



MODIFICATION ASSESSMENT REPORT TO SYDNEY CENTRAL CITY PLANNING PANEL

Panel Reference	PPSSCC-376
DA Number	DA/646/2019/B
LGA	City of Parramatta
Proposed Development	Section 4.55(2) modification to approved 16 storey mixed use seniors living tower development, specifically revised internal layout, increased floor to ceiling heights, revised unit mix, minor façade amendments, revised plant location and detailed signage. The application is to be determined by the Sydney Central City Planning Panel.
Street Address	43 - 53 Oxford Street, EPPING NSW 2121 (Lots 1-3 & 5 DP18447, Lots A & B DP357452)
Applicant	Uniting Church
Owner	Uniting Church in Australia - Epping
Date of DA lodgement	23/06/2022
Number of Submissions	Four
Recommendation	Approval
Regional Development Criteria	<p>The development was originally referred to the regional panel as the capital investment value is more than \$30 million.</p> <p>This modification further increases the approved 12% variation to the maximum height control.</p>
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment (EP&A) Act 1979 • EP&A Regulation 2021 • SEPP (Building Sustainability Index: BASIX) (BASIX SEPP) 2004 • SEPP (Transport and Infrastructure) 2021 • SEPP (Planning Systems) 2021 • SEPP (Biodiversity and Conservation) 2021 • SEPP (Resilience and Hazards) 2021 • SEPP (Industry and Employment) 2021 • SEPP (Housing for Seniors or People with a Disability) 2004 • SEPP No. 65 (Design Quality of Residential Apartment Development) (SEPP 65) & Apartment Design Guide (ADG) • Draft Parramatta LEP 2020 (Consolidation) • Hornsby Local Environmental Plan (HLEP) 2013 • Hornsby Development Control Plan (PDCP) 2013
List all documents submitted with this report for the Panel's consideration	<ol style="list-style-type: none"> 1. Draft recommended conditions 2. Amended Architectural Plans 3. Amended Internal Plans (Confidential) 4. Statement of Environmental Effects 5. DEAP Recommendation Report
Summary of key submissions	<ol style="list-style-type: none"> 1. Height 2. Overshadowing 3. Lack of infrastructure 4. Traffic
Report prepared by	Paul Sartor, Senior Development Assessment Officer
Report date	20 October 2022

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

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

Clause 4.6 Exceptions to development standards - If a written request for a contravention to a development standard (Clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **CI 4.6 not required for modifications**

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

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

1. Executive Summary

This modification proposes modifications to the approved seniors living tower largely to change the accommodation type by removing the Assisted Living Apartments (ALA) and Care Apartments (CA) and replacing them with Independent Living Units (ILU). Changes are also proposed to relocate and revise the unit mix of the residential care facility, which results in an overall reduction of 14 units to 116 apartments within the building. It is also proposed to increase the floor-to-floor heights on some levels from 3.1m to 3.2m and relocate the air conditioning units' condensers from the apartment balconies to the rooftop which collectively leads to an increase in building height of 1.7m or a total breach of 16.25% or 7.8m, among other changes.

Despite the further building height breach the amended development generally follows the form for the site envisaged by Hornsby Shire Council Local Environmental Plan (HLEP) 2013 and Hornsby Shire Council Development Control Plan (HDCP) 2013.

The applicant has submitted a justification that the amended height breach meets the standards which are required to be considered under clause 4.6 of the HLEP noting that a Clause 4.6 variation is not required for a modification application. The justification demonstrates that the modified building height remains consistent with the approved Clause 4.6 variation request.

The amended development has been subject to review by Council's Design Excellence Advisory Panel (DEAP) and is considered to be consistent with State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG), providing a high quality accommodation for future occupants.

The proposed changes will have a negligible impact to the amenity of nearby properties and the public domain.

The application has been assessed relative to section 4.15 and 4.55 of the *Environmental Planning and Assessment (EP&A) Act 1979*, taking into consideration all relevant state and local planning controls. On balance, the proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework. As such approval is recommended.

2. Key Issues

Hornsby Local Environmental Plan 2013

- **Height of Buildings (cl. 4.3) – Further Height breach**
 - Control: <48m
 - Approved: 54.1m (12.7% variation)
 - Proposed: 55.8m (16.25% variation)
 - Prior Approvals: Variations of up to 33% have been allowed in the East Epping Town Centre.
 - Assessment: Considered to be acceptable as the proposal will cause minimal additional overshadowing and is appropriately architecturally designed.

3. Site Description, Location, and Context

3.1 Site and Location

The corner site is located within the Epping Town Centre to the east of the northern railway line and north of Epping Railway Station. The rectangular shaped site comprises six allotments with a combined site area of 2,778m² and dual frontages to Oxford Street (69m) and Chester Street (40m). The site exhibits a minor slope of approximately 2.9 metres from RL 96.29 in the south-eastern corner on Oxford Street to RL 93.39 in the north-western corner on Chester Street.



Figure 1 - Locality Map, subject site in blue. (Source: Nearmap, 2022)

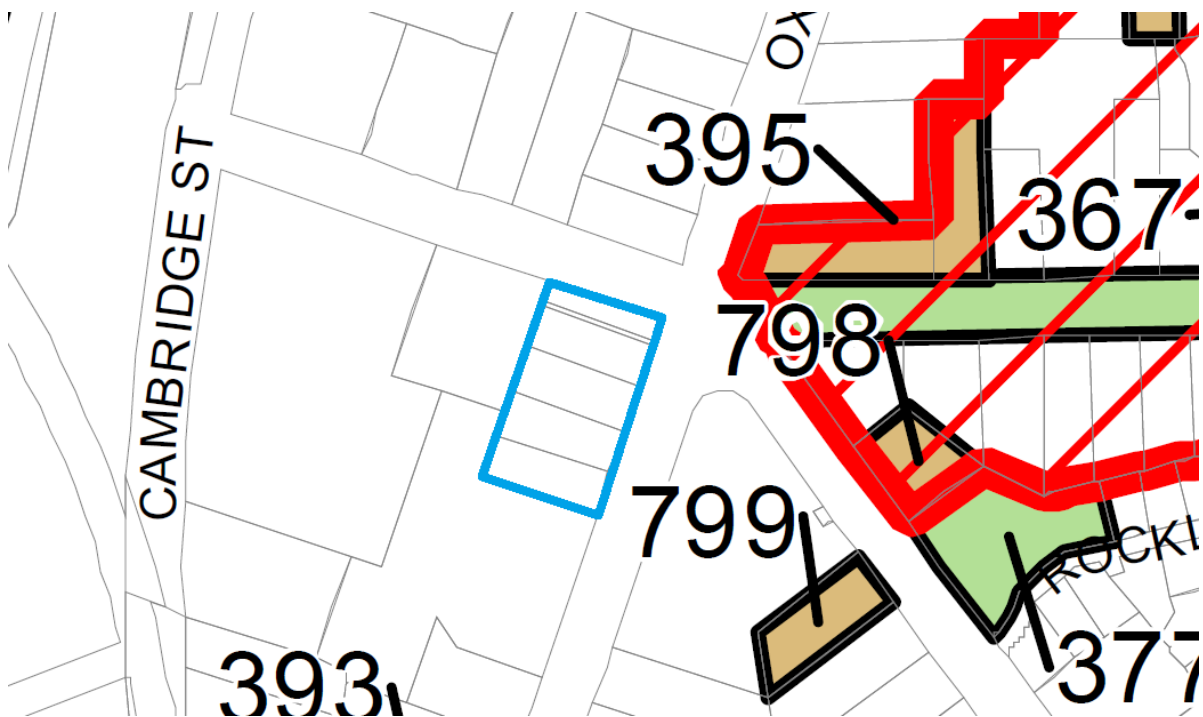


Figure 2 - Extract from Hornsby LEP 2013 Heritage map (subject site in blue, conservation area in red hatch, heritage items in green and gold).

