



SYDNEY CENTRAL CITY PLANNING PANEL
COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSCC-397
DA Number	DA/764/2022
LGA	City of Parramatta Council
Proposed Development	Mixed-use 'town centre' development comprising 5 storey commercial podium and 6 x 6-24 storey shop-top housing towers, consisting of approximately 30,000sqm non-residential floor space (retail, business, office, medical centre, centre-based child care centre, and an indoor recreation facility), 494 residential apartments, 1,412 commercial and residential car parking spaces; 2 basement levels; business identification signage zones; to be constructed in 2 stages; 6 lot stratum subdivision, strata subdivision; and public domain works. The application is to be determined by the Sydney Central City Planning Panel.
Street Address	33 Hope Street, MELROSE PARK NSW (Lot 200 DP1265603)
Applicant	Deicorp Pty Ltd
Owner	Melrose Park Hope Street Pty Ltd
Date of DA lodgement	28 September 2022
Number of Submissions	12
Recommendation	Approval
Regional Development Criteria	Pursuant to Clause 2 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021, the development has a capital investment value of more than \$30 million.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none">• Environmental Planning and Assessment Act 1979• Environmental Planning and Assessment Regulation 2021• SEPP (Resilience and Hazards) 2021• SEPP (Transport and Infrastructure) 2021• SEPP (Planning Systems) 2021• SEPP (Biodiversity and Conservation) 2021• SEPP (Industry and Employment) 2021• Parramatta Local Environmental Plan 2023• Parramatta Development Control Plan 2011• Parramatta Development Control Plan 2023• Council Voluntary Planning Agreement• State Voluntary Planning Agreement
List all documents submitted with this report for the Panel's consideration	Attachment 1 – Architectural Drawings Attachment 2 – DEAP Comments Attachment 3 – Subdivision Plans Attachment 4 – Clause 4.6 Request Attachment 5 – Planning Secretary Concurrence
Clause 4.6 requests	Clause 4.4 – Floor Space Ratio
Summary of key submissions	<ul style="list-style-type: none">• Traffic Impacts• Intersection Impacts• Insufficient Infrastructure to support additional density• Visual Impact• Out of Character
Report prepared by	Darren Wan Executive Planner, City Significant Development
Report date	21 November 2023

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
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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
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Clause 4.6 Exceptions to development standards

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

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

Have draft conditions been provided to the applicant for comment?	Yes
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1. Executive Summary

The proposal provides for construction of a mixed-use 'town centre' development comprising a 5-storey commercial podium and 6 x 6-24 storey shop-top housing towers. The town centre podium will consist of approximately 30,000sqm non-residential floor space comprising retail, business, office, medical centre, centre-based child care centre, and an indoor recreation facility. The residential towers above will accommodate 494 residential apartments.

The proposed buildings generally follow the form for the site envisaged by Parramatta LEP 2023, Parramatta DCP 2011 and Parramatta DCP 2023. Of note, the Parramatta LEP provides for 1.85:1 floorspace ratio across this precinct, with the Site specific DCP allocating floorspace to each development lot. The proposal complies with the gross floor area allocated for the site in the DCP prescribed for the Melrose Park North precinct but results in a technical non-compliance with the Parramatta LEP control. This is considered to be acceptable based on the desired future strategic plan for the locality and a Clause 4.6 request has been provided to manage the non-compliance.

The town centre will provide a range of goods and services to the existing and proposed community and will provide appropriately located north-south and east-west through site links.

The 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 future occupants with good amenity.

The proposal also provides space for a future light rail stop on the Parramatta Light Rail stage 2 route. The application does not include dedication of this land which will be subject to further negotiation between the developer and TfNSW.

The site constraints include contamination and overland flow flooding. The applicant has demonstrated that the design adequately accounts for and addresses these risks.

The amenity impacts on adjoining and nearby properties are considered to be reasonable based on the high-density character envisaged for the area. It is considered that the proposed increase in traffic would not compromise the efficient function of the local road network.

The application has been assessed relative to section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant State and local planning controls. On balance, the proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework. Accordingly, consent is recommended subject to conditions.

2. Key Issues

SEPP (Industry & Employment) 2021

- Signage – 3 x signs assessed to be inappropriate and conditioned to be deleted. These include 1 x wall sign that appears to cover a window frame, and 2 x banner signs that protrude from the building. Have been conditioned to be deleted.

Parramatta Local Environmental Plan 2023

- Clause 4.6 variation request for Floor Space Ratio exceedance. Accepted.

