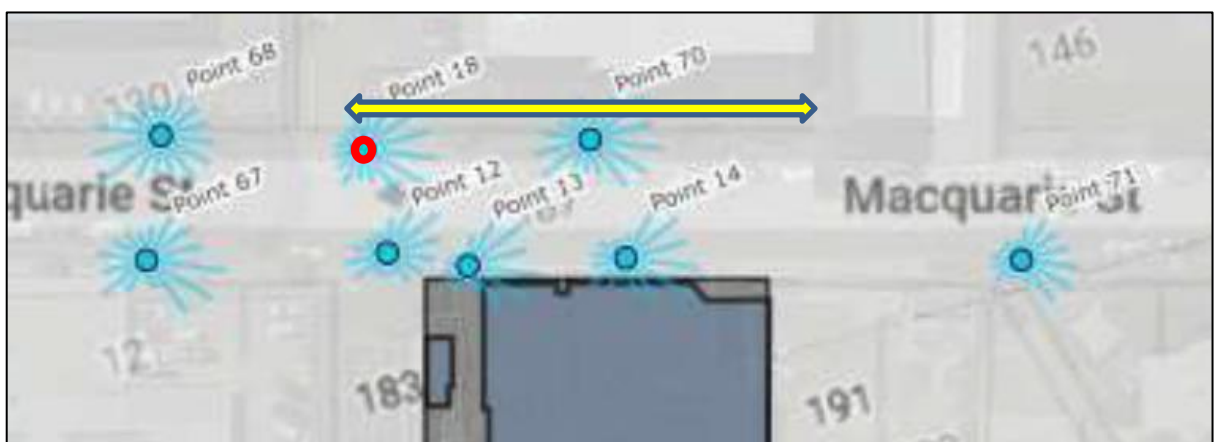


Figure 11: Study location 12, 13,14 and 18 in red. Private property landscaping shown in yellow.

- A permeable upturn screen over part of the podium is required to mitigate wind conditions along Macquarie Street (at locations 12,13,14 and 18 – refer Figure xx above)

The screen is required at the north east corner of the existing podium structure, around an exposed non-trafficable roof above the driveway entry. That non-trafficable roof is shown to be landscaped on the base building consent, but as yet those works are not completed.

The screen would extend 7m across the podium, returning about 2m along the eastern site boundary, and extend about 14.5m to a point equal with the top of the podium.

Although the need for the screen was identified with the original DA, it was understood to be 6m high, but was never documented on any plans.



Figure 12: Location of required screen for wind mitigation

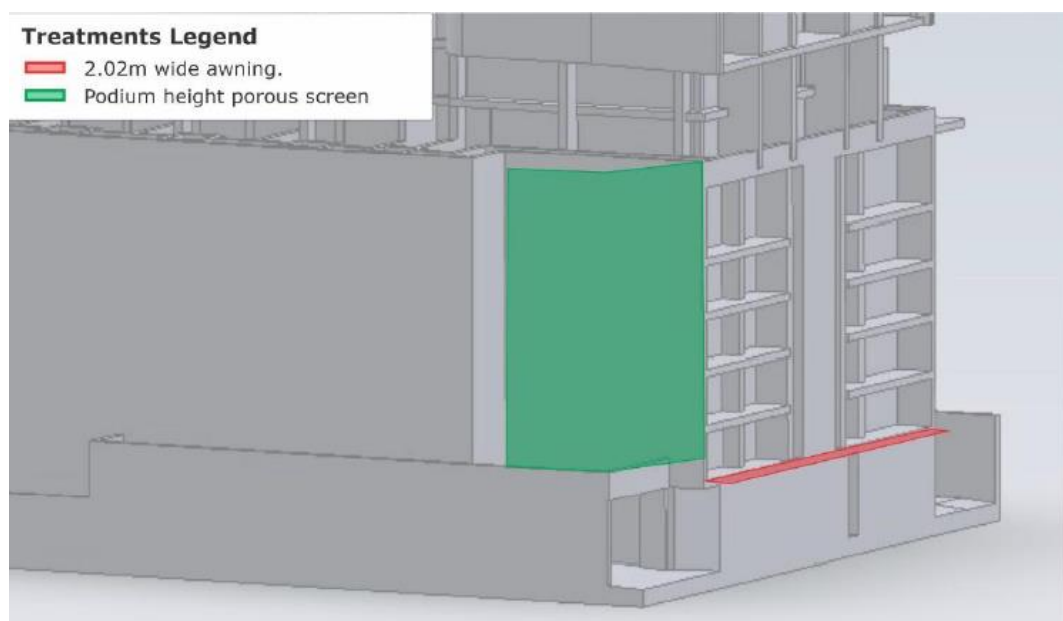


Figure 13: Extract from wind report showing location of screen for mitigation to Macquarie Street