The site is currently occupied by five 2-3 storey residential flat buildings containing 26 seniors independent living units, no works have commenced on site. As a result of the Epping Town Centre Urban Activation Precinct Strategy 2014, surrounding development is undergoing a transition from low-medium density residential, retail and commercial development to high-rise mixed use developments.

The site is located adjacent to the East Epping Conservation Area. The site is also located adjacent two items of local heritage significance, the Street Trees on Chester Street to the east of the site (the street trees in the immediate vicinity of the site do not form part of this listing) and the Chester Street Uniting Church and Grounds (see figure above).



Figure 3 - Site as viewed from Oxford Street looking west



Figure 4 - Site as viewed from Chester St looking south



Figure 5 - Site as viewed from the corner of Oxford and Chester Streets looking south-west

3.2 Subject Site History

The following applications have been lodged on the subject site:

DA Number	Description/Details
DA/625/2018	<p>19 storey mixed use tower comprising 83 bed residential care facility, 152 independent seniors living units and ancillary offices/retail; 178 basement car parking spaces; landscaping; site amalgamation; public domain works; following demolition of existing buildings and tree removal.</p> <p>The application was withdrawn 19 December 2018.</p>
DA/646/2019	<p>16 storey mixed use seniors living tower comprising 14 assisted living apartments, 20 care apartments, 60-bed residential aged care facility, 96 independent seniors living units and ancillary offices/retail; 155 car parking spaces in 4 basement levels; signage zones; landscaping; site amalgamation; public domain works; demolition of existing buildings and tree removal. This seniors living development is proposed pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.</p> <p>This application was approved by the Sydney Central City Planning Panel on 8 September 2020.</p>
DA/646/2019/A	<p>Section 4.55(1A) modification to approved 16 storey mixed use seniors living tower development, specifically deletion of condition 42 which requires tanking (waterproofing) of the basement.</p> <p>Withdrawn by applicant on 29 June 2021.</p>
DA/646/2019/C	<p>Section 4.55(1A) Modification seeking deletion of Condition 42 which requires a tanked basement and rearrangement of the basement levels.</p> <p>Under Assessment.</p>

A pre-lodgement meeting was held with Council Assessment staff on the 13 April 2022 prior to the lodgement of this modification.

4. The Proposal

4.1 Summary of Proposal

This 4.55(2) modification proposes the following changes to the seniors living tower:

- Increasing the total building height from RL149.05 to RL150.75 (1.7m). This increase is due to the following two design changes:
 - Relocation of air conditioning condensers from apartment balconies to the rooftop which contributes 0.7m of the overall building height increase and
 - Increase of floor-to-floor ceiling heights from 3.1m to 3.2m on levels 1, 7, 9-14 and a reduction in heights on levels 2 (-0.8m) and 6 (-0.5m) to comply with the reformed design parameters set out in the Design and Building Practitioners Act 2021. This change contributes 1m to the overall building height increase.
- Alter the accommodation type offerings on different floors by:
 - Moving the approved Residential Care Facility from levels 3, 4 and 5 to levels 1 and 2.
 - Removing the Assisted Living Apartment (ALA) and Care Apartments as accommodation models offered at the site and replacing them with Independent Living Units (ILU).
 - These changes lead to an overall reduction of apartments proposed from 130 to 116, or 14 apartments.
- Revision of unit mix by increasing the offering of 3-bedroom units on the development's upper levels.
- Overall gross floor area reduction of 289m² across the development due to a reduced building footprint between levels 3 and 5 to comply with ADG controls.
- Alter each elevation's façade design as a result of amended floor plates to respond to the modified accommodation typologies and their requirements, including:
 - Amendment to non-trafficable areas to either be deleted or converted into usable balconies (with privacy measures) on level 3 and between levels 6 and 14.
- Replacement of the rooftop level function room with a 'cinema / multi-purpose room'.
- Amending the two approved signage zones located on the northern and eastern elevations to measure 7.4m(W) x 1.8m(H) and inserting a business identification sign displaying the 'Uniting' name and logo at the ground floor signage zone.

The proposal is assessed against State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 given the savings provisions of the new Housing SEPP. UnitingCare is a registered Community Housing Provider and intends to maintain ownership of the entire Seniors Living development in perpetuity. Units are leased for the life of the occupants. Notwithstanding the savings provisions, the proposal remains permissible with consent under SEPP Housing 2021.

The following table compares the key controls of the DA:

Element	Applicable Controls	Original DA	Proposed s4.55(2)
Building Height	48m	54.1m	55.8m (+1.7m)
Accommodation Mix	-	<ul style="list-style-type: none"> 96 Independent Living Units (ILUs) 60 Residential aged care beds 20 Care apartments (CAs) 14 Assisted living apartments (ALAs) 	<ul style="list-style-type: none"> 116 ILUs 57 Residential aged care beds
ILU Bedroom Mix	-	<ul style="list-style-type: none"> 1-bedroom: 19% (18 ILUs) 2-bedroom: 62% (54 ILUs) 2-bedroom: + study: 7% (13 ILUs) 3-bedroom: 11% (11 ILU) 	<ul style="list-style-type: none"> 1-bedroom: 9% (10 ILUs) 2-bedroom: 48% (56 ILUs) 2-bedroom: + study: 10% (12 ILUs) 3-bedroom: 33% (38 ILU)
Car Parking	49 (minimum under Seniors Living SEPP)	155	155
Deep Soil Area	7% minimum	16% (445sq.m)	16% (445sq.m)

Eastern Elevation (Oxford Street frontage)



Figure 6 - Approved and proposed Oxford St elevation

Northern Elevation (to 41 Oxford Street – neighbouring Stockland site)

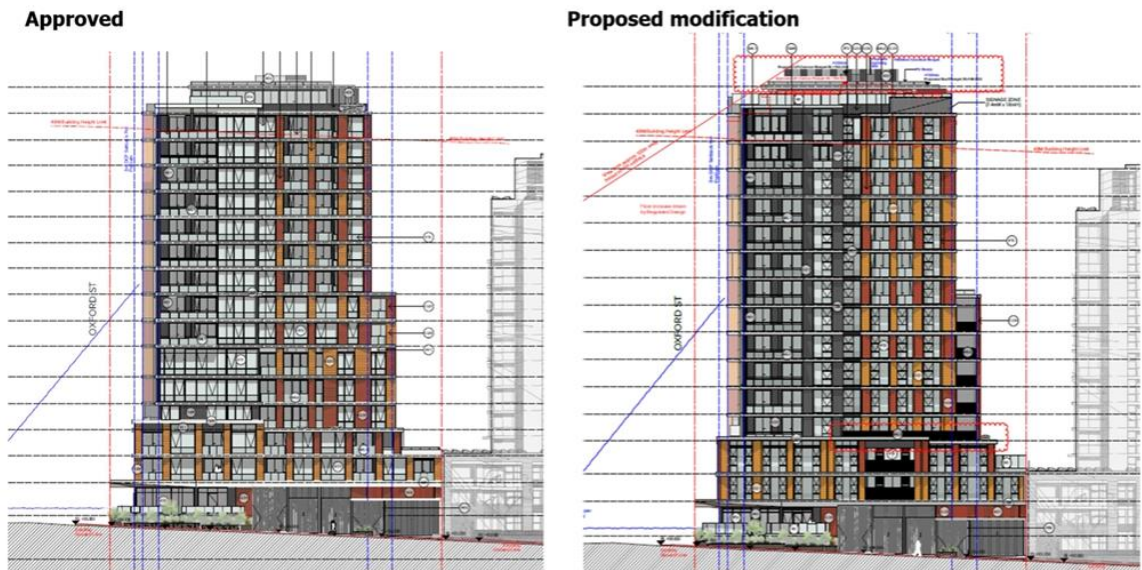


Figure 7 - Approved and proposed northern elevation

Western Elevation (to 1 Chester Street – neighbouring site)