Parramatta Development Control Plan 2011

- View and Vistas (2.4.1) – Outrigger banners affect views. Have been conditioned to be deleted.
- Groundwater (2.4.2.3) – Drained basement proposed with no justification or detailing or reuse system. Have been conditioned to be a tanked basement.
- Stratum Subdivision
 - It is not clear how Lot 6 is dedicated for light rail use. Plan of dedication may be required (to Council or PLR).
 - No clarity on the through site link easements (for public and light rail access, noting TfNSW wants open while light rail running)?

Melrose Park North Site-Specific Development Control Plan (as adopted by Parramatta Development Control Plan 2023)

- Built Form (8.2.6.2)
 - Front Tower Setbacks
 - East front setback, 5m required, 3.4m-7.6m proposed
 - South front setback 2m, >2m proposed, potential for all towers to shift south to provide greater separation to north and greater solar access for southern towers?
 - Tower Length - <50m required, N2 = 52.5m
 - Sleeved above ground parking – Only partly sleeved.
- Sustainability (8.2.6.5)
 - Heat rejection on balconies and not on roof.

Other

- VPA
 - Affordable housing has been conditioned.
 - Road Dedication has been conditioned.

3. Site Description, Location and Context

3.1 Site

The site is located to the north of Hope Street, approximately half way between its intersection with Hughes Avenue (to the west) and Wharf Road (to the east). The total site area is approximately 18,068m². The site slopes down significantly, a total of approximately 6.5m, from a height of 16.5m AHD to the north and a low of 10m AHD to the south-west.



Figure 1. Locality Map (subject site in red)

3.2 Site History

The site was predominantly used for farming and rural residential uses until the mid-20th century when it was developed for light industrial / warehouse uses, which continue to present time.

3.3 Site Improvements & Constraints

The area the subject of the proposed works has been cleared of the warehouses that previously occupied the site.

The site is affected by overland flow flooding.

The site is likely contaminated due to its previous industrial use.

The land is likely to contain Class 5 acid sulphate soils.

The preferred route of Parramatta Light Rail – Stage 2, at the time of writing, runs across the southern part of the site, parallel to Hope Street.

The immediately surrounding land is currently in industrial use.

3.4 Statutory Context

Melrose Park North

The site is part of a wider precinct that was subject to a Planning Proposal (PP) process which resulted in the desired future character of the area transitioning from its current industrial character to high density residential and mixed use. The PP (Council Ref: RZ/1/2016), known as Melrose Park North, resulted in revised LEP zoning, height and FSR controls as well as a new DCP, which contains the following masterplan for the site:



Figure 2. Parramatta DCP Masterplan for Melrose Park North (subject site in red)

A Transport Management and Accessibility Plan (TMAP) was developed as part of the Planning Proposal. The TMAP outlines upgrades to road infrastructure in the vicinity of the site that will be necessary as the number of new dwellings passes certain trigger points in order to ensure the new development is appropriately supported and will have no significant impacts on the wider road network.

Melrose Park South

In addition, there is also a related but separate PP (Council Ref: RZ/1/2020) for the industrial land to the south of Hope Street, known as Melrose Park South. The structure plan for the precinct is outlined in the figure below. A number of these sites are currently subject to site-specific DCP's and new LEP Planning controls.



Figure 3. Melrose Park South Precinct Structure Plan (adopted 16 December 2019).

4. The Proposal

4.1 Summary of the Proposal

- Excavation of 2 full and 2 part basement levels;
- Parking (in basement and podium levels):
 - 1,412 car parking spaces
 - 38 childcare
 - 574 retail
 - 189 commercial
 - 611 residential
 - 37 motorcycle parking spaces;
 - 247 residential bicycle parking spaces;
 - 150 commercial bicycle parking spaces; and
 - Storage.
- Construction of 5 storey (predominantly) commercial podium comprising:
 - Retail Premises
 - Business Premises
 - Office Premises
 - Medical Centre

- Centre-based Child Care Centre
- Indoor recreation facility
- 6 x 6-24 storey residential buildings above comprising 494 residential units,
 - 96 x 1-bed;
 - 336 x 2-bed;
 - 62 x 3-bed;
 - (inclusive of 49 adaptable units).
- Podium top residential communal open space;
- On-structure landscaping;
- Signage zones (21 x Business Identification Signs);
- Stratum subdivision of development lot into 6 parts:
 - Lot 1 – Commercial
 - Lot 2 – Retail
 - Lot 3 – Retail 2
 - Lot 4 – Residential North
 - Lot 5 – Residential South
 - Lot 6 – Future Light Rail Lot
- Strata subdivision
- Public Domain Works