The concerns with the introduction of this element into the design of the building are:

- It has an unacceptable visual dominance within the streetscape, reading as a 'tack on' rather than an integrated and considered design element
- The loss of modulation and articulation of the eastern side of the podium by obscuring the stepped alignment of this part of the podium
- The lack of detailing of this significant new design element

### Reflectivity

The failure of the building to include adequate mitigation measures to manage reflectivity impacts was part of the basis for the refusal this DA. [reason 4(b)]

A summary of the matter is provided below:

- The application as originally lodged was supported by a technical report which concluded the development would not cause traffic disability glare nor pedestrian discomfort glare on surrounding public areas, provided its nominated mitigation measures for the podium and tower façade at Macquarie Street were implemented. Council's consultant was satisfied of the rigour of that assessment.
- However, as the assessment progressed, the applicant:
  - retracted its recommendations of a screening treatment for the podium, without explanation; and
  - Introduced blade walls to the northern façade of Tower A which projected between 200mm-450mm over the Macquarie Street boundary.
- The Tower A blade walls are not able to be implemented because TfNSW will not permit any building encroachments over the Macquarie Street boundary into the transitway corridor for PLR. That circumstance informed reason 4(b) of the Notice of Determination.

For the purposes of this Review application the proponent has:

- Amended the architectural plans to reposition the blade walls on the northern façade of Tower A behind the property boundary.
- Provided documentation demonstrating that replacing the existing glazing within the Macquarie Street façade with an alternate glazing with a lower reflectivity co-efficient will meet relevant thresholds without the need for any external screening.

Council's consultant has considered this proposition and advises:

- While calculation results are provided, there is little supporting detail on the extent of testing. Therefore the adequacy of this solution cannot be confirmed.
- The physical screening solution previously relied upon to mitigate glare is more robust than low reflectivity glass, given the likelihood of reflections with high angles of incidence.
- Given the risks to vehicle users and light rail users, further details on the calculations must be provided if low reflectivity glass is to be relied upon, including:
  - locations and view directions assessed.

- time of day/year when glare risk is predicted at each location.
- east and westbound traffic are to be considered.

Sufficient doubt remains as to the adequacy of the mitigation measures for the podium.

#### Noise generation

The application is supported by an acoustic report which considers likely noise emissions from various elements mechanical elements of the development upon the amenity of the nearest sensitive receivers.

That report concludes the level of noise emitted by the operations of the development will meet the relevant criteria subject to the implementation of nominated mitigation measures, and a further detailed acoustic assessment of the selected mechanical plant prior to the issue of relevant construction certificates.

That report has been evaluated and confirmed as satisfactory by Council's Environmental Health Officer. Any consent would include conditions requiring compliance with recommendations at that report.

### **7.6 Relationship with adjacent sites**

#### Solar access to neighbouring buildings

The application is supported by solar studies illustrating the impact of the proposal on existing residential buildings immediately to the south of the site at 21 and 23 Hassall Street. Those plans also provide a comparison relative to the towers already approved for this site under the base building consent, DA 852/213.

While the built form of this current proposal does not neatly overlap with the envelope of the previously approved towers, the analysis nevertheless demonstrates that the degree of impact from this current proposal is not materially different to that of the base building.

#### Shadow impacts on the public domain

Clause 7.4 of the PLEP 2011 addresses sun access to 3 key public spaces, including Jubilee Park. The controls provide that if development is likely to cause excessive overshadowing of Jubilee Park, it must take into consideration the relevant sun access plane controls in Parramatta DCP 2011. The application is supported by shadow diagrams assumed to be at midwinter but not stated, which show the following:

**Table 15: Shadow impacts on Jubilee Park**

8am	Building will impact park, but is within shadow profiles of existing buildings
9am	Building will impact park, but is within shadow profiles of existing buildings
10am-3pm	No impacts

The terms of clause 7.4 of the LEP are therefore satisfied.