Figure 8 - Approved and proposed western elevation

Southern Elevation (to Chester Street frontage)



Figure 9 - Approved and proposed southern elevation



Figure 10 - Approved and proposed street elevation looking from the corner of Oxford and Chester St

5. Referrals

The following referrals were undertaken during the assessment process:

5.1 Sydney Central City Planning Panel Kick Off Briefing (07/07/2022)

The applicant presented the application to the head of the panel and the reasoning behind the proposal. The timing of the application and the next steps and indicative timing was discussed as well as submissions at the time. No major issues were identified by Council or the panel chair.

No further briefing was needed by the panel chair.

5.2 Design Excellence Advisory Panel

This application has been referred to Council's Design Excellence Advisory Panel and the following issues have been raised and addressed:

Issues Raised	Comment
Increased height and amended location of roof top air conditioning	<p>While the analysis provided by the applicant demonstrates that visual and physical impacts will be minimal, care should be given to ensure that impacts to adjoining higher level units are minimised, this has been achieved as the units are appropriately set in on the rooftop and screened and adequate conditions applied to ensure no acoustic impact.</p> <p>As the relocated plant will enhance balcony amenity throughout the building – the panel commended this change as a major improvement to the building.</p>
Retention of the rooftop solar p/v panels and consideration of further panels on a pergola over the roof terrace.	<p>These comments were provided to the applicant, while they do not relate directly to the proposal, no further changes have been made, but will be considered for a future modification.</p> <p>There will be no change to the applicant's ESD requirements under this DA.</p>

Suggestion of ceiling fans be provided to all bedrooms and living spaces	The applicant has noted that United provide ceiling fans to all bedrooms as per Uniting's interior comfort guidelines. However, this is beyond the scope of Council under the modification assessment to mandate this as it is not required under any Environmental Planning Instrument.
Approved signage at upper levels could degrade the fine materials and compositions proposed, as well as unnecessarily impose visual impacts on adjoining residential dwellings.	<p>Signage zones were nominated at the top of the building under the original DA and were considered by the DEAP at the time.</p> <p>Under condition 164 of the consent further development consent is required for any signage installation.</p> <p>No changes are proposed to signage related condition requirements under this modification.</p>

The panel was supportive of the changes. The panel listed their support for the following components of the modification:

- The relocation of the air conditioning units to the roof from the balconies
- Increase to floor-to-floor heights
- Amended layouts of the ILUs
- Bedrooms with direct access off living spaces

5.3 External

No external referrals required.

5.4 Internal

Authority	Comment
Universal Accessibility	Satisfied with the amended accessibility report, recommended and reminded applicant of some minimum requirements to be addressed during CC stage during the detailed design.
Landscape Officer	Satisfied with the amended design.
Traffic Engineer	<p>Satisfied with the changes and agree there is no change required to the parking provision as this is a minimum parking rate under the Seniors Living SEPP.</p> <p>Traffic Engineer requested that the following conditions are applied.</p> <ul style="list-style-type: none"> - Any changes to the on street parking restrictions requires approval from the Parramatta Traffic Committee - Requirement that tandem parking spaces cannot be subleased - Amended Construction Traffic Management Plan condition to Council standards
ESD	ESD advisor was generally satisfied with the BASIX and NATHERS documentation. Requested submission of amended stamped BASIX plans to include all floors which was provided.
Heritage	Councils Heritage Advisor has no objection to the proposed increase in the rooftop signage zones despite the site's close proximity to the Heritage Conservation Area and nearby Heritage items.

6. Environmental Planning and Assessment Act 1979

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

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

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

6.2 Section 4.15: Evaluation

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

Provision	Comment
Section 4.15(1)(a)(i) - Environmental planning instruments	Refer to section 7
Section 4.15(1)(a)(ii) - Draft environmental planning instruments	Refer to section 8
Section 4.15(1)(a)(iii) – Development control plans	Refer to section 9
Other Planning Controls	N/A
Section 4.15(1)(a)(iiia) - Planning Agreement	Not applicable
Section 4.15(1)(a)(iv) - The Regulations	Satisfactory under existing conditions.
Section 4.15(1)(a)(v) - Coastal zone management plan	Not applicable.
Section 4.15(1)(b) - Likely impacts	Refer to section 10
Section 4.15(1)(c) - Site suitability	Satisfactory, no changes
Section 4.15(1)(d) – Submissions	Refer to section 11
Section 4.15(1)(e) - The public interest	Refer to section 12

6.3 Section 4.55: Modification

The development consent has not expired and as such can seek to benefit from Section 4.55(2) 'Other Modifications' of the EPAA Act 1979 subject to the following requirements:

Section 4.55(2)(a) - Substantially the same development

The proposal is considered to be substantially the same development in that the function, location, scale and form of the building would not materially change.

Section 4.55(2)(b) – Consultation with Authorities

The original application was not integrated development, nor will any external referrals be impacted by the proposal.

Section 4.55(2)(c) and (d) – Notification/Submissions

See Section 11 below.

Section 4.55(3) – Relevant Considerations

Under Section 4.55(3) of the EP&A Act 1979, in determining an application for modification, in addition to relevant matters under section 4.15 (see Section 6.2), the consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified. The reasons for granting approval to the original development application as stated by the Sydney Central City Planning Panel are assessed below:

Reason for Approval	Consistency
The application has been subject to thorough planning assessment over an extended time period and has undergone several amendments in response to the issues	The application has been subject to a Design Excellence Assessment Panel meeting, see section 5.2

Reason for Approval	Consistency
raised. The assessment process has included several reviews by Council's Design Excellence Advisory Panel (DEAP), each of which the applicant has responded to.	'Referrals' above for further details. The external design changes are as a result of the internal realignment and have met the Design Panels requirements.
The proposed development is appropriately located within a locality earmarked for high-rise residential development, however some variations in relation to SEPP 65, SEPP (Seniors) and Hornsby LEP 2013 are sought.	The proposal remains generally compliant with SEPP 65, Seniors SEPP and Hornsby LEP controls. See section 7 of this report below for further assessment.
The request to vary the height standard is considered to be well founded for reasons including, but not limited to, the constraints imposed by the site and the desirability of providing varying forms of seniors housing in the area. It is noted that the additional height enables the inclusion of areas dedicated to open space, community and recreational facilities which will benefit residents.	The further height variation is considered to be appropriate as it still allows the variety, although less of a variety, of seniors residential living. Ancillary services remain available to ILU tenants as well as improved rooftop space and internal amenity.
The proposal satisfactorily minimises adverse impacts on the amenity of neighbouring properties, including solar access.	The proposed increase in overshadowing are minimal with no additional adverse impacts to adjoining residents nor are there any additional acoustic impacts from the rooftop air conditioning given existing noise emission conditions.
The proposal is satisfactory having regard to the matters of consideration under section 4.15 of the Environmental Planning and Assessment Act, 1979 and as such the proposal is in the public interest.	All matters for consideration under the Act are addressed in this report.