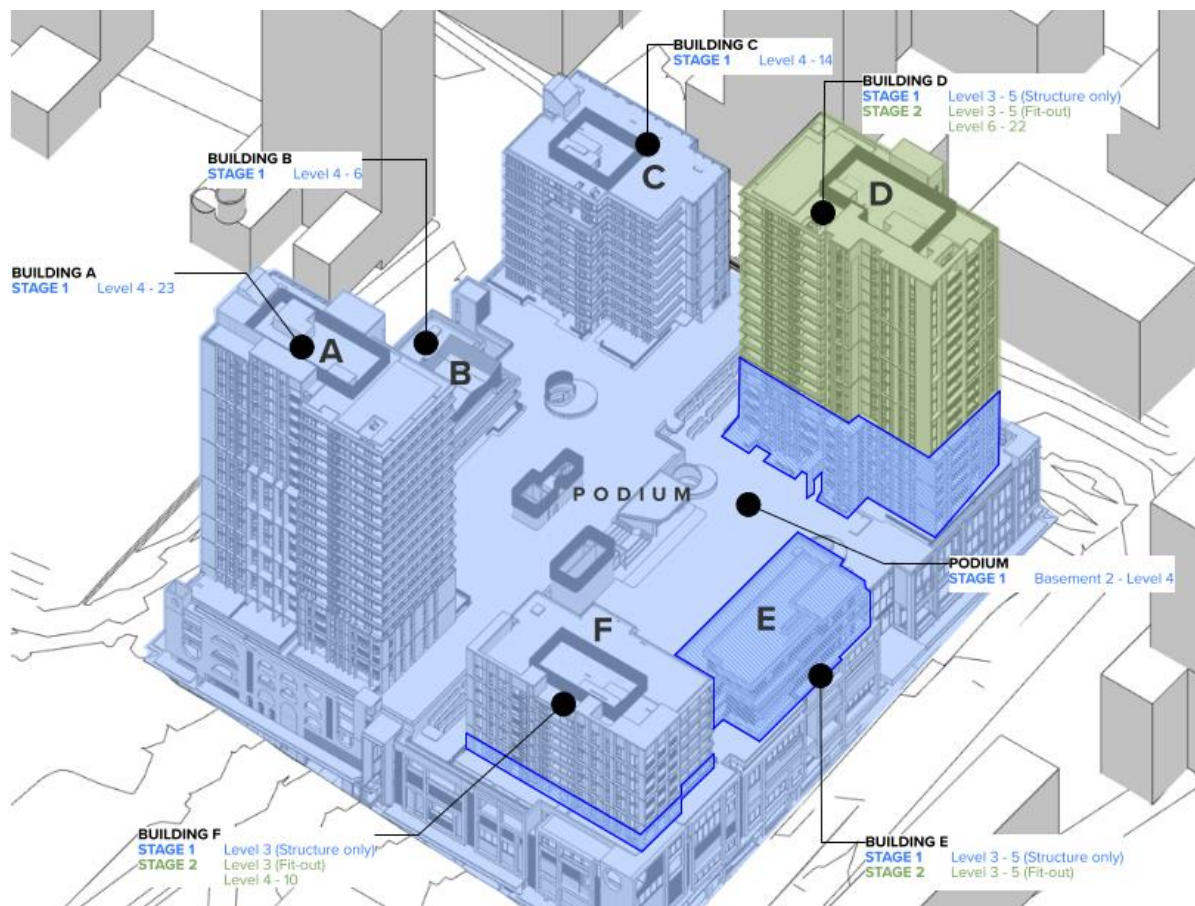


Figure 4. Proposed Building References and Staging Plan. (Building A in north-west corner of the site, and letters alphabetically clockwise)

The applicant seeks to construct the development in 2 stages:

- Stage 1: basement, commercial podium, residential buildings A, B and C in full, part of residential buildings D, E, F.
- Stage 2: remainder of residential building D, E, F

4.2 List of Amendments During Assessment

During the course of assessment, the applicant submitted revised drawings in response to concern's raised by internal and external stakeholders. These amendments have been outlined below:

- Various changes to the proposed signage zones resulting in an overall reduction in quantum of signage;
- Extended the lift core to Buildings B and E so they have direct access from the ground floor.
- The deletion of the vehicle repair station in the Basement 5 and replacing it with a car wash business;
- The deletion of the hospital and replacing it with non-descript commercial premises;
- The amendment of the Childcare Centre to sit wholly outside of the 131m gas pipeline zone of influence;
- Amended the external materials of the buildings to have more uniform external presentation as requested by Council's Urban Design Team;
- Slightly altered the unit mix;
- Included strata subdivision as part of the proposal;
- Amend the stratum subdivision plans to reflect the above changes.

5. Referrals

The following referrals were undertaken during the assessment process:

5.1 Design Excellence Advisory Panel

Parramatta's Design Excellence Advisory Panel reviewed the application on two occasions. The applicant proactively responded to the Panel's recommendations at each stage. The Panel are now largely supportive of the proposal. Their latest comments are provided in full at Attachment 2. The Panel's remaining concerns are addressed via conditions of consent.

