

**TO:** Sydney Central City Planning Panel

**SUBJECT:** 276-282 Parramatta Road Auburn, NSW 2144  
60-68 Hampstead Road Auburn, NSW 2144

**APPLICATION No:** DA2022/0463

<b>Application lodged</b>	7 September 2022
<b>Applicant</b>	J Matthews
<b>Owner</b>	Raad Property Acquisition NO 65 Pty Ltd
<b>Application No.</b>	DA2022/0463
<b>Description of Land</b>	276-282 Parramatta Road & 60-68 Hampstead Road Auburn, NSW 2144 Lot C DP 26290, Lot B DP 26290 & Lots D & E DP 26290
<b>Proposed Development</b>	Stage 1 of approved Concept Plan for mixed use development - Demolition of existing structures and construction of a seven (7) storey building comprising of specialised retail premises and a hotel over basement car parking
<b>Site Area</b>	7,720.1 square metres
<b>Zoning</b>	E3 Productivity Support
<b>Disclosure of political donations and gifts</b>	Nil disclosure
<b>Heritage</b>	The site is not identified as a heritage item, is not within a heritage conservation area and is not in proximity to any heritage items
<b>Principal Development Standards</b>	<p><u>Building height</u></p> <p>Control: max. 27m</p> <p>Proposed: max. 29.23m</p> <p><u>Floor space ratio</u></p> <p>Control: max. 1.5:1 specialised retail premises max. 3:1 office premises &amp; hotel and motel accommodation</p> <p>Proposed: specialised retail premises – 0.9:1 hotel and motel accommodation – 0.87:1</p>
<b>Issues</b>	<ul style="list-style-type: none"> <li>- Building height exceedance</li> <li>- Provision of continuous awnings</li> <li>- Shortfall in car parking spaces</li> <li>- Flooding</li> <li>- Temporary loading dock</li> </ul>

## SUMMARY

1. Development Application No. DA2022/0463 was received on 7 September 2022 for the development of Stage 1 of the approved Concept Plan for mixed use development,

comprising the demolition of existing structures and construction of a seven (7) storey building comprising specialised retail premises and a hotel over basement car parking.

2. The application was publicly notified to occupants and owners of the adjoining properties for a period of fourteen (14) days between 30 September 2022 and 14 October 2022 and due to a misprint, a further notification period of fourteen (14) days between 20 October 2022 and 3 November 2022. In response, no submissions were received.
3. The notable variations are as follows:

Control	Required		Provided	% variation
CLEP 2021 Clause 4.3 Height of Buildings.	27m (max)		29.23m	8.3%
CDCP 2021 Car parking spaces	280 spaces		261 spaces	19 spaces (6.79%)

4. The application is referred to Sydney Central City Planning Panel (the Panel) as the proposal has a Capital Investment Value (CIV) in excess of \$30 million.
5. On 5 July 2023, the Panel issued a deferral of determination to allow the applicant to respond to all matters raised by Council in its reasons for recommending refusal.
6. On 22 August 2023, the applicant submitted the required information. Refer to **Attachment 2** for a discussion of how each reason for refusal has been addressed by the Applicant.
7. The application is recommended for deferred commencement approval, subject to the conditions of consent as provided at **Attachment 1** to this Report.

## REPORT

### BACKGROUND

---

DA2020/0310 was approved by the Sydney Central City Planning Panel (SCCPP) on 17 May 2021, issuing consent for a Concept Development Application for building footprints, basement footprints and massing envelopes for a mixed-use development comprising specialised retail premises, hotel and motel accommodation, office premises, child care facilities, café and open space at 276-282 Parramatta Road and 54-58, 60-68 Hampstead Road, Auburn.

On 1 March 2023, Council granted consent to a s.4.55(2) modification application to the approved Concept Development Application for various amendments to the mixed-use development comprising specialised retail premises, hotel and motel accommodation, office premises, child care facilities, café and open space including alterations to upper level building envelopes for the northern and central buildings, redefining basement footprints, park and site through-links, forecourt areas and amendments to Conditions 2 (plans), 4 (basement levels), 13 (future DAs), 19 (stormwater disposal), 26 (solar access to park), 30 (forecourt/park areas) and deletion of Condition 20 (stormwater pipe).

### SUBJECT SITE AND SURROUNDING AREA

---

The subject site comprises the following parcels of land:

LOTS & DP	PROPERTY ADDRESS
Lot C DP 26290	276-278 Parramatta Road, Auburn
Lot B DP 26290	280-282 Parramatta Road, Auburn
Lots D & E DP 26290	60-68 Hampstead Road, Auburn

The site comprises a total area in the order of 7,720.1sqm and maintains dual frontages to Parramatta Road (70m) and Hampstead Road (130m). Improvements on the site comprise existing commercial and warehouse land uses, including one and two storey brick and fibro shop with metal roofing on Lot B, a one and two storey brick building with a metal roof on Lot C and a one and two storey brick and metal shop with a metal roof on Lots D and E.

There is an easement for stormwater which traverses the site in a north-easterly direction, through to Hampstead Road.

The locality is characterised by a mix of bulky goods retailing to the north and west of the site, corresponding with the existing land use zoning, including a Harvey Norman flagship store and Baby Bunting store. To the south of the site are a mix of industrial land uses, reflective of the IN1 General Industrial land use zone. Immediately opposite the site to the east is R2 Low Density Residential zoned land, with the established built form comprising single and double storey dwellings. Also located opposite the site to the east is the RE1 Public Recreation zoned Hampstead Road Reserve, an existing park.