7. Environmental Planning Instruments

7.1 Overview

The instruments applicable to this application comprise:

- Environmental Planning and Assessment (EP&A) Act 1979
- EP&A Regulation 2021
- SEPP (Building Sustainability Index: BASIX) (BASIX SEPP) 2004
- SEPP (Transport and Infrastructure) 2021
- SEPP (Planning Systems) 2021
- SEPP (Biodiversity and Conservation) 2021
- SEPP (Resilience and Hazards) 2021
- SEPP (Industry and Employment) 2021
- SEPP (Housing for Seniors or People with a Disability) 2004
- SEPP No. 65 (Design Quality of Residential Apartment Development) (SEPP 65) & Apartment Design Guide (ADG)
- Hornsby Local Environmental Plan (HLEP) 2013
- Hornsby Development Control Plan (PDCP) 2013

Compliance with these instruments is addressed below.

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

The application is accompanied by an amended BASIX certificate that lists sustainability commitments by the applicant as to the manner in which the development will be carried out. The requirements outlined in the BASIX certificate have been satisfied in the design of the proposal as reviewed by Council's ESD advisor. Updated and complete BASIX stamped plans were provided by the applicant. The imposed BASIX condition will be updated to reflect the new certificate.

7.3 State Environmental Planning Policy (Transport and Infrastructure) 2021

The proposal does not constitute a 'traffic generating development' as it proposes less than 300 residential units and less than 200 car parking spaces. As such the proposal does not require referral to Transport for NSW (Roads and Waterways).

7.4 State Environmental Planning Policy (Planning Systems) 2021

As the original development application had a Capital Investment Value (CIV) of more than \$30 million under the Planning Systems SEPP this is made 'regionally significant development' and thus the Sydney Central City Planning Panel (SCCPP) was the consent authority.

Under the *"Instruction on functions exercisable by Council on behalf of Sydney district or Regional Planning Panels – Applications to modify development consents provided under clause 123BA of the Environmental Planning and Assessment Regulation 2000"* as this is a s4.55(2) mod which seeks a further departure to a 10% development standard variation this modification is also to be determined by the SCCPP.

7.5 Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021

CH 10 of this Policy, applies to the whole of the Parramatta Local Government Area (LGA), aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment, and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole. The nature of this project and the location of the site are such that there are no specific controls which directly apply, with the exception of the objective of improved water quality. That outcome was achieved through the imposition of suitable conditions to address the collection and discharge of water during construction and operational phases of the development. This modification does not seek to change this requirement.

7.6 State Environmental Planning Policy (Resilience and Hazards) 2021

A preliminary site investigation report was submitted with the original application. The report outlined the history of the site, noting it has been used for residential purposes since the early 1900s and that there is nothing to suggest that contaminating activities were undertaken on the site.

Eight shallow boreholes were drilled within the site and soil samples were taken and analysed. The report concluded that, based on the results of this investigation, that the risks to human health and the environment associated with soil contamination at the site are negligible within the context of the proposed use.

No changes are proposed to the original soil contamination and Geotech findings. The proposal does not include more sensitive land uses and as such the original assessment remains sufficient.

7.7 State Environmental Planning Policy (Industry and Employment) 2021

CH 3 of this SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high-quality design and finish. The SEPP applies to all signage and requires that development consent must not be issued unless the consent authority has had regard to the relevant matters for consideration.

The modification proposes to change the following 3 building identification signage zones:

- Changing the signage zone on the ground floor to a business identification sign displaying the “United” logo.
- Northern and eastern rooftop elevations, 7.4m(w) x 1.8m (h), see existing and proposed in figure 11 below.



Figure 11 - Northern and eastern elevation signage zones, approved and proposed.

Schedule 5 of the SEPP outlines assessment criteria of any proposed signage as detailed below:

Assessment Criteria	Assessment
1. Character of the Area	

Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	<p>Yes.</p> <p>The Epping Town Centre Core East is transitioning from low-medium density residential, retail and commercial development to high-rise mixed use development. The amended rooftop signage zone are considered to remain compatible with this town centre typology.</p>
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	N/A
2. Special Areas	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	<p>No, subject to existing condition restricting the use of lighting on these signs is considered to be necessary to sufficiently minimise their impact on the HCA.</p> <p>The eastern and northern façades will be visible from the adjoining heritage conservation area (HCA). The signs will remain on the far southern side of the eastern façade and far western side of the northern facade which reduces their visibility from the HCA.</p> <p>The proposed ground floor signage will not be visible from the HCA.</p>
3. Views and Vistas	
Does the proposal obscure or compromise important views?	<p>No.</p> <p>The signs remain within the envelope of the building and there are no important views in the area.</p>
Does the proposal dominate the skyline and reduce the quality of vistas?	<p>No.</p> <p>The signs are within the envelope of the building. Subject to existing no future signage illumination condition the signs will not reduce vistas from the HCA.</p>
Does the proposal respect the viewing rights of other advertisers?	<p>Yes.</p> <p>The proposal will not block any other signs.</p>
4. Streetscape, setting or landscape	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	<p>Yes.</p> <p>The increased rooftop signage zones remain comparable in scale and proportion to the scale of the town centre streetscape and the 17-storey building. Form of the rooftop signs are subject to future detail application.</p> <p>The proposed ground floor sign is also considered to be appropriate for the streetscape and setting and provides assisted wayfinding for the entry of the building.</p>

Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	Yes. The proposed top of building signage zones will continue to contribute to the visual interest of the development and streetscape. Importantly, the ground floor sign will aid visitors and residents of the Residential Care Facility and ILUs in identifying the building.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	N/A. There is no existing signage to rationalise.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	Yes. As the rooftop signage zone is on the top of the building the proposal protrudes above tree canopies. As this continues to be non-illuminated this remains to be acceptable. The sign does not protrude over the building.
5. Site and building	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Yes. The signs remain to be commensurate in scale and proportion to the proposed building and adjoining Epping Town Centre.
Does the proposal respect important features of the site or building, or both?	The proposed ground floor 'Uniting' business identification sign is considered to be modest in design and sympathetic to the architectural features of the ground floor façade in this location and remains within the signage zone approved under the original DA. The top of building signage zones are appropriately located in the top corner of the northern and eastern facades. This location is legible and does not disrupt the design of both facades.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The ground floor 'Uniting' business identification sign is modest in design, reflecting the name and logo of the Uniting branding. It will assist in wayfinding towards the site and help communicate the main entrance into the building. It will not include any innovative tools or technologies to communicate the sign's purpose or function.
6. Associated devices and logos with advertisements and advertising structures	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The ground floor 'Uniting' business identification sign simply displays the Uniting brand to provide clear building identification and assist with wayfinding.
7. Illumination	
Would illumination result in unacceptable glare?	Any illumination associated with the proposed ground floor business identification sign is unlikely to result in unacceptable glare, given its setting near the Epping Town Centre, signage size and street ambient lighting.
Would illumination affect safety for pedestrians, vehicles or aircraft?	
Would illumination detract from the amenity of any residence or other form of accommodation?	
Can the intensity of the illumination be adjusted, if necessary?	