5.2 Sydney Central City Planning Panel

The Panel did not raise any concerns at the briefing meeting 10 November 2022.

5.3 External

Authority	Comment
Transport for NSW (Traffic Generation Development and Parramatta Light Rail Stage 2)	Acceptable subject to conditions. Officer comment: Conditions included, however, these have been modified to reflect current status of PLR 2.
Endeavour Energy	Acceptable subject to conditions.
Department of Planning (Concurrence)	Concurrence has been provided pursuant to Clause 9.5 of PLEP2023.
Sydney Water	Acceptable subject to conditions.
Quantity Surveyor	The QS Report submitted estimated the cost of works at \$206,677,063 (inc. GST). The independent review estimated the cost of works to be \$300,610,024 (inc. GST), a significant difference of \$93,932,961 (45%). The applicant agreed to Council's QS figure.
Wind Consultant	Acceptable subject to conditions.
Environmentally Sustainable Design Consultant	Acceptable subject to conditions.
Reflectivity Consultant	Acceptable subject to conditions.

Viva Energy (Pipeline Operator)	<p>Correspondence between the applicant and VIVA have resulted in critical design changes to the initial development proposal. These design changes include the following:</p> <ul style="list-style-type: none"> • deletion of the hospital use and replacing it with additional commercial premises; • the reduction in size of the proposed Child Care Centre, which now sits outside of the required 131m zone of influence from the gas pipe; • Putting restrictions on the medical centre including hours of operation. <p>These design changes were referred to VIVA who now raises no objections to the development, subject to the imposition of conditions of consent.</p>
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5.4 Internal

Authority	Comment
Development/Catchment Engineer	Flood design and OSD generally acceptable subject to condition. Basement tanking required.
Tree & Landscape Officer	Acceptable subject to conditions
Traffic and Transport	Acceptable subject to conditions.
Environmental Health – Acoustic	Acceptable subject to conditions.
Environmental Health – Contamination	Acceptable subject to conditions.
Environmental Health – Waste	Acceptable subject to conditions.
Public Domain	Acceptable subject to conditions.
Civil Assets – Alignments	Acceptable subject to conditions.
Civil Assets – Waste	Acceptable subject to conditions.
Social Outcomes	Acceptable subject to conditions.
Public Art	Acceptable subject to conditions.
Accessibility	Acceptable subject to conditions.
Community Crime Prevention	Acceptable subject to conditions.
Land Use (Strategic) Planning	Acceptable.

6. Environmental Planning and Assessment Act 1979

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

6.1 Section 1.7: Application of Part 7 of Biodiversity Conservation Act 2016

The site is not known to be inhabited by any threatened species, populations or ecological communities, or their habitats.

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

The Sydney Central City Planning Panel is the consent authority for this application as the proposal has a Capital Investment Value of more than \$30 million.

6.3 Division 3.5: Planning Instrument Amendments and Development Applications

Section 3.38 prescribes that:

- (1) *This Division applies if a development application is made to a consent authority to carry out development this may only be carried out if an environmental planning instrument applying to the land on which the development is proposed to be carried out is appropriately amended.*
- (3) *A reference in this Division to the appropriate amendment of an environmental planning*

instrument includes a reference to the making of an appropriate principal environmental planning instrument.

Additionally, Section 3.39 prescribes the following:

Nothing in this Act prevents –

- (a) The making of a development application to a consent authority for consent to carry out development that may only be carried out if an environmental planning instrument applying to the land on which the development is proposed to be carried out is appropriately amended, or*
- (b) The consideration by a consent authority of such a development application,*

Subject to this Division.

The subject site is part of a wider precinct that was subject to a Planning Proposal (PP) process (Council Ref: RZ/1/2016) which resulted in revised LEP zoning, height and FSR controls as well as a new DCP.

This application was lodged on 28 September 2022, whilst Parramatta Local Environmental Plan 2011 (PLEP2011) was still in effect. On 2 March 2023, PLEP2011 was repealed and replaced with Parramatta Local Environmental Plan 2023 (PLEP2023). On [Insert date here], the amendments as exhibited under the PP were adopted into PLEP2023.

Although this application was lodged prior to PLEP2023 being adopted, it was lodged in anticipation of the required amendments being made. As PLEP2011 has since been repealed, this application has been assessed against the amended provisions of PLEP2023, pursuant to Section 3.39(a) and (b) of the Act.