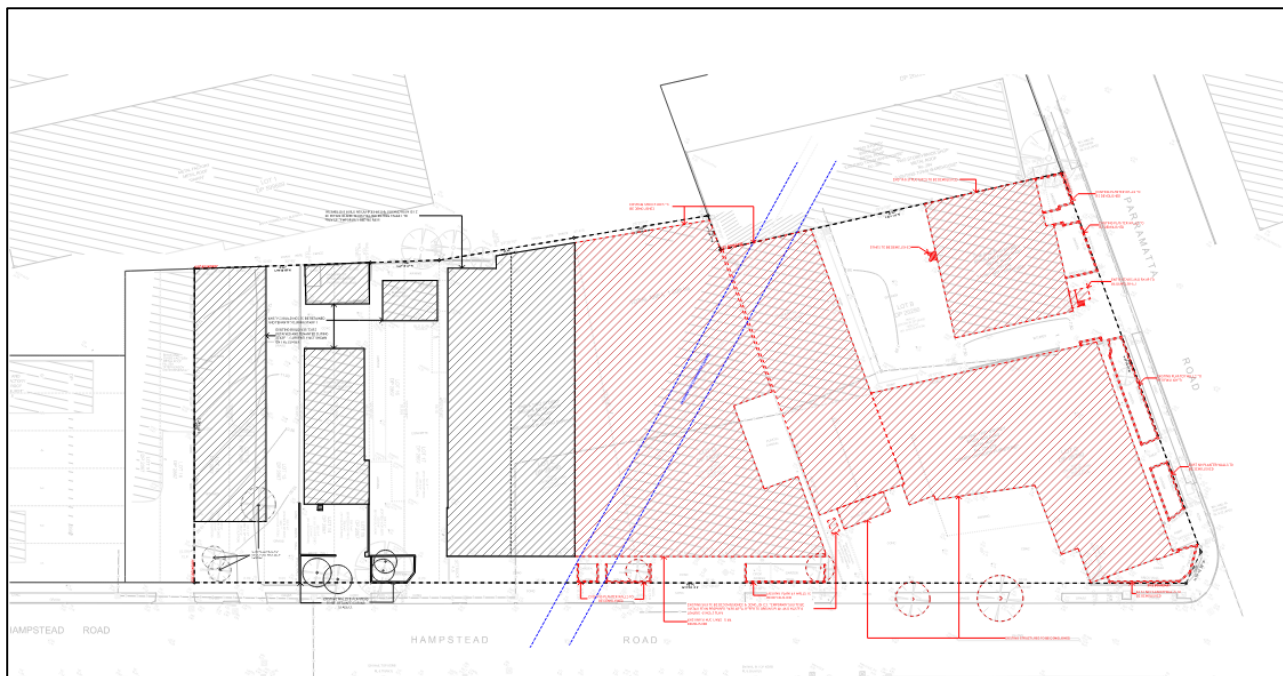


**Figure 1:** Locality & Aerial Perspective – Concept Approval area denoted by blue dash and subject site in red outline (Source: Nearmap, 2023)

## DESCRIPTION OF THE PROPOSED DEVELOPMENT

### Demolition

Consent is sought for the demolition of the existing buildings on Lots B and C, in their entirety and the partial demolition of the existing building across Lots D and E. The portion of the building to be retained is proposed to be utilised as a temporary loading dock to service the proposed mixed use development.



**Figure 2:** Demolition Plan extract (Source: Smith & Tzannes, 2022)

### Construction

Consent is sought for the construction of a seven (7) storey mixed use building over three (3) levels of basement car parking as follows:

Level	Description
C3	<ul style="list-style-type: none"> <li>90 car parking spaces to service the hotel use.</li> <li>Hotel waste storage room.</li> </ul>
C2	<ul style="list-style-type: none"> <li>97 car parking spaces to service the specialised retail use.</li> </ul>
C1	<ul style="list-style-type: none"> <li>70 car parking spaces comprising 61 to service the specialised retail use and 9 to service the hotel use.</li> <li>5 x bicycle parking spaces.</li> <li>2 x temporary garbage storage rooms.</li> <li>6 x general storage rooms.</li> </ul>
Ground	<ul style="list-style-type: none"> <li>6 x specialised retail tenancies.</li> <li>Hotel lobby; including reception area, office, storage, café kitchen and back of house access.</li> <li>Chamber substation along the site's Hampstead Road frontage.</li> <li>Pedestrian arcade and plaza area.</li> </ul>
1	<ul style="list-style-type: none"> <li>10 x specialised retail tenancies.</li> </ul>
2	<ul style="list-style-type: none"> <li>12 x specialised retail tenancies.</li> </ul>
3	Hotel comprising 47 rooms, communal lounge area, gym, café, bar & restaurant and flexi function space.



Level	Description
4	Hotel comprising 51 rooms and communal lounge area.
5	Hotel comprising 51 rooms and communal lounge area.
6	Hotel comprising 51 rooms and communal lounge area.

The hotel is proposed to have a 24 hour a day concierge service. The restaurant and function rooms are proposed to operate from 6am to 1am, Monday to Sunday (inclusive) and the specialised retail premises are proposed to operate from 7am to 7pm, Monday to Friday; with the exception of Thursday, when they will operate from 7am to 10pm. On Saturday and Sunday, the specialised retail premises are proposed to operate from 9am to 8pm.

Vehicular access to the basement is proposed to be gained via an entry/exit driveway off the site's Hampstead Road frontage.

The waste collection and loading facilities for the development are proposed to be provided as part of the next stage of the development. As a result, temporary waste collection and loading facilities are proposed within the portion of the existing building along the site's Hampstead Road frontage to be retained, with access to be gained via the existing driveway off Hampstead Road.

The development includes landscaping works as follows:

Level	Description
Ground	<ul style="list-style-type: none"> <li>Installation of a green edge setback landscape treatment along the site's Parramatta Road frontage;</li> <li>Street tree planting along both the Parramatta Road and Hampstead Road frontages;</li> <li>Paving of the pedestrian arcade and plaza areas and installation of modular outdoor furniture and glass reinforced concrete (GRC) pots.</li> </ul>
3	<ul style="list-style-type: none"> <li>Installation of a raised planter along the southern elevation of the flexi function space area;</li> <li>Layered mass planting of the central atrium area.</li> </ul>
4	<ul style="list-style-type: none"> <li>Layered mass planting along the northern and eastern building elevation.</li> </ul>



**Figure 3:** View of proposed development from Parramatta Road looking towards Hampstead Road (Source: Smith & Tzannes, 2022)

## APPLICANTS SUPPORTING STATEMENT

---

The applicant has provided a Statement of Environmental Effects prepared by Pacific Planning dated September 2022 and was received by Council on 7 September 2022, in support of the application.

## CONTACT WITH RELEVANT PARTIES

---

The assessing officer has undertaken a site inspection of the subject site and surrounding properties and has been in regular contact with the applicant throughout the assessment process.

## INTERNAL REFERRALS

---

### Development Engineer

The development application was referred to Council's Development Engineer for comment who has advised that the development is satisfactory subject to the recommended deferred commencement and operative conditions of consent.

### Environment and Health

The DA was referred to Council's Environment and Health Officer for comment who has advised that insufficient information has been provided with the DA in relation to the food premises areas on the Ground level and Level 3 of the development.

Plans prepared in accordance with Australian Standard AS4674-2004 (Design, Construction & Fitout of Food Premises) and Standard 3.2.3 Food Standards Code and include food preparation and storage areas (including coolrooms and freezers) have not been provided to enable an assessment of the sufficiency of the food areas to adequately accommodate food storage, preparation and washing up, coolroom/freezer/s, wash up area, hand wash basins or cooking equipment.

This has been managed through a recommended deferred commencement condition of consent.

### Waste Management

The development application was referred to Council's Waste Management Officer for comment who has advised that the development proposal is satisfactory. Notwithstanding, the proposed temporary waste collection arrangement is not supported.

### Design Excellence Panel

The development application was referred to the Cumberland Design Excellence Panel (CDEP) on 26 October 2022. The CDEP provided comments for consideration by the Applicant. The below table identifies the issues raised by the CDEP and comments on how each matter has/has not been addressed.