Is the illumination subject to a curfew?	<p>Nor is it likely that it would impact any standards of safety that would risk pedestrians, vehicles or aircraft movement. The illumination will be regulated by backlit devices and will be able to be adjustable, this is to be secured via conditions of consent.</p> <p>Given this is a RAC facility that operates 24/7 a curfew for the ground floor sign is not considered necessary in this circumstance as wayfinding will be required at all times. Conditions will be applied requiring any illumination to be as per AS will be applied.</p>
8. Safety	
Would the proposal reduce the safety for any public road?	The revised signage zones and proposed ground floor sign are positioned to ensure that they will not distract from essential sight lines for road users, pedestrians and cyclists. Instead, they contribute to the building's identification and wayfinding.
Would the proposal reduce the safety for pedestrians or bicyclists?	
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The revised signage zones and proposed ground floor sign are integrated with the development's design and do not protrude to obscure sightlines.

The size and location of the proposed signage zones are acceptable subject to a condition applied to original DA that the top of building signs is not illuminated. Conditions have also been applied requiring a future DA for the detailed signage design for these signage zones.

Conditions have been added requiring signage illumination for the ground floor sign be as per Australian Standards for illumination and that a dimmer be installed as per the SEPP standards.

7.8 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The original application sought to rely on State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 for permissibility and as such is subject to the policy's requirements. This SEPP was replaced by the State Environmental Planning Policy (Housing) 2021, however, under the Savings and Transitional Arrangements in Schedule 7A of the Housing SEPP this policy does not apply to an application to a development consent granted on or before the commencement date.

The following key components of the Seniors SEPP are relevant to this modification:

Part 4 Development standards to be complied with

Requirement	Proposal	Compliance
40 Development standards—minimum sizes and building height		
(4) Height in residential zones where residential flat buildings are not permitted	Residential flat buildings are permitted.	N/A
(5) Development applications to which clause does not apply	The applicant is a registered community housing provider	Yes
Division 2 Residential care facilities – standards concerning accessibility and useability		
There are no standards in this division. Rather, a note requires compliance with the Commonwealth Aged Care Accreditation Standards and the BCA.		
On 1 July 2019, the Commonwealth Aged Care Accreditation Standards were replaced with the Aged Care Quality Standards which are contained within the Quality-of-Care Principles 2014 [Commonwealth]. The standards relate mainly to the operation of the building. The standards continue to apply under the relevant federal legislation regardless of any conditions of consent. As		

such a note is included at the end of the consent reminding the applicant of the requirement to comply with these standards.

An assessment of the proposed residential care facility against the Building Code of Australia has been provided by the applicant. It identifies Fire Engineering Performance Solutions. A draft emergency evacuation plan has also been provided. Conditions have been applied requiring compliance with the BCA and implementation of an Emergency Management Plan.

41 Standards for hostels and self-contained dwelling

An assessment of the proposed self-contained dwellings against Schedule 3 of the SEPP has been conducted under the original DA and remains relevant to the proposed changes.

Part 7 – Development Standards that cannot be used as grounds to refuse consent

Part 7 of the Seniors SEPP contains development thresholds which, if achieved, cannot be used as grounds to refuse consent, as detailed below:

Standard	Proposal
48 Standards that cannot be used to refuse development consent for residential care facilities	
building height: < 8m / 2 storeys	The proposed RAC does not satisfy this criterion and thus cannot benefit from this clause. On merit however, the height increase is found to be acceptable as detailed further below.
density and scale: < 1:1	The proposed RAC does not satisfy this criterion and thus cannot benefit from this clause. The site does not have a mapped FSR in the Hornsby LEP, the site remains greater than 1:1 FSR.
landscaped area: > 25sqm/bed (1,500sqm)	The proposed landscape area remains as approved.
parking: 1/10 beds + 1/2 employees + 1 ambulance [6 + 20 = 26 + ambulance]	26 + ambulance There is no change to the amount of parking proposed as such the amended RAC satisfies this criterion and as such the quantity of parking for the RAC cannot be used to refuse consent. An existing condition requires these spaces be retained by the RAC are not used by the ILUs.
50 Standards that cannot be used to refuse development consent for self-contained dwellings	
building height: < 8m / 2 storeys	The proposal does not satisfy this criterion and thus cannot benefit from this clause. The proposed height however, while not compliant with the mapped controls is found to be generally acceptable as detailed below.
density and scale: < 0.5:1	The site does not have a mapped FSR, it is however compliant with the setbacks and height within the applicable controls.
landscaped area: > 30% site area	The proposal does not meet this requirement given its urban location. The required landscaping as per the ADG is met.
deep soil zones: >15% site area	The site has 16% or 445sq.m of deep soil proposed.
solar access: living rooms and private open spaces, min 70% of dwellings, > 3 hours direct sunlight, 9am-3pm, mid-winter,	The proposal does not satisfy this criterion but is acceptable on merit. This standard is not intended as a minimum standard, but a standard which, if achieved, cannot be basis for refusal. A more detailed discussion on solar access is found in the ADG discussion at 4A: Daylight/Solar Access.
private open space for in-fill self-care housing: >6sqm (1 bed) >10sqm (2+ bed) min dims. 2m,	1 bed: >8m ² , >2m 2+ bed: >10m ² , 2m

access from living area.	The amended proposal satisfies these criteria and as such cannot be refused on this ground.
parking: > 1 car spaces/ 5 dwellings (116 units = 23 parking spaces)	93 (no change) The proposal satisfies this criterion and as such the quantity of parking for the ILUs cannot be used to refuse consent. The applicant and Council obtained independent legal advice which both found that this clause prevented Council from seeking to apply its DCP maximum parking control to seniors housing.

The remaining controls in the SEPP remain compliant.