6.4 Section 4.15: Evaluation

This section specifies the matters that 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	Not applicable
Section 4.15(1)(a)(iii) – Development control plans	Refer to section 8
Section 4.15(1)(a)(iiia) – Planning Agreement	Refer to section 9
Section 4.15(1)(a)(iv) – The Regulations	Refer to section 10
Section 4.15(1)(a)(v) – Coastal zone management plan	Not applicable.
Section 4.15(1)(b) – Likely impacts	Refer to section 11
Section 4.15(1)(c) – Site suitability	Refer to section 12
Section 4.15(1)(d) – Submissions	Refer to section 13
Section 4.15(1)(e) – The public interest	Refer to section 14

Table 2: Section 4.15(1)(a) considerations

7. Environmental Planning Instruments

7.1 Overview

The instruments applicable to this application comprise:

- SEPP (Transport and Infrastructure) 2021
- SEPP (Planning Systems) 2021
- SEPP (Biodiversity and Conservation) 2021
- SEPP (Resilience and Hazards) 2021
- SEPP (Industry and Employment) 2021
- Parramatta Local Environmental Plan 2023
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP No. 65 (Design Quality of Residential Apartment Development)

Compliance with these instruments is addressed below.

7.2 State Environmental Planning Policy (Transport and Infrastructure) 2021

The proposal meets the following triggers which constitute 'traffic generating development' (per Schedule 3 of the SEPP):

- 200 or more car parking spaces
- >10,000sqm commercial GFA
- >300 dwellings
- >2,000sqm shops GFA

As such, the proposal was referred to TfNSW, who provided conditions of consent.

The site is in close proximity to the draft tram route outlined in the PLR2 Environmental Impact Statement. Clause 2.99 of the SEPP requires concurrence from TfNSW

The Parramatta Light Rail Stage 2 corridor runs across the southern portion of the site. Clause 2.99 of the SEPP requires concurrence from the relevant rail authority for any development including excavation of land to a depth of 2m within 25m of any rail corridor. However, as the PLR2 corridor is not yet officially protected, concurrence is not required. Notwithstanding, the proposal was referred to TfNSW, who provided conditions of consent.

The site is also in close proximity to a district gas pipeline which runs under Hope Street. Clause 2.76 of the SEPP requires written notice be provided to the pipeline operator, which in this case is Viva Energy. As a result of the correspondence between the applicant and Viva Energy, the proposal was amended to remove the sensitive land uses outside of the prescribed 131m buffer from the gas pipe. The amended proposal was referred to Viva, who has raised no objection, subject to the imposition of conditions of consent.

7.3 State Environmental Planning Policy (Planning Systems) 2021

As this proposal has a Capital Investment Value of more than \$30 million, Part 2.4 of this Policy provides that the Sydney Central City Planning Panel is the consent authority for this application.

7.4 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 of this Policy, which applies to the whole of the Paramatta local government area, controls clearing of vegetation in non-rural areas. The proposal includes no tree removal.

Chapter 10 of this Policy, which applies to the whole of the Parramatta local government area, 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. The proposal includes water treatment devices for stormwater.

7.5 State Environmental Planning Policy (Resilience and Hazards) 2021

As outlined in the site history section, the site was used for agricultural and rural residential uses until the mid-20th century when it was converted to light industrial uses.

The applicant has submitted a site audit statement which outlines that the site is suitable for the following uses:

- Day care centre, preschool, primary school
- Medical Centre
- Residential (with minimum opportunity for soil access, including units)
- Commercial
- Park, Recreational Open Space, Playing Field
- Road and Retail

Council's Environmental Health team reviewed the application and considers the site is suitable for the proposed uses and recommended several conditions.

7.6 State Environmental Planning Policy (Sustainable Buildings) 2022

The application is accompanied by a 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. Nonetheless, a condition will be imposed to ensure such commitments are fulfilled during the construction of the development.

7.7 SEPP (Industry and Employment) 2021

Chapter 3 'Advertising and Signage' of SEPP (Industry and Employment) 2021 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 proposed development includes the following business identification signage zones:

- North Elevation:
 - 2 x Wall, 1st floor (1.9m H x 8.1m W)
 - 2 x Under Awning, ground floor (0.6m H x 3.0m W)
 - 1 x wall, 3rd floor (1.9m H x 1.9m W)
- East Elevation:
 - 1 x Wall, 4th floor (3.9m H x 6.9m W)