Issue	Comment
<ul style="list-style-type: none"><li><i>The Panel has significant concerns about the proposed separation of the project into 2 approval and construction stages. Whilst design excellence may still be possible to</i></li></ul>	DA2020/0310 granted Concept Approval for the development of the site. This DA seeks consent for the construction of Building A, in accordance with the Concept Approval, as modified. The remainder of the

Issue	Comment
<i>achieve whilst staging the development there is insufficient information provided to the Panel to demonstrate how this would work.</i>	development will be subject to subsequent DAs.
<ul style="list-style-type: none"> <li><i>Reliance on stage 2 for loading and servicing the first stage is not supported. Temporary loading and servicing on a partly occupied or vacant site is also not supported. If the project is to be staged then loading and servicing for stage 1 should be provided within that stage.</i></li> </ul>	<p>The Applicant has provided Council with a Loading Dock Management Plan which provides clarity around the loading arrangements for the development, including an analysis of the required loading dock capacity.</p> <p>This is considered satisfactory.</p>
<ul style="list-style-type: none"> <li><i>The proponent should prepare a report that clearly demonstrates and supports the positioning, capacity, frequency and volumetric capability of loading areas for all stages of this development including waste management.</i></li> </ul>	<p>The Applicant has provided Council with a Loading Dock Management Plan which provides clarity around the loading arrangements for the development, including an analysis of the required loading dock capacity.</p> <p>This is considered satisfactory.</p>
<ul style="list-style-type: none"> <li><i>The hotel entry experience requires further consideration. Positioning the lobby adjacent to the park and away from the street is acceptable to provide park activation. Sightlines from the street should be improved to provide greater legibility for guests arriving on foot and to maintain a safe public environment.</i></li> </ul>	<p>The hotel lobby entrance has been amended to provide improved visual access. The Applicant has also noted that, once the park is delivered as part of the next stage of the concept approval, amenity to the hotel entrance will be further enhanced.</p> <p>This is considered satisfactory.</p>
<ul style="list-style-type: none"> <li><i>A dedicated space should be provided at ground level to cater for guests arriving by car or Taxi/rideshare to an attractive, legible and safe area within close proximity to the hotel lobby.</i></li> </ul>	<p>A dedicated 'Drop Off Space' has been identified for the hotel, adjacent to the hotel lift lobby on basement level C1.</p>
<ul style="list-style-type: none"> <li><i>Consideration should be given to moving the southern facade of the SPECIALISED RETAIL (BA) tenancy on Hampstead Road adjacent the park north to increase sightlines to the hotel entry. The location and orientation of the substation should also be considered further.</i></li> </ul>	<p>The hotel lobby entrance has been amended to provide improved visual access. The Applicant has also noted that, once the park is delivered as part of the next stage of the concept approval, amenity to the hotel entrance will be further enhanced.</p>



Issue	Comment
<ul style="list-style-type: none"> <li><i>The Panel supports the additional setbacks now proposed around the park to maintain solar access in the middle of the day in winter.</i></li> </ul>	Noted.
<ul style="list-style-type: none"> <li><i>A mechanism to deliver the park in Stage 1 should be developed to provide certainty around its development.</i></li> </ul>	The park forms part of the Concept Approval. The delivery of the park with this initial stage may result in it being adversely impacted during the demolition and construction works associated with the future stage/s.
<ul style="list-style-type: none"> <li><i>The pedestrian connection between Parramatta Road and the park is supported, however, further consideration should be given to avoid unsecured dead-end corridors or opportunities for concealment.</i></li> </ul>	The Architectural Plans have been amended to remove the dead-end corridor between the specialised retail tenancies. This removes the Crime Prevention Through Environmental Design (CPTED) concern relating to opportunities for concealment. Further, a CPTED Report has been provided and the development is considered satisfactory from a CPTED perspective.
<ul style="list-style-type: none"> <li><i>The Panel generally supports the proposed relocation of the hotel to the Parramatta Road frontage, noting that acoustic impacts from the road should be carefully addressed.</i></li> </ul>	Noted.
<ul style="list-style-type: none"> <li><i>The Panel acknowledges the benefits of the drum-like form of the hotel in reducing the impact of building mass on the park and surrounds, as well as providing an identity for the project. The relationship of this form with the podium requires further resolution to avoid negative impacts both on the streetscape.</i></li> </ul>	The building design has been amended so that the facades of the tower and podium have a stronger continuity.
<ul style="list-style-type: none"> <li><i>The reduced setback on the west of the hotel and the proximity to the neighbour to the west needs to be considered further to ensure that it does not negatively impact future development of the neighbouring site to the west.</i></li> </ul>	The design has been updated with the orientation of the hotel drum rotated so that the core is adjacent to the boundary and rooms have been offset from being directly adjacent to the boundary.
<ul style="list-style-type: none"> <li><i>West facing hotel rooms require further consideration with regard to the impact on views to and from the site and impact on future</i></li> </ul>	See above comments.

Issue	Comment
development of 284 Parramatta Road.	
<ul style="list-style-type: none"> <li><i>The façades of tower and podium should have either a stronger continuity or a clearer delineation. The blurred relationship between podium and tower in the current proposal results in some less-than-ideal amenity outcomes for the lower level hotel rooms, particularly the corner suite and reduced legibility of the building from the public realm. For example the “slot” running vertically up the Parramatta Road façade should be reconsidered to better denote the pedestrian entry at this point.</i></li> </ul>	The building design has been amended so that the facades of the tower and podium have a stronger continuity.
<ul style="list-style-type: none"> <li><i>The mid-level planning of the retail spaces should be reconsidered to avoid difficult to lease tenancies and increase legibility for users navigating the space. Planning changes to improve the relationship between vertical circulation and the floor plate and opportunities to bring natural light further into the building’s deep footprint are recommended to improve viability of the centre. Additional opportunities to improve the amount and quality of natural light reaching the atrium and arcade should be explored in conjunction with this.</i></li> </ul>	The format and size of the specialised retail tenancies are consistent with the definition of specialised retail premises, through accommodating “a large area for handling, display or storage of goods.”
<ul style="list-style-type: none"> <li><i>The current proposal to access the courtyard from the roof when removing or adding large or bulky is not supported. Access to and the maintenance of the Courtyard landscape needs to be further considered to ensure that it remains an integral part of the building experience over time.</i></li> </ul>	Access to the courtyard for maintenance is provided in close proximity to the lifts, to accommodate the transport of materials for the day-to-day maintenance of the garden. The courtyard is proposed to be open to the restaurant area, to facilitate its use as part of the development.
<ul style="list-style-type: none"> <li><i>The plan of the hotel should be amended to provide visual access to</i></li> </ul>	The hotel lobby entrance has been amended to provide improved visual access. The Applicant has also noted that,

Issue	Comment
<i>the courtyard from the communal areas such as corridors, lift lobby etc.</i>	once the park is delivered as part of the next stage of the concept approval, amenity to the hotel entrance will be further enhanced.
<ul style="list-style-type: none"> <li><i>Integral and quantifiable ESD targets should be identified and designed into the Architecture. The panel recommends that a target of 5 Star Green Star or equivalent is achieved.</i></li> </ul>	The DA is accompanied by an Energy Efficiency & Ecologically Sustainable Design Report which includes recommendations to be implemented for the development to achieve Energy Efficiency. The recommendations of this document have been enforced through a condition of consent.

Refer to **Attachment 4** for copies of the CDEP correspondence and the Applicant's discussion of the amendments made to the plans to address the matters raised by the CDEP.