Those same shadow diagram also detail the following midwinter outcomes for Robin Thomas Reserve and James Ruse Reserve, significant public open spaces at the eastern edge of the CBD, but which are not subject to clause 7.4:

**Table 16: Shadow impacts on Robin Thomas Reserve and James Ruse Reserve**

Robin Thomas Reserve	No impacts 8am- 3pm
James Ruse Reserve	No impacts until after 2pm

## Heritage

Although the wider Parramatta CBD includes multiple heritage items, the two closest to this site are the following, listed as being of 'local' significant in Schedule 5 of the Parramatta Local Environmental Plan (LEP) 2011:

- 23 and 25 Hassall Street, Parramatta (Semi-detached cottages) – Item No: I708; and
- 113 and 115 Wigram Street, Parramatta (Attached houses) – Item No: I750.



Figure 14: Nos 23 and 25 Hassall Street

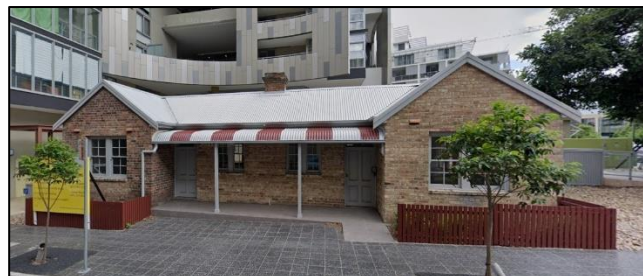


Figure 15: Nos 113 and 115 Wigram Street

The Heritage Impact Statement supporting the applicant provides the following conclusion:

*The proposed development..... will have an acceptable impact on the heritage significance of the heritage items in the vicinity. The proposed towers above the existing podium on the site will not affect the identified historic views which characterise Parramatta. The established heritage significance of the nearby heritage items identified in this report will be retained and their significant qualities will continue to contribute to the character of the area.*

That conclusion is accepted, noting in particular:

- The extent of development on the site of those heritage items; and
- The development already approved for this site, and secured, under DA/852/2013.

## Relationship to public domain

The public domain treatment in both Hassall and Macquarie Streets is already complete by virtue of the partial implementation of DA 852/2013. Restoration of the Macquarie Street public domain arising from works associated with PLR will be undertaken by TfNSW.

## **7.7 Utilities**

### Endeavour Energy

Tower A includes an electrical substation at level 17 which would be served by an extendable monorail crane to allow for servicing from Macquarie Street.

This was not part of the scheme at the design competition stage and is an uncommon proposition generally as the 'standard' Endeavour Energy (EE) requirement is for an indoor substation at the ground floor with 24/7 direct access from the public road.

EE confirmed that it would not support the proposed arrangement until it had received and considered a Dispensation Application. That process was subsequently completed, and in November 2021 EE confirmed it had no objection to the level 17 substation.

### Sydney Water

Sydney Water (SW) has provided the following advice:

- For potable water, the main in Macquarie Street requires amplification;
- Investigations are underway regarding the provision of recycled water to Parramatta and Sydney Olympic Park
- For wastewater:
  - Due to constraints within the wastewater system during wet weather, Sydney Water cannot accept wastewater flows into its sewers from this development during wet weather.
  - The development is located upstream of an overflow structure that is spilling outside the acceptable threshold. The additional flow from the development will have impact to this overflow structure with additional discharge to the environment.