- 1 x Wall, 2nd floor (1.8m H x 6.9m W)
- 1 x Banner Sign, 1st Floor (13.2m H x 2.4m W)
- 1 x Wall, 2nd floor (2.7m H x 5.2m W)
- 1 x Wall, 2nd-3rd floor (9.5m H x 1.6m W)
- South Elevation:
 - 1 x Wall, 1st-2nd floor (6.8m H x 3.7m W)
 - 1 x Wall, 2nd floor (2.3m H x 10m W)
 - 1 x Wall, 1st-2nd floor (5.7m H x 9.6m W) – seem to be in windows
 - 1 x Fascia, 1st floor (1.3m H x 4.6-10.0m W)
 - 1 x Fascia, ground floor (0.7m H x 4.7m W)
- West Elevation:
 - 1 x Wall, 4th floor (1.9m H x 1.9m W)
 - 1 x Wall, 2nd floor (4.3m H x 5.3m W)
 - 1 x Banner Sign, (16.5m H x 2.4m W)
 - 1 x Wall, 2nd floor (1.2m H x 4.9 W)
 - 1 x Wall, 1st floor, (7.1m H x 4.7m W)
 - 1 x Wall, 3rd floor (4.7m H x 1.6m W)

Clause 3.6 of the SEPP requires assessment of the signage zones against the objectives of the policy and the Schedule 5 Assessment Criteria. An assessment is provided below:

Aims and Objectives

With the exception of three signage zones that are conditioned to be removed, the proposed signage zones are compatible with the desired amenity and visual character of the area and are in suitable locations. The effectiveness and quality of the design and finish will be addressed at future detailed stage. As such, the proposal is consistent with the aims and objectives of section 3.6 of the SEPP.

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?	Yes. The site is located in an area zoned local centre. Business Identification Signage is considered to be compatible with the zoning.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	N/A. There is no identifiable or legislative theme for advertising in the area.
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>The site is not located in the vicinity of any environmentally sensitive areas, heritage areas, conservation areas, waterways or rural landscapes.</p> <p>Large parts of the northern and western elevations are adjacent open space areas. The eastern part of the northern elevation and part of the western elevations are adjacent residential areas. As such it may be appropriate to limit signage on these facades, particularly illuminated signage. A condition is included requiring illumination of the signage facing the park and residential areas be limited to 8am to 10pm.</p>

3. Views and Vistas	
Does the proposal obscure or compromise important views?	The majority of the signs are located on the face of the building, however, the proposed banner signs on the eastern and western elevations protrude from the building and would obscure views of the river from NSR-2 and 3 and as such are not considered to be appropriate. They have been conditioned to be removed.
Does the proposal dominate the skyline and reduce the quality of vistas?	The majority of the signage is within the envelope of the podium and as such does not dominate the skyline.
Does the proposal respect the viewing rights of other advertisers?	There are no other advertisers in the vicinity.
4. Streetscape, setting or landscape	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale of signage is consistent with the E1 locality. Whilst it is located adjacent residential land uses, the proposal is considered to be acceptable given the size of the building.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	Yes.
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?	All signage is located on the face of the building and considered acceptable, with the exception of the banner signs which are conditioned to be deleted.
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?	The location, number and size of signage are generally situated at the edge of the elevations or above the main entrances of the through site links. That is considered to be appropriate and compatible.
Does the proposal respect important features of the site or building, or both?	No, one of the signs on the southern elevation appears to be proposed within a window frame, which is not considered to be appropriate. A condition has been imposed to remove this sign.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	Subject to future detail application.
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?	No.
7. Illumination	
Would illumination result in unacceptable glare?	No, subject to condition restricting lighting to between 8am and 10pm, and maximum luminance.
Would illumination affect safety for pedestrians, vehicles or aircraft?	No, subject to condition requiring no flashing lights or moving images.
Would illumination detract from the amenity of any residence or other form of accommodation?	No, subject to curfew above.
Can the intensity of the illumination be adjusted, if necessary?	Yes, subject to condition
Is the illumination subject to a curfew?	Yes, as above.

8. Safety	
Would the proposal reduce the safety for any public road?	No, subject to condition requiring no flashing lights or moving images.
Would the proposal reduce the safety for pedestrians or bicyclists?	No, the signs are within the envelope of the building or above ground level.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No, the signs are within the envelope of the building or above ground level.

As such the size and location of proposed signage zones are considered to be acceptable, subject to the imposition of conditions of consent as detailed above. Regardless, a future DA for the detailed signage design will still be required.

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

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

Design Quality Principles

A design statement addressing the quality principles prescribed by SEPP 65 was prepared by the project architect and submitted with the application. The proposal is considered to be consistent with the design principles for the reasons outlined below:

Requirement	Council Officer Comments
Principle 1: Context and Neighbourhood Character	<p>The area is currently characterised by industrial and low-density residential uses. The site is zoned E1 Local Centre and its planning controls envisage high density mixed use development. The proposal is consistent with this desired future character of the area.</p> <p>As the proposal is required to provide 30,000sqm of commercial floor space, and as anticipated by the DCP, the typology of a podium to all frontages with towers above, is considered to be appropriate.</p> <p>The buildings have been reviewed by Council's Design Excellence Advisory Panel, a trio of architectural and landscaping experts, and have been generally found to be acceptable. As such the proposal is considered to establish a good precedent for the future neighbourhood character.</p> <p>The proposal provides for high quality landscape treatments that would provide for an upgrade to the neighbourhood character.</p>
Principle 2: Built Form and Scale	<p>The built form is consistent with the built form anticipated by the DCP.</p> <p>The buildings are considered to be sufficiently modulated to add visual interest and reduce apparent bulk.</p> <p>As a result of the material changes, Council's Urban Design and Public Domain team consider the development to have an acceptable presentation to each street frontage.</p>
Principle 3: Density	<p>The density of the proposal is consistent with the floor space distribution anticipated under the DCP GFA Allocation map.</p> <p>The provision of retail and commercial facilities on site will provide for many of the needs of the proposed residential population, including employment opportunities.</p> <p>The associated infrastructure DA and VPAs applicable to the site set out</p>

Requirement	Council Officer Comments
	appropriate supporting infrastructure for the proposal, including roads and open space.
Principle 4: Sustainability	<p>The proposal meets the relevant BASIX requirements.</p> <p>The proposal also includes photovoltaics at roof level.</p> <p>The application was referred to an external ESD consultant who raised no objection to the application, subject to the imposition of conditions of consent.</p>
Principle 5: Landscape	This development proposed is consistent with the objectives of the Parramatta DCP and provides on-structure planting and setback planting to create an appropriate landscape setting.
Principle 6: Amenity	Generally, the proposal as amended is considered to be satisfactory in this regard, optimising internal amenity through appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, outlook, efficient layouts and service areas.
Principal 7: Safety	<p>The proposal is considered to provide appropriate safety for occupants and the public for the following reasons:</p> <ul style="list-style-type: none"> • The proposal provides additional passive surveillance to the surrounding street network. • The central open space is above street level and as such would be difficult to access externally. • The vehicular entries have security gates. • The entry lobbies will provide appropriate access. • Landscaping is used to demarcate public and private spaces.
Principal 8: Housing Diversity and Social Interaction	<p>The proposal provides additional housing choice in close proximity to planned public transport.</p> <p>The proposal provides adaptable and liveable accommodation in a variety of sizes.</p> <p>The large podium-top communal open space would provide for social interaction, including a communal multi-purpose space.</p> <p>The associated VPA requires that 6 affordable housing units be provided. This has been imposed as a condition of consent to ensure delivery of the affordable units.</p>
Principle 9: Aesthetics	The proposed development is considered to be appropriate in terms of the composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the resultant building. The proposed building is considered to aesthetically respond to the environment and context, contributing in an appropriate manner to the desired future character of the area.

Design Review Panels

The proposal was referral to Council's Design Excellence Advisory Panel. See Attachment 2 for their comments.

Apartment Design Guide

The relevant provisions of the ADG are considered within the following assessment table:

Standard	Requirement	Proposal	Compliance
Part 3			
3B-1: Orientation	The preferred location and orientation of towers is set out in the Melrose Park North DCP. The layouts were developed to maximise sunlight protection whilst minimising wind and noise impacts. The proposal is generally consistent with these controls. The proposed buildings provide new through site connections and reinforce a high-density urban streetscape. A variety of communal and public open spaces at street and podium level receive solar access in mid-winter at different times of the day between 9am and 3pm. The podium form steps down with the land.		
3B-2: Overshadowing	The developments heights and setbacks are generally consistent with the Melrose Park North DCP, which has identified where the towers are to be located and orientated to ensure the overshadowing impacts on the adjoining buildings and the future open spaces will be minimised. The proposal will primarily overshadow the industrial sites opposite Hope Street. These industrial lands are part of the Melrose Park South Planning Proposal seeking to implement high density residential development. The built form for this future stage is in the preliminary stages and as such it is difficult to provide an assessment of the likely impact.		
3C: Public Domain Interface	<p>The building would contribute positively to the Melrose Park interface by maximising activation and providing high quality materials, street trees and outdoor dining along the Hope Street and Central Park interfaces.</p> <p>Further, the public domain materials are in keeping with the requirements of Parramatta's Public Domain Guidelines.</p> <p>The residential lobbies are also distinctly separate from the retail uses, but still benefit from the activation the retail uses provide.</p>		
3D: Communal & Public Open Space	Min. 25% of site area (4,517m ²)	35% (6,341m ²) of residential communal open space is provided at level 3 and 4.	Yes
	Min. 50% direct sunlight to main communal open space for minimum two (2) hours 9:00am & 3:00pm, June 21 st	50-60% will receive 2 hours of sunlight in midwinter between 11am and 1pm.	Yes
	The landscape plan outlines undercover areas, bbqs, open air seating areas, and a variety of soft and hard landscaping which is considered to provide good amenity for future occupants.		
3E: Deep Soil	Min. 7% with min. dimensions of 6m (1,265m ²)	858m ² (4.7%)	No, but acceptable.
	<p>The proposal only provides 4.7% and does not comply with the ADG.</p> <p>However, the non-compliance is considered to be acceptable for the following reasons:</p> <ul style="list-style-type: none"> The podium level provides non-residential uses at ground floor level and above. Alternative forms of on structure planting has been provided. The proposed development is for a dense urban town centre where deep soil zones are not necessarily appropriate. 		