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

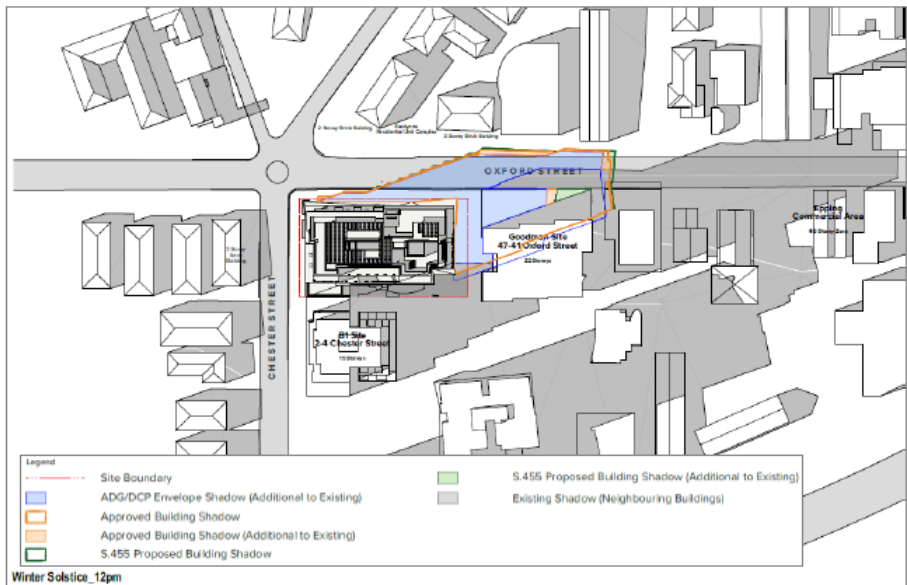
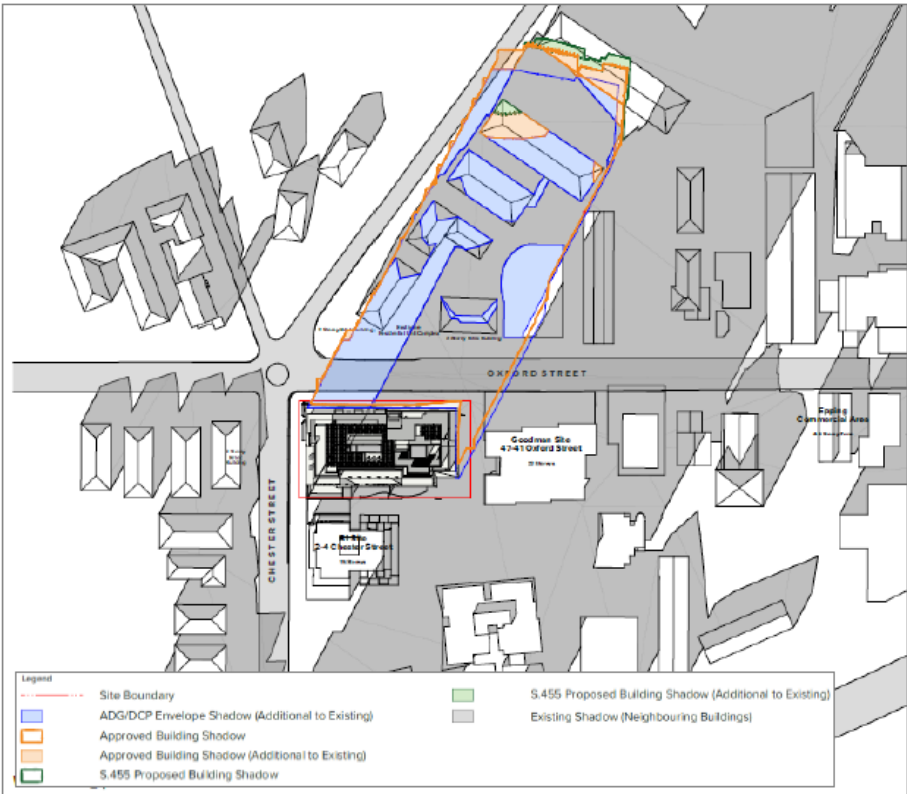
Design Review Panels

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

Apartment Design Guide

The proposal is considered to still meet the Design Quality Principles as per the previous approval. The following components of the Apartment Design Guideline are being amended or are of relevance to this modification:

Standard	Requirement	Proposal	Compliance
3B-2: <i>Overshadowing</i>	Due to the proposed increase in height the overshadowing will increase slightly under this DA. The additional overshadowing will mainly affect the roofs of the nearby low scale developments or the public domain on Oxford St. Amended overshadowing diagrams, shown below, demonstrate that the additional impact is minimised. Given this and the emerging character of the Epping Town Centre it is considered that the proposal will remain compliant with the assessment under the original DA.	 <p>Figure 1 Shadow Diagram at Winter Solstice 9am</p>	

Standard	Requirement	Proposal	Compliance
	 <p>Figure 2 Shadow Diagram at Winter Solstice 12pm</p>		
	 <p>Figure 3 Shadow Diagram at Winter Solstice 3pm</p>		
3D: Communal & Public Open Space	Min. 25% of site area (695m ²)	Supplied under original DA	Yes
	Min. 50% direct sunlight to main communal open space for minimum two (2) hours 9:00am & 3:00pm, June 21 st (347m ²)	403m ² (roof) will receive 2 hours of sunlight in midwinter	Yes
	The landscape plan outlines undercover areas, BBQ's, open air seating areas, and a variety of soft and hard landscaping which is considered to provide good amenity for future occupants.		

Standard	Requirement	Proposal	Compliance
3E: Deep Soil	Min. 7% with min. dimensions of 3m (194m ²)	~445m ² (14%)	Yes
3F: Visual Privacy	To 37-41 Oxford Street boundaries (south)		
	<4 storeys, H/NH, 3m	6m	Yes
	<4 storeys, H/H, 6m	6m	Yes
	5-8 storeys, H/NH, 4.5m	6m	Yes
	5-8 storeys, H/H, 9m	6m (remains screened)	Yes
	>8 storeys, H/NH, 6m	9m	Yes
	>8 storeys, H/H, 12m	9m (remains screened)	Yes
	To 2-4 Chester Street boundary (west)		
	5-8 storeys, H/NH, 4.5m	6m	Yes
	5-8 storeys, H/H, 9m	9m	Yes
	>8 storeys, H/NH, 6m	9m	Yes
	>8 storeys, H/H, 12m	12m	Yes
	While the southern interface does not provide the recommended separation to achieve privacy, it meets the same aim by screening the windows to block close and direct views.		
	It is demonstrated that despite the former non trafficable areas on some levels being converted to balconies, that these spaces will not have any direct viewing into the adjoining properties POS.		
4A: Daylight / Solar Access	Min. 2hr for 70% of apartment living areas & POS 9am - 3pm mid-winter (>81)	<p>The original development relied upon providing 70% of dwellings with access to at least 2 hours of direct solar access between 8.30am and 3pm at mid-winter in living rooms and private open spaces – a minor variation from the 9am to 3pm timeframe.</p> <p>The modified development is consistent with this standard, with 75% of dwellings achieving a minimum of 2 hours of solar access from 8:30am to 3pm, including POS areas (?).</p>	No but acceptable as this is consistent with the assessment undertaken under the original DA.
	Max 15% apartments receiving no direct sunlight 9am & 3pm mid-winter (<17)	5 out of 116 apartments (4%)	Yes, consistent with original DA
4B: Natural Ventilation	Min. 60% of apartments up to 9 storeys naturally ventilated (>44)	42 out of 73 apartments (57%)	No, however generally acceptable given this is only two units less than a complying scheme and is consistent numerically with the original DA.
4C: Ceiling heights	Min. 2.7m habitable	2.8m (3.2m floor to floor)	Yes
	Min 2.4m non-habitable	2.5m	Yes

Standard	Requirement	Proposal	Compliance
	Min 3.3m for mixed use	3.7m	Yes
4D: Apartment size & layout	1B – Min 50m ²	Yes (53sq.m min)	Yes
	2B – Min 75m ² (2 baths)	Yes (77sq.m min)	Yes
	3B – Min 95m ² (2 baths)	Yes (105sq.m min)	Yes
	All rooms to have a window with total minimum glass area not less than 10% of the floor area of the room.	Complies	Yes
	Habitable room depths max. 2.5 x ceiling height (6.75m)	<7.3m	No (minor) adequate solar access and ventilation is generally achieved
	Max. habitable room depth from window for open plan layouts: 8m.	<9.2m	No (minor) adequate solar access and ventilation is generally achieved
	Min. internal areas:		
	Master Bed - 10m ²	>10m ² .	Yes
	Other Bed - 9m ²	>9m ²	Yes
	Min. 3m dimension for bedrooms (excl. wardrobe space).	>3m	Yes
	Min. width living/dining:		
	• 1B – 3.6m	>3.6m	Yes
	• 2B – 4m	>3.8m	No (minor) This is in one apartment but is acceptable on merit as it remains a usable space.
	• 3B – 4m	>4m	Yes
4E: Private open space & balconies	Min. area/depth:		
	1B - 8m ² /2m 2B - 10m ² /2m 3B - 12m ² /2.4m	>8m ² /2m >10m ² /2m >15m ² /2.2m	Yes Yes Yes
	Principle private open spaces are provided off living rooms with secondary access from bedrooms where possible.		
4F: Common circulation & spaces	Max. apartments – off circulation core on single level: 8-12	6	Yes
	Corridors >12m length from lift core to be articulated.	Articulated	Yes
	The corridors are also provided with extra width and natural light/ventilation.		
4J: Noise and Pollution	Appropriate noise management controls have been applied and the proposed rooftop plant will be adequately screened, existing conditions are applied to endure that the plant will meet appropriate noise conditions.		