## EXTERNAL REFERRALS

### Transport for NSW

The DA was referred to Transport for NSW (TfNSW) pursuant to the provisions of Section 2.119 (Development with frontage to classified road) and Section 2.122 (Traffic-generating development).

On 1 September 2023, TfNSW advised that it raises no objection to the development subject to Council's approval and conditions/requirements being included in any consent issued by Council. The conditions have been included in the draft consent provided at **Attachment 1**.

### Sydney Water Corporation

The development application was referred to Sydney Water Corporation for comment. Sydney Water have advised that potable water servicing is currently available to the site via 150mm watermains on Hampstead and Parramatta Roads and wastewater servicing is currently available to the site via a 300mm wastewater main within the site boundary. It is acknowledged that any future extensions or amplifications, would be addressed as part of future Section 73 application/s.

### Ausgrid

In accordance with the provisions of Clause 45, the development application was referred to Ausgrid for comment, who raise no objection to the proposed concept application, subject to conditions relating to existing underground cables in Hampstead Road and an existing substation in Hampstead Road. These matters have been included as recommended conditions of consent.

### NSW Police

The DA was referred to the Flemington Local Area Command for comment and the following matters have been raised for consideration as part of the DA assessment:

- Business identification;
- Lighting;
- CCTV;
- Signage;
- Landscaping;
- Design features;
- Fire and safety measures; and
- Traffic concerns.

The DA has been accompanied by a CPTED Report. A condition of consent requiring the recommendations of the CPTED Report be implemented has been recommended.

## **PLANNING COMMENTS**

### **Environmental Planning and Assessment Act 1979 (EP&A Act)**

Consent was granted to Concept Development Application DA2020/0310 pursuant to the provisions of Division 4.4 (Concept development applications) of the EP&A Act. An assessment of the development against the relevant provisions of Division 4.4 of the EP&A Act is provided below.

<b>Section 4.22 Concept development applications</b>	<b>Discussion</b>
<p>(4) If consent is granted on the determination of a concept development application, the consent does not authorise the carrying out of development on any part of the site concerned unless—</p> <p>(a) consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or</p> <p>(b) the concept development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent.</p> <p>The terms of a consent granted on the determination of a concept development application are to reflect the operation of this subsection.</p>	<p>DA2020/0310 did not grant consent for any physical works.</p> <p>This DA has been lodged pursuant to the provisions of Section 4.22(4)(a).</p>
<p>(1) The provisions of or made under this or any other Act relating to development applications and development consents apply, except as otherwise provided by or under this or any other Act, to a concept</p>	<p>An assessment of the proposed development the subject of this DA has been undertaken against the Concept Approval conditions of consent in DA2020/0310.</p>

Section 4.22 Concept development applications	Discussion
<p>development application and a development consent granted on the determination of any such application.</p> <p>(2) While any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site.</p> <p>(3) Subsection (2) does not prevent the modification in accordance with this Act of a consent granted on the determination of a concept development application.</p>	<p>Refer to the detailed assessment at <b>Attachment 5</b> to this Report.</p>

### The provisions of any Environmental Planning Instruments (EP&A Act s4.15 (1)(a)(i))

#### State Environmental Planning Policies

The proposed development is affected by the following State Environmental Planning Policies:

State Environmental Planning Policies (SEPPs)	Relevant Clause(s)	Compliance with Requirements
<ul style="list-style-type: none"> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021.</li> </ul>	<p>Chapter 2 - Vegetation in non Rural Areas.</p>	<p>The development application includes the removal of eight (8) trees which have been assessed as having nil to low ecological significance.</p> <p>The proposal does not exceed the biodiversity offsets scheme threshold. Therefore, the proposed vegetation removal is considered acceptable.</p>
	<p>Chapter 6 - Water Catchments.</p> <p>Sydney Harbour Catchment.</p>	<p>It is determined that given location, a detailed assessment is not required given that there is no direct impact upon the catchment and no direct impact upon watercourses. As such, the development is acceptable under the new provisions that came into effect on Monday 21 November 2022.</p>
	<p>Chapter 4 - Remediation of Land.</p> <p>Part 4.6.</p>	<p>Part 4.6 - Contamination and remediation to be considered in determining development application.</p>



State Planning Policies (SEPPs)	Environmental Relevant Clause(s)	Compliance with Requirements
		<p><u>Comments</u></p> <p>DA2020/0310 was assessed against SEPP (Resilience and Hazards) 2021 (formerly SEPP 55).</p> <p>The DA was accompanied by a Stage 1 Preliminary Site Investigation (PSI) which identified several potential contamination sources on the site that require further investigation. Noting that the DA did not include any physical works and formed a concept application (pursuant to Section 4.22 of the EP&amp;A Act), a condition of consent was imposed requiring any further DA/s associated with the demolition/construction of the site to be accompanied by a detailed contamination investigation (Stage 2) (Condition no. 10 – Contamination Assessment – Future Development Applications).</p> <p>In accordance with Condition no. 10 of DA2020/0310, the DA is accompanied by a Detailed Phase 2 Contamination Investigation which has relevantly recommended that a Remediation Action Plan (RAP) be prepared to document the existing contamination status of the site, include methodology to decommission the six (6) existing Underground Storage Tanks (USTs) on 276-278 Parramatta Road, Auburn and to evaluate the most suitable method/s to remediate soil, in consideration of the proposed mixed use commercial development.</p> <p>The DA is also accompanied by a RAP which documents the contamination status of the site, summarises the contamination issues, examines suitable and compatible methods to remediate contamination and documents the</p>

State Environmental Planning Policies (SEPPs)	Relevant Clause(s)	Compliance with Requirements
		<p>procedures and protocols necessary to implement and validate the remediation to make the site suitable for its intended use.</p> <p>Council's Environmental Health Unit (EHU) have reviewed both the Detailed Phase 2 Contamination Investigation and the RAP and advised that there are no objections to the implementation of the RAP subject to the recommendations of the report being followed and submission of a Validation Report.</p> <p>As such, it is considered that the development application is satisfactory under Part 4.6 of Chapter 4 of the State Policy.</p>
<ul style="list-style-type: none"> <li>• <b>State Environmental Planning Policy (Industry and Employment) 2021.</b></li> </ul>	Chapter 3 Advertising and Signage.	No signage is proposed as part of the development application and thus no assessment of signage is required.
<ul style="list-style-type: none"> <li>• <b>State Environmental Planning Policy (Transport and Infrastructure) 2021.</b></li> </ul>	Chapter 2 - Infrastructure.	State Environmental Planning Policy (Transport and Infrastructure) 2021 is relevant to the development application as follows.
	Clause 2.48	<p><u>Chapter 2 - Infrastructure.</u></p> <p>Determination of development applications (Subpart (2) - Give written notice to electricity providers and take account of responses received within 21 days.</p> <p><u>Comment</u> The subject development occurs within 5 metres of an overhead electricity power line. As such, the Consent Authority is required to give written notice to an electricity supply authority.</p> <p>In accordance with the provisions of Section 2.48(1)(b)(iii), the DA was referred to Ausgrid for comment, who raise no objection, subject to conditions relating to existing</p>