In subsequent inquiries SW confirmed:

- It has no objection to the DA in principle.
- However, given the servicing constraints noted regarding the wastewater, the servicing solution may include either:
  - onsite wastewater storage prior to discharging to our it's system
  - or offsite system augmentation.
- If the onsite solution is the preferred option, the developer may need to modify their development proposal to accommodate this final requirement.
- In order that the applicant can make an informed decision it is recommended that a Feasibility Application is lodged. The outcome of that will shape the requirements under a future section 73 application and inform the conditions to be imposed by SW for this DA

That Feasibility Application was subsequently lodged, with SW providing the following further advice in relation to the servicing of wastewater:

- The development can connect to an existing main in Hassall St, or an alternate main (location not specified) provided it is amplified to SW requirements
- There is a high-risk of overflows in the wastewater system downstream of the development. To protect the environment and receiving waterways, EPA has requirements to limit the volume and frequency of high-risk overflows. To meet EPA

requirements, the volume and frequency of overflows should not be increased in the wastewater system due to any growth and development activities in the catchment.

- The applicant is therefore required to engage a hydraulic consultant to develop a wastewater servicing solution that serves this development, whilst ensuring that the performance of the wastewater system is not deteriorated in both dry and wet weather conditions.
- SW Notice of Requirements will be issued via a section 73 Certificate application, should DA consent be granted.

It was Council's understanding that the Feasibility Application process would clarify whether there was a need for an onsite wastewater storage system. It seems however that a final position will not be reached until a section 73 application is lodged with SW.

## **7.8 Access, transport and traffic**

### Residential parking

Parking supply is satisfactory as follows:

- 471 spaces as proposed satisfies the maximum rates at clause 7.15 of PLEP 2011
- Clause 7.15 of the LEP, which prevails over any other provisions, does not stipulate any requirement for residential visitor parking rates, which is appropriate given the large public car park co-located on this site.
- The motorcycle parking supply of 38 spaces, and bicycle parking supply of 361 spaces satisfies the maximum rates under Parramatta DCP 2011

### Commercial parking

The scheme provides 4 parking spaces for the retail premises which is satisfactory.

### Parking access and design

The design and geometry of parking and service areas is largely fixed, as the podium levels have already been constructed via DA 853/2013. To the extent the layout is altered by this application, Council's Traffic Engineer advises that the design remains satisfactory.

As noted, TfNSW requires the existing driveway access to remain unaltered. This is not the outcome shown on the current architectural plans, but that could be rectified by conditions if the application was to be approved.

### Service vehicles

The following matters are noted:

- The existing 'as built' arrangements for waste servicing are to remain as required by TfNSW. That is not the outcome shown on the current architectural plans, but could be rectified by conditions if the application was to be approved.



- Commercial tenancies will need to appoint a contractor to manage waste collection, however arrangements for storage area are acceptable.
- On Basement level 1 the plans nominate 12 courier parking spaces. Such seems excessive, and not linked to any planning provision. As TfNSW requires the preparation of a Freight and Serving Management Plan, any surplus courier spaces identified from that process would need to be converted to storage to ensure the LEP maximum parking supply was not exceeded. These matters could be managed by conditions if the DA was to be approved.

### Construction Traffic

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

### Operational Traffic

For the DA as originally lodged Council's Traffic Engineer advised:

- The uplift in apartments relative to approved DA/852/2013 is expected to increase vehicle movements by 35 and 7, relative to the AM and PM peak hours
- Such a minor level of additional traffic, representing approximately one additional vehicle movement every two minutes during the morning peak, is not expected to result in any noticeable impacts on the overall performance of the surrounding road network over and above that previously assessed and approved.

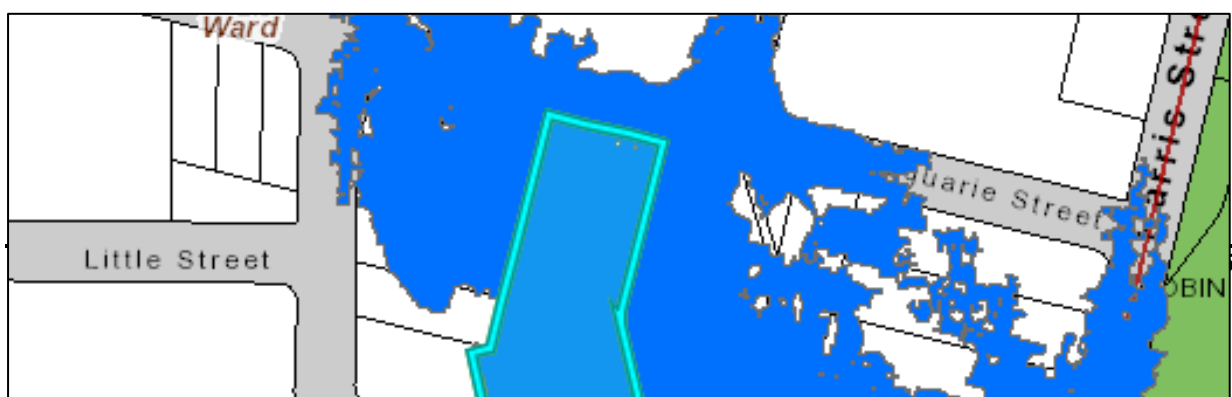
Those assumptions were noted as being derived without any SIDRA analysis, but nevertheless the Traffic team was satisfied the proposal is not expected to compromise the function of the surrounding road network.