Standard	Requirement	Proposal	Compliance
4N: Roof Design	The proposed roof design continues to provide sufficient amenity to its residents and adjoining residents by being considerably designed with appropriate screening and plant box setbacks.		

7.10 Hornsby Local Environmental Plan 2013

The relevant objectives and requirements of HLEP 2013 have been considered in the assessment of the development application and are contained within the following table.

Development standard	Proposal	Compliance
2.3 Zoning		
R4 – High Density Residential	The proposed uses are permissible under the Seniors Living SEPP and are consistent with the original approval.	Yes
Zone Objectives		
	The proposal is consistent with the objectives of the zone as approved under the original DA.	Yes
4.3 Height of Buildings		
Control: 48m	Max Height 55.8m (+1.5m or 16.25% variation)	No, see justification below.
4.4 Floor Space Ratio		
No Control (density dictated by built form controls)	6.6:1 (no change)	N/A
4.6 Exceptions to Development Standards		
	N/A to modifications	-
6.8 Design Excellence		
	Council's Design Excellence Advisory Panel have reviewed the proposal and consider that it achieves design excellence.	Yes
5.10 Heritage conservation		
	<p>The site adjoins the East Epping Heritage Conservation Area and two locally listed heritage items. The proposal is separated from the heritage items and conservation area by approximately 45m.</p> <p>The East Epping Heritage Conservation Area – Character Statement makes the following mention of the Uniting Church,</p> <p><i>the Inter-war period Uniting Church at the intersection of Chester, Oxford and Essex Streets [is] of historic and social significance to the locality.</i></p> <p>The DCP recommends that contemporary design be sympathetic to the characteristic built form of the conservation area, particularly in terms of bulk, scale, height, form or materials.</p>	Yes

	<p>There are no changes to the proposed setbacks or materials schedule. Any impact visually from façade changes? The increased size of the rooftop signage zones is considered acceptable given the assessment against the relevant SEPP controls, detailed above, and the existing conditions remaining that require no future signage be illuminated. As the signage remains at the furthest point from the relative HCAs the impact remains acceptable.</p>	
<p>Applications assessed under Section 4.55 of the EPA Act 1979 do not require a variation to be sought under Clause 4.6 of the Parramatta LEP 2011. Notwithstanding, a merit assessment of the variation is provided below.</p> <p>The proposed development seeks a further variation to the following development standards:</p> <p>Height of Buildings (cl. 4.3 of HLEP)</p> <ul style="list-style-type: none"> ○ Control: 48m ○ Approved: 54.1m (12.7% variation) ○ Proposed: 55.8m (16.25% variation) <p>The applicant has provided a detailed justification for the variation within their SEE. In summary the reasons provided were as follows:</p> <ul style="list-style-type: none"> • <i>Compliance with the height of building development standard remains unreasonable or unnecessary because the proposed development remains appropriate with its surrounding context, site's constraints, development potential and the infrastructure capacity of the locality.</i> • <i>There are sufficient environmental planning grounds to justify contravening the development standard as the proposed height variation maintains a suitable height transition and will not result in adverse overshadowing, privacy or visual impacts.</i> • <i>The modified development will improve the provision of seniors housing to meet the changing needs of the community.</i> <p>Merit assessment of the variation: In assessing a variation to a development standard, the following needs to be considered:</p> <p><u>Is the planning control a development standard?</u> The planning control, Clause 4.3 is a development standard pursuant to Hornsby Local Environmental Plan 2013.</p> <p><u>What is the underlying object or purpose of the standard?</u> The objective of the height of building development standard is <i>"to permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality"</i>.</p> <p>The modified development continues to achieve this objective as:</p> <ul style="list-style-type: none"> • The proposed development's scale remains appropriate for the site's constraints, given its town centre location and the scale of approved and constructed developments on adjoining sites. • The proposed 16-storey building continues to provide a suitable height transition from the concept approved mixed-use tower at 37-41 Oxford Street (30-storeys) to the constructed building at 2-4 Chester Street (15-storeys). • The proposed development maximises the development potential of the site by providing seniors housing in a highly accessible location. This outcome is consistent with the Greater 		

Cities Commission's Central City District Plan, which seeks a diversity of housing in strategic centres such as Epping.

- The proposed development will increase public transport patronage and can still be accommodated within the infrastructure capacity of the locality.
- The relocated air conditioning units are centralised near the centre of the building and are not visible from the street, see figure 10 above.

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

Under DA/646/2019 a 12% height variation was approved, as such strict compliance with the height control would involve a reduction in height. This is not considered to be a fair or achievable outcome from the reasons approved under the clause 4.6 variation from that DA.

The proposed variation is considered to be consistent with the reasons for the original variation and objectives of the height control within the Hornsby LEP.

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

Compliance with the existing development variation is considered to be unreasonable in the circumstances of the case for the following reasons:

- Given the adjoining allowable height along Oxford St of 72m, and surrounding context within the B2 Local Centre zone, the proposed height variation will not appear out of context.
- The proposed extra height to the building to accommodate the 3.2m floor to floor heights are to ensure this development complies with the reformed design parameters set out in the *Design and Building Practitioners Act 2021*, which was created after the original DA was approved.
- Strict compliance with the development standard would be unreasonable as the proposed development remains appropriate with its surrounding context, site's constraints, development potential and the infrastructure capacity of the locality.

Is the exception well founded?

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

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*

Height of Buildings Objectives

"To permit a height of buildings that is appropriate for the site constraints, development potential and infrastructure capacity of the locality."

The site is well located in terms of infrastructure as it is in close proximity to Epping Train Station, a number of bus routes, as well as shops and services in the Epping Town Centre.

There is no FSR control for the site, the 'development potential' of the site is determined by compliance with the envelope controls, including the height control.

While the proposal exceeds the height control, the additional height proposed under this modification is for air conditioning services and to meet new design standards for this type of building and not relating to any Gross Floor Area.

The proposal generally complies with the required setback controls.

As such the proposal is considered to be consistent with the development potential of the site.

2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

The applicant did not challenge in the original application that the underlying objectives are not relevant. This does not change under this modification.

3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

The objective would be thwarted if compliance were required as the approved 17 storey building would have to be reduced to a 14-storey building. This in turn would provide less than the anticipated density, exacerbating a projected under provision of seniors housing in the locality.

The proposed relocation of the air conditioning units are largely isolated to the centre of the building and provide a better planning outcome overall as the air conditioners are no longer proposed on each individual COS.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and*

The applicant did not challenge that the development standard is abandoned under the original DA. They note the significant variation approved at adjoining and nearby sites to the south.

5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

The applicant did not challenge that the zoning is inappropriate under the original DA or that the standard is unreasonable or unnecessary.