State Environmental Planning Policies (SEPPs)	Relevant Clause(s)	Compliance with Requirements
		underground cables in Hampstead Road and an existing substation in Hampstead Road.
	Clause 2.119	<p><i>Clause 2.119 – Frontage to classified road</i></p> <p>The application is subject to clause 2.119 of the SEPP as the site has frontage to Parramatta Road, which is a classified road.</p> <p>On 1 September 2023, TfNSW advised that it raises no objection to the development subject to Council's approval and conditions/requirements being included in any Consent issued by Council. The conditions have been included in the consent provided at <b>Attachment 1</b>.</p>
	Clause 2.122	<p><i>Clause 2.122 – Traffic generation developments</i></p> <p>The application is subject to clause 2.122 as the proposal triggers the requirements for traffic generating developments listed in Schedule 3 of the SEPP.</p> <p>The development proposes a car park with more than 50 spaces on the site which will have access to Parramatta Road. The application was referred to TfNSW in accordance with the provisions of Section 2.122. On 1 September 2023, TfNSW advised that it raises no objection to the development subject to Council's approval and conditions/requirements being included in any Consent issued by Council. The conditions have been included in the consent provided at <b>Attachment 1</b>.</p>
<ul style="list-style-type: none"> <li>State Environmental Planning Policy (Planning System) 2021</li> </ul>	Schedule 6.	Development of a type that is listed in Schedule 6 of Planning System SEPP is defined as 'regional significant development'. Such

State Planning Policies (SEPPs)	Environmental	Relevant Clause(s)	Compliance with Requirements
			<p>applications require a referral to a Sydney District Panel for determination as constituted by Part 3 of Schedule 2 under the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>The proposed development constitutes 'Regional Development' as it has a Capital Investment Value (CIV) of \$58,530,744 which exceeds the \$30 million threshold. While Council is responsible for the assessment of the DA, determination of the Application will be made by the Sydney Central City Planning Panel.</p>

### Local Environmental Plans

#### **Cumberland Local Environmental Plan 2021 (CLEP 2021)**

The provisions of the Cumberland Local Environmental Plan 2021 (CLEP 2021) are applicable to the proposed development. The site is zoned E3 Productivity Support pursuant to the CLEP 2021.

#### **(a) Permissibility:-**

The proposed development is defined as comprising "specialised retail premises" and "hotel or motel accommodation, both of which are permissible with consent in the E3 land use zone:

***specialised retail premises*** means a building or place the principal purpose of which is the sale, hire or display of goods that are of a size, weight or quantity, that requires—

- (a) a large area for handling, display or storage, or
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire,

*but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale, hire or display of other goods referred to in this definition.*

***hotel or motel accommodation*** means a building or place (whether or not licensed premises under the *Liquor Act 2007*) that provides temporary or short-term accommodation on a commercial basis and that—

- (a) comprises rooms or self-contained suites, and
- (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles,

*but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.*

DEVELOPMENT STANDARD	COMPLIES	DISCUSSION																									
<b>4.3(2A) Height of buildings</b> Maximum height of building – 27 metres	N	<p>The proposed building includes hotel and motel accommodation and is subject to the maximum 27 metre building height.</p> <p>The building maintains a maximum height of 29.23 metres to the stair overrun, which equates to a building height exceedance of 2.23 metres, or 8.3%.</p> <p>The DA is accompanied by a Clause 4.6 variation request, refer to <b>Attachment 7</b> of this Report.</p> <p>Overview of the building height exceedances as per the Clause 4.6 variation request.</p> <table><tr><th>Location</th><th>Max. HOB</th><th>Proposed HOB</th><th>Height Variance</th><th>%age variation</th></tr><tr><td>Stair overrun</td><td>27m</td><td>29.23m</td><td>+2.23</td><td>8.3%</td></tr><tr><td>Rooftop services</td><td>27m</td><td>28.87m</td><td>+1.87</td><td>6.9%</td></tr><tr><td>Lift overrun</td><td>27m</td><td>28.26m</td><td>+1.26</td><td>4.7%</td></tr><tr><td>Parapet</td><td>27m</td><td>27.56m</td><td>+0.56</td><td>2%</td></tr></table> <p>Refer to detailed discussion below.</p>	Location	Max. HOB	Proposed HOB	Height Variance	%age variation	Stair overrun	27m	29.23m	+2.23	8.3%	Rooftop services	27m	28.87m	+1.87	6.9%	Lift overrun	27m	28.26m	+1.26	4.7%	Parapet	27m	27.56m	+0.56	2%
Location	Max. HOB	Proposed HOB	Height Variance	%age variation																							
Stair overrun	27m	29.23m	+2.23	8.3%																							
Rooftop services	27m	28.87m	+1.87	6.9%																							
Lift overrun	27m	28.26m	+1.26	4.7%																							
Parapet	27m	27.56m	+0.56	2%																							
<b>4.4(2B) Floor space ratio</b> The maximum floor space ratio for the following development on land in Zone E3 Productivity Support in the “Parramatta Road Precinct”, shown edged orange on the Floor Space Ratio Map, is as follows—  (a) 1.5:1 for specialised retail premises, entertainment facilities, function centres and registered clubs, (b) 3:1 for office premises and hotel or motel accommodation.  (a) 1.5:1 for specialised retail premises, entertainment facilities, function	Y	<p>The development includes both specialised retail premises and hotel accommodation.</p> <p>The specialised retail component of the development proposes a total gross floor area of 9,060sqm, which equates to a floor space ratio (FSR) of 0.9:1.</p> <p>The hotel component of the development proposes a total GFA of 8,805sqm, which equates to an FSR of 0.87:1.</p>																									



DEVELOPMENT STANDARD	COMPLIES	DISCUSSION
centres and registered clubs, and (b) 3:1 for office premises and hotel or motel accommodation.		
<b>4.6 Exceptions to Development Standards</b>	Y	The DA is accompanied by a Clause 4.6 variation request, refer to <b>Attachment 7</b> of this Report.  Refer to detailed discussion below.
<b>5.10 Heritage Conservation</b>	Y	The site is not identified as a heritage item and is not within a heritage conservation area.  The site is in proximity to an archaeological item, being the 'Clyde Marshalling Yards' (Item no. A50), located to the west of the subject site.  The subject site is considered to be sufficiently removed from the item, which is in the order of 340 metres to the west of the site, so as not to have any impact on the significance of the archaeological item.
<b>5.21 Flood Planning</b>	Y	The site is affected by flooding, subject to 1% AEP flooding and requires flood control lot measures. Council's Development Engineer review the proposal and did not raise any objections subject to conditions.
<b>6.1 Acid Sulphate Soils Class 5</b>	Y	The site comprises Class 5 acid sulphate soils. The management of acid sulphate soils for the duration of the works is proposed to be managed through a standard condition of consent.

**(b) Clause 4.6 – Variation to Maximum Building Height**

Clause 4.6 allows the consent authority to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes. The consent authority may grant the exception as the Secretary's concurrence can be assumed where clause 4.6 is adopted as per the Department of Planning Circular PS 20-002, dated 05 May 2020.