For the purpose of this Section 8.3 review, SIDRA modelling has been provided which confirms that relevant intersections are expected to operate well with satisfactory queues and delays on all approaches in both the AM and PM peak hours. On this basis, the Traffic advice concludes the proposed development is not expected to compromise the safety or function of the surrounding road network.

## **7.9 Water management**

### Flooding

Almost the entire site is impacted by the 1% AEP flood event as shown at Figure 14, and completely inundated under a Probable Maximum Flood (PMF) event. The hazard level for the 1% ARI is categorised as 'high'. Flood impacts therefore represent a significant site constraint.



**Figure 16: Extent of 1% AEP flood event**

It is acknowledged that the mitigation of flood impacts was addressed via the approval granted for the base building (DA/852/2013) and that consent has been partially realised by the construction of the basement and podium elements. However, it remains appropriate for Council to revisit this matter, even for existing parts of the current building, given:

- The application seeks consent for use of basement levels 4, 5 and 6 – those are not part of the previously approved works under DA 852/2013 (i.e., the base building consent)
- The application also seeks consent to make changes to approved basement levels 1-3
- The application seeks consent to modify parts of the existing constructed ground floor
- The existing building is not constructed in manner consistent with the base building consent – that is - the Macquarie Street ground floor retail levels vary from the approved plans. The approved levels were to managing flooding
- The proposal significantly increases the number of occupants and intensity of use of the whole development, including the ground floor and basement levels, and therefore increases the risk to all persons on the site, both residents and visitors.
- In accordance with the EPA Act and the Local Government Act, Council adopts a risk management approach to flooding consistent with the NSW Floodplain Development Manual, NSW Flood Policy, Australian Disaster Relief Handbook and Council's Local Flood Risk Management Policy. Council's DCP 2011 states:

*P.14 Council strongly discourages basement car parks on properties within the floodplain. Where site conditions require a basement car park on a property within the floodplain, development applications must provide a detailed hydraulic flood study and design demonstrating that the proposed basement car park has been protected from all flooding up to and including the PMF event. An adequate emergency response and evacuation plan must also be provided where basement car parks are proposed in the floodplain (DCP 2011 p 2-8)*

- For the last five years, this requirement has been consistently implemented by Council for all development with multi-storey basement car parking in the flood plain in the CBD and throughout the LGA.
- In keeping with changes in national and state-wide floodplain risk management practices, there have been substantial improvements in Council's approaches to flood risk management since the original consent was granted. There is no justification for

continuing with superseded and inadequate flood protection standards that do not comply with Council's DCP 2011.

Council's position on its approach to assessing flood impacts has been the subject of debate with the applicant, but ultimately it has provided a Flood Risk Management Plan which nominates the following measures to address flood proofing of the building:

- Retrofitting of flood gates operating to the PMF of RL 9.5 AHD at the Macquarie Street driveway to protect the basement levels
- Retrofitting of flood gates operating to the PMF of RL 9.5 AHD at nominated locations on internal basement ramps
- Retro fitting Internal flood doors at the upper and lower ground floors constructed from flood compatible building materials to withstand floodwater forces up to RL 9.5m AHD
- To ensure that the proposed flood protection doors/gates will perform properly, undertake structural modifications to nominated parts of the already completed base building

To address the issue of flood safety for occupants of the site, the Flood Risk Management Plan nominates the following measures:

- A refuge area for 'shelter in place' will be provided above the PMF which will be provided with required facilities:
  - Emergency electricity supply;
  - Clean water for drinking, washing and toilet flushing;
  - Working kitchen/ simple food preparation areas, bathroom and toilets;
  - Suitable food;
  - Personal washing facilities;
  - Medical equipment including a first aid kit;
  - A battery-powered radio and relevant communications equipment;

Although not stated, this is expected to be the common room on Level 7 of the podium

- Flood proof stairwells provided to connect all levels of the basement to that refuge.
- A flood alarm system will be installed
- Flood warning signage will be installed in appropriate locations
- A back-up power supply will be installed in case of disruption of the main supply. This backup is to only operate to provide power for the flood alarm system and refuge area.

Council's Senior Catchment and Development Engineer is satisfied with those measures.

#### On site stormwater collection and disposal

Given that the podium levels are constructed the arrangements for stormwater collection address only from podium level 7 to the rooftop of Towers A and A. The required new stormwater drainage from those towers will connect to the existing stormwater system below the Level 7, which includes the previously approved OSD and water quality systems.

The applicant advises that as this proposal does not result in an increase of the building footprint the existing approved detention and water quality systems are sufficient.

Council's Development and Catchment Engineer is satisfied with the proposed stormwater arrangements subject to conditions.

#### Water quality during construction

This matter would be addressed by conditions if the application is to be supported.

#### Ground water reuse

As explained at Table 1 above, there is extensive prior history around this building in terms of the way certain basement levels were constructed, and further, that all basement levels are not watertight as required. Those circumstances informed the decision of Council to issue a Stop Work Order in July 2010<sup>7</sup>. That Order remains in place at the time of preparing this report.

To resolve that matter the applicant has secured approval for DA 356/2020 for the installation and operation of a permanent groundwater reuse system. That system allows for treated groundwater to be used for the irrigation of common landscape areas, and for toilet flushing in any apartments this site.

Any consent for this application would include conditions requiring that groundwater reuse system to be operational for those purposes prior to the issue of any Occupation Certificate.

### **7.10 Waste management**

#### Construction phase

Preliminary information regarding the management of construction waste is inadequate, however Council's Environmental Health Officer is satisfied this matter can be satisfactorily addressed by conditions in any consent.

#### 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. The residential component of the development will be serviced by council, noting that the existing constructed retail tenancies would be served by contractors. Council's Waste services Supervisor has no objection to the proposal. Relevant conditions would be included in any consent.

### **7.11 Construction**

#### Structural integrity

Noting the prior history of this building around the way certain basement levels were constructed and that all basement levels are not watertight as required (refer to table 1 above) Council requested the applicant to provide a Structural Engineering Report which:

- Demonstrates that the existing podium structure is capable, or can be made capable, of supporting the proposed new residential towers
- Confirms that the structural integrity of the development will not be compromised in the long term because of the absence of tanked basement levels, that is, whether the permanent penetration of groundwater poses any risk or threat to the structure over time.

In response the applicant submitted a Structural Adequacy Statement which included the following key commentary:

*..... hereby confirm that I have reviewed the structural integrity of the proposed development supporting the new proposed residential towers. In saying this I can confirm the following:*

- i. The existing podium structure will be designed to support the proposed new residential towers above.*
- ii. The structural integrity of the development will not be compromised in the long – term as the basements have been designed to be drained basements. Moreover, the permanent penetration of the groundwater will not pose any risk or threat to the structure over time.*
- iii. The access ramp has been designed to be able to withstand imposed loads of up to 20kPa.*

Notwithstanding that advice, there is a clear public interest issue to ensure that buildings are structurally sound, particularly in a unique circumstance such as this where a podium has been partially completed, and where basement levels were either not completed in accordance with approvals, or were constructed without prior consent. Given that, were this application to be supported, a condition would be recommended requiring that prior to the commencement of any works, and the release of any relevant CC, an independent structural engineer must peer review the project and provide written advice identifying all structural design issues be addressed to ensure the project is structurally sound.

#### Building Code of Australia

The application is supported by a technical report which provides an assessment of the proposal against the deemed-to-satisfy (DTS) provisions of the National Construction Code – Building Code of Australia Volume 1-2019. The purpose of that report is to identify the areas of non-compliance with those DTS provisions.