The further breach is therefore considered to be well justified.

Conclusion

It is considered that the applicant has provided adequate justification for the non compliances and that the further height breach can be supported for the following reasons:

- as the proposal achieves the objectives of the height development standard and zone,
- there are sufficient site-specific reasons for the breach, and
- the proposal is in the public interest.
- regard has been given to the relevant Judgements of the LEC.

8. Draft Environmental Planning Instruments

8.1 Draft Parramatta Local Environmental Plan 2020

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

land use decisions made by Council. Whilst the draft LEP must be considered when assessing this application, under cl 4.15(1)(a)(ii), the LEP is neither imminent or certain and therefore limited weight is placed on it. Notwithstanding, the proposal development is consistent with the objectives of the Draft LEP.

9. Development Control Plan

9.1 Hornsby Development Control Plan 2013

The revised proposal remains consistent with the assessment of the DCP completed under the original DA. The controls relevant to the modification are detailed below:

Control	Requirement	Proposal		Compliance
1C – General Controls				
Transport and Parking	No change to any parking amounts. Despite the changes to the unit mix the proposal remains compliant with the required car share, visitor, retail parking and bicycle parking requirement under the applicable DCP controls.			
Accessible Design	Unobstructed step-free access	Amended design is level, step-free access is provided to the main entrance.		Yes
Front Setbacks Basement Podium Tower	3m 3m 6m (down to 4m for 33%)	Oxford Street 2.8m 3m 4m (34.5%) – 6m (65.5%)	Chester Street 3m 2.9m – 3m 3m-3.7m (49.4%) – 5.5m (50.6%), uppermost encroach	No change No change No change to the approved variation
Top Storey	3m from walls (top two storeys)	4.2m (top storey only)	6.5m (top storey only)	No change to approved variation
Side Setbacks Basement Podium Tower Top Storey	6m 6m Refer to ADG 3m from walls	West 6m (rear) 0m ¹ N/A 1.5m (top storey only)	South 6m 5.5-6m N/A 3.5m (top storey only)	No change No change N/A No change to the approved variation
Podium Floorplates	Minimal gaps	West No gap	South 6m gap (mirrored on adjoining site)	Yes
Articulation	Distinctive base, middle and top Asymmetric floorplans	The application remains compliant in regard to articulation of the building.		

	<p>Lobbies visually prominent</p> <p>Balconies should provide articulation</p>		
<i>Landscaping</i>	<p>Setback from significant trees</p> <p>Minimum depths for on-structure planting</p> <p>Min 4m landscaped strip to boundaries with 10-12m trees.</p>	<p>The basement and building are setback from the tree protection zone of the large tree to be retained.</p> <p>Provided.</p> <p>>4m landscape strips to side boundaries with trees 15–20m.</p>	<p>The amended design retains the appropriate protections of the existing tree as per the original approval.</p>
<i>Communal Open Space</i>	See ADG	N/A	N/A
<i>Privacy and Security</i>	<p>RAC: Screen terraces and balconies.</p> <p>ILUs: See SEPP Seniors and ADG assessment above.</p>	<p>Screens not provided. To be conditioned.</p> <p>N/A</p>	<p>Yes, screening is adequately provided and conditioned.</p> <p>N/A</p>
<i>Housing Choice</i>	<p>1br – >10%</p> <p>2br – >10%</p> <p>3br – >10%</p>	<p>1 bed – 57 (39%)</p> <p>2 bed – 66 (39%)</p> <p>3 bed – 38 (20%)</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

Desired Future Character

The proposal is still considered to be in keeping with the desired future character for 6+ storey residential flat buildings and the Epping Town Centre – East Precinct for the following reasons:

- The proposal satisfactorily maintains the existing tree canopy (retention of significant tree to the rear of the site) and includes significant new planting (36 new trees).
- The building is well articulated and remains generally consistent with the applicable built form controls, except for height.

- The proposal continues to provide a mix of residential typologies in close proximity to Epping station.
- The proposal continues to be architecturally designed and meet the Design Excellence Panels requirements.

Discussion of additional condition changes

As a result of the number of changes proposed under this modification and time since the original Development Approval, a number of housekeeping condition changes are required as detailed below:

1. Condition 15 - Environmental Enforcement Service Charge is no longer charged by Council, therefore the condition is proposed to be deleted.
2. Condition 36 – Privacy Screening for communal terraces on the south western corners of levels 1-5, these terraces are no longer proposed as they related to the former Assisted Living Apartments. The condition is proposed to be deleted.
3. Condition 35 – This condition relates to the ventilation from the corridors on floors with Assisted Living Units and Residential Aged Care Beds. As these are only proposed now on levels 1-2 this condition is proposed to be amended to reflect this change.

10. The Likely Impacts of the Development

The likely impacts of the amended development have been considered in this report and it is considered that the impacts are consistent with those that are to be expected given the applicable planning framework. The impacts that arise are acceptable.

11. Submissions

The application was notified and advertised in accordance with the City of Parramatta Consolidated Notification Requirements

The advertisement ran for a 21-day period between 1 July and 22 July 2022. Four unique submissions were received during this notification.

The public submission issues are summarised and commented on as follows:

Issues Raised (Number of submissions which raise issue)	Comment
Height	<p>The proposed height increase is considered to be satisfactory against the relevant LEP objectives, see section 7.10 above.</p> <p>The reasoning for the increased height is sound and will allow for a better planning outcome overall.</p>
Overshadowing	Any additional overshadowing impacts have been outlined in the Statement of Environmental Effects. Additional overshadowing will be minimal and will only affect the roofs of nearby low-level developments or the street.
Traffic	The modification does not propose any changes to the total amount of parking and is a reduction in the total number of units proposed.
Inadequate community facilities	The proposed modification is not considered to cause undue impact to the adjoining community facilities as the proposal contains adequate internal Common Open Spaces and facilities for its residents.

12. Public Interest

Subject to implementation of the amended conditions of consent outlined in the recommendation below, no circumstances have been identified to indicate this proposal would be contrary to the public interest.

13. Disclosure of Political Donations and Gifts

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

14. Development Contributions

No development contributions are required to be paid as the proposal is exempt from the payment of developer contributions as the applicant is a registered community housing provider and units will not be sold on the private market.

15. Summary and Conclusion

The application has been assessed relative to section 4.55(2) and 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls. On balance, the modified development remains a consistent type of development.

The proposed development is appropriately located within a locality earmarked for high-rise residential redevelopment, despite an increased variation to the height of the building the amended development is considered to be generally consistent with the development controls.

Having regard to the assessment of the proposal from a merit perspective, Council officers are satisfied that the development remains appropriately designed and will provide acceptable levels of amenity for future residents. It is considered that the proposal does not cause undue impacts on the amenity of neighbouring properties. Hence the development, irrespective of the departures noted above, is consistent with the intentions of the relevant planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land.

For these reasons, it is considered that the amended proposal is satisfactory having regard to the matters of consideration under Sections 4.15 and 4.55 of the Environmental Planning and Assessment Act, 1979 and is recommended for approval subject to revised conditions.

16. Recommendation

- A. **That** the Sydney Central City Planning Panel, as the consent authority, approve the amended Development Application No. DA/646/2019/B at 43 - 53 Oxford Street, EPPING NSW 2121 (Lots 1-3 & 5 DP18447, Lots A & B DP357452) subject to the amended conditions.
- B. **That** submitters be notified of the decision.