The applicant has submitted a written request to vary the development standards for Building Height. Based on various case laws established by the Land and Environment

Court of NSW such as *Four2five P/L v Ashfield Council* [2015] NSWLEC 9, *Randwick City Council v Micaul Holdings P/L* [2016] NSW LEC7 and *Zhang and anor v Council of the City of Ryde* [2016] NSWLEC 1179, a 3 part assessment framework for a variation request proposed under clause 4.6 has been considered and an assessment of the proposed variance, following the 3 part test is discussed in detail below.

The 3 preconditions which must be satisfied before the application can proceed are as follows:

1. Is the proposed development consistent with the objectives of the zone?

Applicant's justification:

*The concept application was determined, and the subject development application was lodged when the land was zoned B6 Enterprise Corridor prior to the commencement of the employment zones reform, which commenced on 26 April 2023 and replaced the existing zoning with the E3 Productivity Support zone.*

*For completeness, and noting the savings provision, both zone objectives are considered below:*

B6 Enterprise Corridor Zone

- To promote businesses along main roads and to encourage a mix of compatible uses.*

*The subject site is at the corner of Parramatta Road and Hampstead Road. The site is within the Auburn Precinct under the Parramatta Road Corridor Urban Transformation Corridor, a key urban renewal corridor. The strategy is to be delivered over the next 30 years and will facilitate a high quality multi-use corridor with improved transport choices, better amenity and balanced growth of housing and jobs. The full urban transformation of the corridor will deliver in the vicinity of 27,000 additional dwellings, 56,000 new residents and 50,000 new jobs.*

*The proposal achieves the key objective of the zone by facilitating new business located along Parramatta Road; a main road within the Cumberland LGA and a key corridor under the state governments urban regeneration programme.*

*The stage 1 works application seeks to facilitate a the first mix of uses, being specialised retail, hotel/motel accommodation, function centre facilities and a café.*

- To provide a range of employment uses (including business, office, retail and light industrial uses).*

*The B6 zone permits a variety of employment generating land uses. The approved concept proposal directly*

*achieves this objective, supporting the provision of the following land uses:*

- *14,536sq.m of Specialised Retail floorspace;*
- *12,562sq.m of office space;*
- *7,756sq.m of hotel and motel accommodation;*
- *998sq.m of child care; and*
- *Café of 173sq.m.*

*The stage 1 works application facilitates the first stage of the uses including specialised retail businesses, a café, hotel/motel accommodation and a hotel restaurant and ancillary employment generating uses.*

- *To maintain the economic strength of centres by limiting retailing activity.*

*The proposal does not seek to deliver retail uses, rather supporting the provision of and 9,050sq.m of specialised retail premises.*

*Variation of the Height of Building standard is in the public interest because it will facilitate the development of a mixed-use employment generating development on a key urban renewal corridor in Sydney. The variation will facilitate the development of the first stage of works against the approved concept application and ultimately the provision of 8,816sq.m of hotel accommodation and 9,050sq.m of specialised retail premises.*

### *E3 Productivity Support zone*

- *To provide a range of facilities and services, light industries, warehouses and offices.*

*The E3 Productivity Support zone permits a variety of employment generating land uses. The approved concept proposal directly achieves this objective, supporting the provision of the following land uses:*

- *14,536sq.m of Specialised Retail floorspace;*
- *12,562sq.m of office space;*
- *7,756sq.m of hotel and motel accommodation;*
- *998sq.m of child care; and*
- *Café of 173sq.m.*

*The stage 1 works application facilitates the first stage of the uses including specialised retail businesses, a hotel café, hotel/motel accommodation and a hotel restaurant and ancillary employment generating uses.*

- *To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.*

- *To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.*

*The proposal does not seek to deliver retail uses, rather supporting the provision of and 9,050sq.m of specialised retail premises.*

*Variation of the Height of Building standard is in the public interest because it will facilitate the development of a mixed-use employment generating development on a key urban renewal corridor in Sydney. The variation will facilitate the development of the first stage of works against the approved concept application and ultimately the provision of 8,816sq.m of hotel accommodation and 9,050sq.m of specialised retail premises.*

- *To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.*

*The broader proposal includes other land uses and facilities to meet the needs of the local business and existing communities. While some of those will be subject to future applications, including child care facilities and ground floor cafes, the future proposal also includes significant areas of public open space and through site links, supporting the future redevelopment of adjoining sites as per the desired future character in accordance with the Parramatta Road Corridor Urban Transformation Strategy.*

*The subject Stage 1 works is the first part of the broader development, which overall will significantly assist to meet needs of the community, businesses and industries in an area on Parramatta Road, that may not be suited to other zones such as the E1 Local Centre zone or the E2 Commercial Centre zone.*

- *To provide opportunities for new and emerging light industries.*

*The proposal facilitated by the approved concept application seeks to deliver a number of employment generating uses. It is noted that the concept application which was designed to facilitate specialised retail premises, office space and hotel and motel accommodation in part, was zoned B6 Enterprise Corridor at the time the proposal was considered and determined. The B6 zone did not include this objective which was included when the zoning was changed to E3 Productivity Support.*

*Notwithstanding, emerging industries are an important part of the future health of the Cumberland economy and creation of employment generating opportunities for the local population. It is noted that the proposal seeks to deliver important job creating uses within the development.*

- *To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.*

*As discussed above, the stage 1 proposal seeks to facilitate over 9,000sq.m of specialised retail floorspace that provides a service to support the sale of goods of a larger size and weight.*

Planner's comment:

It is acknowledged that on 26 April 2023, employment zones commenced, which resulted in the B6 Enterprise Corridor zoning changing to E3 Productivity Support. The E3 land use zone has the following objectives:

- *To provide a range of facilities and services, light industries, warehouses and offices.*
- *To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.*
- *To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.*
- *To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.*
- *To provide opportunities for new and emerging light industries.*
- *To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.*

The proposed development is consistent with the objectives of the E3 Productivity Support zone through the provision of hotel accommodation and specialised retail premises that are compatible with the surrounding local and commercial centres. The proposed development is an employment generating land use within an employment zone.