The report does not provide any overall conclusion in terms of compliance, or ability to achieve compliance, with the NCC-BCA. Instead, its purpose is to identify the areas of non-compliance with those DTS provisions.

The report also notes the following:

*It is important to note that the existing structure has been constructed to the requirements of BCA – 2015. The consideration of this and the integration with the new structures will need to be addressed in the assessment of the Construction Certificate Application by the Certifying Authority. The current report details compliance for the new works to comply with BCA – 2019. The Construction Certificate Application may be submitted at a time that may require compliance with a subsequent version of the Code that needs to be complied with as detailed by statutory requirements.*

The report has been reviewed by Council's Certification Team, who advises:

- The design will rely on multiple performance based solutions to overcome departures from the DTS provisions of the NCC - BCA
- Some of the proposed performance solutions are of concern however:
  - Those will be matters for the appointed PCA, which is unlikely to be Council; and
  - Council cannot force the applicant to strictly comply with the DTS BCA provisions

### Construction Management

Any consent would include requirements of 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 the Parramatta Light Rail project.

### **7.12 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.

Evaluation of the application by Council's City Safety and Security Team with consideration of the principles which underpin CPTED (surveillance; access control; territorial reinforcement and space management) indicates the design has given due regard to those considerations, noting that specific measures could be implemented by conditions as required.

### **7.13 Social and economic impacts**

No adverse impacts have been identified.

## **8. Site suitability**

### **8.1 Does the proposal fit the locality**

For the reasons outlined elsewhere in this report, the proposal is not considered to fit the locality.

## **9. Submissions**

Notification of this section 8.3 Review application attracted 8 submissions, all objecting to the application. The comments made are summarised below:

Submission response	Comment
Adverse impacts from overshadowing, loss of privacy, loss of views, additional traffic, additional noise, additional rubbish and wind	These matters have been addressed in this report and found to be satisfactory or could be dealt with via condition in the case of a consent.

The development will look out of place	Bulk and scale concerns have been raised in this report.
Construction will affect the foundations of existing neighbouring buildings	Noted. Relevant conditions would be imposed on any consent.
A public carpark is more beneficial than two new skyscrapers	The public car park is to be retained
The Support the matters noted the SCCPP December 2021 “ Determination and Statement of Reasons” document.	Noted
cumulative impact of current construction activity in Parramatta should be an important consideration for the Sydney Central City Planning Panel.	Noted. A Construction travel management plan would be required through any consent.
Toplace has a consistently poor record for serious construction defects and has generated significant negative media coverage. Given that past behaviour is usually the best predictor of future behaviour, there is little reason to believe that Toplace will improve if they are permitted to go ahead with this Development Application. It is unclear why this developer should be given any further opportunities to build shoddy apartments which cause financial hardship and psychological distress for owners and residents. This Development Application should be opposed emphatically.	Not a relevant consideration
The proposal should remain refused, or reduced in scale	Noted
Ongoing development is saturating the residential market thereby lowering property values and reducing rental incomes for investors	The density proposed is consistent with the strategic intent for the Paramatta CBD
PLR construction is driving away rental tenants	Not a relevant consideration

## 10. Public interest

Noting the issues raised within this report it is not in the public interest to support this application.



## **ATTACHMENT B – REASONS FOR REFUSAL**

<b>SCCPP reference</b>	PPSSCC-135
<b>DA No.</b>	493/2020

1. The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposal has not satisfied all of the design quality principles at Schedule 1 of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development.
2. The application is not satisfactory for the purposes of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposal has not satisfied the design excellence provisions of clause 7.11 of Parramatta Local Environmental Plan 2011.
3. The application is not satisfactory for the purposes of section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 in that the proposal does not satisfy relevant provisions at Part 6 of the Parramatta Development Control Plan 2011.
4. The application is not satisfactory for the purposes of section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the following elements of the proposal are not satisfactory:
  - a) The proper assessment of wind impacts and the identification and provision of appropriate and acceptable mitigation measures; and
  - b) The provision of appropriate and acceptable mitigation measures to manage reflectivity impacts.