2. Is the proposed development consistent with the objectives of the development standard which is not met?

Applicant's justification:

- *to establish a maximum height of buildings to enable appropriate development density,*

*While the site does not have a density control applied to it, the built form has been specifically designed to accommodate the future uses being specialised retail on the lower levels and hotel accommodation on the higher levels. The design proposes two predominant forms which delineate between the separate uses of the Retail and Hotel.*

*The retail form defines the street wall of the precinct, with a scale similar to other commercial buildings in the area. The circular form of the hotel, seeks to provide a function and aesthetic response to the site, providing clear circulation, amenity, outlook and a distinct visual point of difference.*

*Therefore, given the site does not have a density control, the built form has been informed by architectural response to the site and the proposed future uses, within a height limit of 27 metres. The lift overrun and roof top servicing are the only items to exceed the 27 metre height limit which do not contain any 'density'.*



- to ensure that the height of buildings is compatible with the character of the locality,

*The site forms part of an urban renewal area, being within the Auburn Precinct under the Parramatta Road Corridor Urban Transformation Corridor. The maximum building height under that strategy is 28 metres, 1 metre more than the maximum building height under the Cumberland LEP 2021.*

*The proposed height of the building is consistent with the desired future character of the area, but under the current controls of the LEP and the state corridor strategy. The height exceedance, being only lift overrun and roof services will not impact the character of the locality, and in fact supports the urban renewal of the site, achieving the objectives and aims of the state strategy and the councils own local strategic planning statement.*

- to minimise the visual impact of development,

*Noting that the bulk and form of future development is within the height limit, the northern part of the site subject to this stage 1 works application, has been designed to provide a strong corner presence achieved with protruding triple height glazing on the junction on the lower retail levels and a segmented circular form, vertically expressed with concrete blades, at the corner of Hampstead and Parramatta Road.*

*The rooftop services and lift overruns have been well set back from the two main streets that the site is located on, to minimise any visual impact and ensure limited exposure or visibility to building elements that exceed the height limit.*

- to ensure sufficient solar access and privacy for neighbouring properties.

*The solar impact to surrounding properties has been carefully considered, particularly as it relates to the park on the eastern side of Hampstead Road, opposite the site.*

*The proposed northern building, subject to the stage 1 works application, and View from the Sun diagrams illustrate that the built form will have a good amenity outcome for the dwellings and park on Hampstead Road.*

*The proposal ensures the existing dwellings and park to the east achieves minimum 2 hours of solar access.*

*Views from the sun analysis have been taken to show:*

- 21 Jun 9am -No overshadowing to dwellings and park
- 21 Jun 10am - No overshadowing to dwellings and park
- 21 Jun 11am - No overshadowing to dwellings and park
- 21 Jun 12pm - No overshadowing to dwellings and park
- 21 Jun 1pm - No overshadowing to park
- Overshadowing to No. 75, 77, 79 Hampstead Rd.
- 21 Jun 2pm - No overshadowing to park
- Overshadowing to No. 75, 77, 79 Hampstead Rd and partially no.73
- 21 Jun 3pm - Overshadowing to park
- Overshadowing to No. 73, 75, 77, 79 Hampstead Rd.

Planner's comment:

The proposed development is consistent with the building height objectives as the built form is considered to respond to the site and its location within the Parramatta Road Corridor. The bulk and scale of the development is considered acceptable and the development presents acceptable visual and solar access impacts on the amenity of neighbouring properties.

3. a) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? And:

Applicant's justification:

*The primary purpose of the underlying objective relates to facilitating development to enable an appropriate density that is compatible with the character of the area and is in a form that minimises visual impact and solar impacts to nearby development.*

*The lift/stair overrun and roof plant equipment is required to service the building, enabling employment generating floorspace at an appropriate density. The circular form of the upper hotel levels has been designed to partly create variety in built form and visual interest, and also to maximise opportunities for daylight and outlook while providing efficient circulation. The lift/stair overrun are required as a function of the hotel and specialised retail facilities and the roof services are required for the building to function.*

Planner's comment:

Strict compliance with the maximum building height requirement is considered unreasonable and unnecessary in the context of the development as the built form is site responsive and the development presents an acceptable bulk and scale. The portion of the building that exceeds the maximum building height comprises the stair overrun (at the highest point), lift overrun, building parapet and rooftop services. The area of the building that exceeds the maximum height does not comprise any floor area.

- b) Are there sufficient environmental planning grounds to justify contravening the development standard and therefore is the applicant's written justification well founded?

Applicant's justification:

*Sufficient environmental grounds exist to justify contravening the development standard, in this case. In relation to the extent of non-compliance and the form of development it is noted that:*

- 1. The variation is relatively minor and primarily relates to roof structure and lift overrun, as noted on the plans and height plane diagram.*
- 2. Due to the careful location of the roof structures, there is no overshadowing caused by the breach or visual impact to main public areas around the site.*
- 3. The bulk and floorspace associated with the building is all below the height limit.*
- 4. The future anticipated and desired character and scale of development is 28 metres. While this height is still breached, it is even more minor than the LEP breach, noting the elements above the 28 metres is just the lift/stair overrun.*

Planner's comment:

The variation to the maximum building height development standard is considered acceptable on environmental planning grounds and the Applicant's written justification is well founded.

Conclusion:

The Applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6 subclause (3). The Applicant has further demonstrated that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The justification provided is satisfactory and having considered the application on its merit, the exception to the maximum building height development standard is considered acceptable in this instance.

A detailed assessment against the provisions of the CLEP 2021 is provided at **Attachment 6**.

**The provisions of any proposed instrument that is or has been the subject (EP&A Act s4.15 (1)(a)(ii))**

**(a) State Environmental Planning Policy (Sustainable Buildings) 2022**

State Environmental Planning Policy (Sustainable Buildings) 2022 sets sustainability standards of buildings across NSW for residential and non-residential development. The Sustainable Buildings SEPP was notified on 29 August 2022 and will come into effect on Sunday 1 October 2023 to allow for the relevant industry to adjust to the new standards. Savings and transitional provisions in accordance with Clause 4.2 of the Sustainable Buildings SEPP will apply to the subject development application or modification application that was made but not finally determined before 1 October 2023.

This will not be applicable to the development application.

**The provisions of any Development Control Plans (EP&A Act s4.15 (1)(a)(iii))**

**(a) Cumberland Development Control Plan 2021 (CDCP 2021)**

The purpose of the Cumberland Development Control Plan 2021 (CDCP 2021) is to provide specific controls to guide development and achieve particular development outcomes within the Cumberland City. This CDCP 2021 is a supplementary development guideline that supports the CLEP 2021.

The following parts of the CDCP 2021 are applicable to the development:

- Part C Development in Business Zones
- Part G Miscellaneous Development Controls
  - Part G3 Traffic, Parking, Transport and Access
  - Part G4 Stormwater and Drainage
  - Part G5 Sustainability, Biodiversity and Environmental Management
  - Part G7 Tree Management and Landscaping
  - Part G8 Waste Management

The development is generally compliant with the relevant provisions of the CDCP 2021, with the exception of the following:

CONTROL	DISCUSSION	JUSTIFIED
<b>PART C DEVELOPMENT IN BUSINESS ZONES</b>		
<b>3.10 Awnings</b> C1. Continuous awnings are required to be provided to all active street frontages (except laneways).	It is noted that the site's Parramatta Road and Hampstead Road frontages do not provide awnings. Rather, the upper building levels overhang the ground floor level. Along the Parramatta Road frontage the upper levels overhang the ground level by 1.3m and along the Hampstead Road frontage, the upper levels overhang the ground level by 1m. The overhang of the building covers the pedestrian path along both street frontages and will facilitate weather protection.	Yes
<b>3.19 Food and drink premises</b> C5. Provision of space within a new mixed use development for vertical exhaust risers to service future ground floor commercial uses must be included. Kitchen exhaust air intakes and discharge points must comply with the requirements of Australian Standard 1668.2 – 2012 The use of ventilation and air conditioning in buildings – Part 2: Mechanical ventilation in buildings.  C6. All waste and recyclable material generated by the food and drink premises must be stored in a clearly designated, enclosed waste storage area with complies with AS4674 – Construction and Fitout of food premises. Commercial waste collections are to generally occur between 6:00am and 10:00pm where residential premises may be impacted.	Plans prepared in accordance with Australian Standard AS4674-2004 (Design, Construction & Fitout of Food Premises) and Standard 3.2.3 Food Standards Code and include food preparation and storage areas (including coolrooms and freezers) have not been provided to enable an assessment of the sufficiency of the food areas to adequately accommodate food storage, preparation and washing up, coolroom/freezer/s, wash up area, hand wash basins or cooking equipment.  This has been managed through a deferred commencement condition of consent, refer to <b>Attachment 1</b> .	Yes
<b>PART G3 – TRAFFIC, PARKING, TRANSPORT AND ACCESS (VEHICLE)</b>		
<b>3. Parking rates</b> Development is to provide on-site parking in accordance with the following minimum rates. Refer to	Council's Development Engineer has reviewed the proposed car parking numbers and advised that:	Yes

CONTROL	DISCUSSION	JUSTIFIED
<p>Table 1 below. Where a parking rate has not been specified in the table, the Guide to Traffic Generating Developments shall be used to calculate the parking requirements for the proposed development. Alternatively, a parking study may be used to determine the parking, subject to prior approval by Council.</p>	<p>Proposed parking 261 parking spaces area not adequate. Minimum 280 parking spaces shall be provided. There is a shortfall of 19 parking spaces for retail area.</p> <p>Parking calculation:</p> <p>Hotel = <math>200/4 = 50</math>  Function room = <math>321(15/100) = 49</math>  Retail (N) = <math>9050/50 = 181 = 181</math></p> <p>Total = 280 car parking spaces required.</p> <p>The Applicant has provided a further submission for the demand of parking based on the proposed land use and a detailed assessment of the required car parking numbers in an updated Traffic Impact Assessment, which has demonstrated that the proposed 261 car parking spaces are adequate to service the development.</p> <p>On this basis, the variation to the required car parking numbers is considered acceptable on merit.</p>	
<b>PART G4 – STORMWATER AND DRAINAGE</b>		
<p><b>2.6 Flood risk management</b></p> <p>C1. The proposed development does not result in any increased risk to human life and does not increase the potential flood affectation on other development or properties.</p> <p>C8. The proposed development shall comply with Council's Flood Risk Management Policy.</p>	<p>Council's Development Engineer has advised that the development now achieves a minimum 500mm above the flood level, with the exception of the temporary loading dock.</p> <p>The provided floor level of RL8.9m AHD for the temporary loading dock is 80mm below the 1% flood event, which is acceptable in this instance for the following reasons:</p> <ul style="list-style-type: none"> <li>- The current building is existing.</li> <li>- Raising the floor level any further will impact the vehicular grades for access to the loading area.</li> <li>- The loading area is temporary to accommodate</li> </ul>	<p>Yes</p>



CONTROL	DISCUSSION	JUSTIFIED
	<p>Stage 1 and 2 of the development.</p> <p>To ensure acceptable measures are in place, Council's Coordinator Engineering Services has provided conditions of consent to address the above.</p>	
<p><b>2.7 Water Sensitive Urban Design, water quality and water re-use</b></p> <p><u>Water Sensitive Urban Design (WSUD)</u></p> <p>C1. All development applications for sites of 2,500sqm, or more in area must be supported by a Water Sensitive Urban Design Strategy, prepared by a qualified civil engineer with suitable experience.</p>	<p>The Applicant has provided a MUSIC model report and a MUSIC model which details guidance as to how WSUD can be achieved for the development.</p> <p>A prior to the issue of Construction Certificate condition of consent requires details of WSUD to be incorporated into the stormwater design.</p>	Yes

A detailed assessment of the development against the relevant provisions of the CDCP 2021 is provided at **Attachment 8** to this Report.

**The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 (EP&A Act s4.15(1)(a)(iia))**

There is no draft or executed planning agreement associated with the subject Development Application.

**The provisions of the Regulations (EP&A Act s4.15 (1)(a)(iv))**

The proposed development raises no concerns as to the relevant matters arising from the *Environmental Planning and Assessment Regulations 2021* (EP&A Reg).

**The Likely Environmental, Social or Economic Impacts (EP&A Act s4.15 (1)(b))**

It is considered that the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

**The suitability of the site for the development (EP&A Act s4.15 (1)(c))**

The suitability of the site for the proposed development has effectively been established as part of the approval issued for Concept Development Application DA2020/0310. The site remains suitable for the proposed development.

**Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))**

Advertised (newspaper) ☒

Mail ☒

Sign ☒

Not Required ☐

In accordance with Council's Notification requirements contained within the CDCP 2021, the proposal was publicly notified for a period of fourteen (14) days between 30 September 2022 and 14 October 2022 and due to a misprint, a further notification period of fourteen (14) days between 20 October 2022 and 3 November 2022. The notification generated no submissions.

### **The public interest (EP&A Act s4.15(1)(e))**

In view of the foregoing analysis, it is considered that the development, if carried out subject to the conditions set out in the recommendation below, will have no significant adverse impacts on the public interest.

### **CUMBERLAND LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN 2020**

---

The development would require the payment of s7.12 contributions of \$599,169.00 in accordance with Cumberland Local Infrastructure Contributions Plan 2020. The contribution amount has been detailed in the conditions of consent at **Attachment 1**.

### **DISCLOSURE OF POLITICAL DONATIONS AND GIFTS**

---

The applicant and notification process did not result in any disclosure of Political Donations and Gifts.

### **CONCLUSION**

---

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*, Planning Systems SEPP, Resilience and Hazards SEPP, Transport and Infrastructure SEPP, Biodiversity and Conservation SEPP, CLEP 2021 and CDCP 2021 and is considered to be satisfactory for approval, subject to deferred commencement conditions.

The proposal is consistent with all statutory and non-statutory controls applying to the development. Minor non-compliances with Council's controls have been discussed in the body of this report. The development is considered to perform adequately in terms of its relationship to its surrounding built and natural environment, particularly having regard to impacts on adjoining properties.

For these reasons, it is considered that the proposal is satisfactory having regard to the matters of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and the development may be granted deferred commencement approval, subject to conditions.

### **RECOMMENDATION**

---

1. That Development Application No. DA2022/0463 for Stage 1 of the approved Concept Plan for mixed use development - demolition of existing structures and construction of a seven (7) storey building comprising of specialised retail premises and a hotel over basement car parking be granted deferred commencement approval, subject to the conditions detailed at **Attachment 1**.

2. That the Clause 4.6 variation request to vary the height of building as contained within Clause 4.3 of the Cumberland Local Environmental Plan 2021 be supported.

## **ATTACHMENTS**

1. Notice of Determination
2. Council Response to Reasons for Refusal
3. Architectural Plans
4. CDEP Correspondence
5. Concept Approval Conditions of DA2020/0310 Compliance Table
6. CLEP Compliance Table
7. Clause 4.6 Variation Request
8. CDCP Compliance Table