Standard	Requirement			Proposal			Compliance
3F: Visual Privacy	Height (storeys)	Hab	Non-Hab	Buildings	Req.	Prop.	
	<4	6m	3m	A-B	12m	12.5m	Yes
	5-8	9m	4.5m	B-C	18m	21.1m	Yes
	>9	12m	6m	C-D	24m	24.0m	Yes
				D-E	18m	20.9m	Yes
				E-F	12m	10.1m	No (minor)
				F-A	24m	22.9m	No (minor)
				The buildings are more than 24m from the built form envisaged for adjoining sites.			Yes
	<p>The proposal generally complies with the appropriate building separation distances to facilitate visual privacy between apartments.</p> <p>Building separation is generally consistent with ADG guidelines as required by the Melrose Park DCP and varies between 10.1m to 22.9m. Building separation for the residential low rise buildings and towers have been assessed from the podium levels due to the 5-storey podium height and mixed use nature of the development.</p> <p>Privacy glazing, screening and buffer landscaping have been conditioned on the western elevation of Building E to mitigate the reduced building separations.</p>						
3G: Pedestrian Access and Entries	<p>The proposal includes clearly demarcated, easily identifiable, at-grade pedestrian entrances.</p> <p>The residential entry for Building C is located on the eastern elevation of the subject site within proximity to the residential driveway. Whilst it is located within 3m of the driveway, a condition has been imposed to ensure adequate bollards and protective measures are provided for the safety of pedestrians and future occupants.</p> <p>Each residential core connects to Ground Floor activating the public domain and increasing surveillance and movement through the site.</p> <p>A condition of consent has also been imposed requiring a visitor management plan to be submitted to the PCA to ensure that the residential visitor parking on Mezzanine 1 can be utilised by all residential towers.</p>						
3H: Vehicle Access	<p>The entry/exit point for carparks are located on NSR2 & NSR3 to allow movement of traffic and avoid conflicts with pedestrian routes. The commercial loading dock is located on NSR2 and is separated from Retail and Residential parking driveways.</p> <p>As mentioned above, the residential entry for Building C is located on the eastern elevation of the subject site within proximity to the residential driveway. Whilst it is located within 3m of the driveway, a condition has been imposed to ensure adequate bollards and protective measures are provided for the safety of pedestrians and future occupants.</p>						
3J: Bicycle and car parking	The site will have a future light rail stop to the south, however the DCP control for Melrose Park has a maximum parking rate which prevails.			See DCP car parking assessment.			N/A
	Car share required			Provided.			Yes
	Bicycle storage assessment is located in the DCP section below.			See DCP bicycle parking assessment.			N/A

Part 4			
4A: Daylight / Solar Access	At least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter	347 out of 494 apartments (70%) receive 2 hours to balcony <i>and</i> internal between 9am and 3:30pm. The additional half an hour	Yes
	Max 15% apartments receiving no direct sunlight 9am & 3pm mid-winter (<75)	6 out of 494 apartments (1.2%)	Yes
4B: Natural Ventilation	Min. 60% of apartments below 9 storeys naturally ventilated (>117)	118 out of 196 apartments (60%)	Yes
	Due to the podium level and tower configuration of the development, in lieu of calculating the cross ventilation for the first 9 storeys of the building, the benchmark of 30.5m has been set. This is because 30.5m equates to the typical height of a 9-storey development. This approach is considered acceptable since the units above the 30.5m benchmark should be at a height that does not require cross ventilation apartment layouts.		
4C: Ceiling heights	Min. 2.7m habitable	3.2m floor to floor, 3.0m ceiling height	Yes
	Min 2.4m non-habitable	3.0m	Yes
	Min 3.3m for mixed use	3.0m-7.2m for commercial	No, but acceptable.
	The 3m floor to ceiling height is only limited to the mezzanine level and is considered to be acceptable.		
4D: Apartment size & layout	1B – Min 50m ²	1B–min 50m ²	Yes
	2B – Min 75m ² (2 baths)	2B–min 75m ²	Yes
	3B – Min 95m ² (2 baths)	3B–min 103m ²	Yes
	All rooms to have a window in an external wall with a 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 (7.5m)	Complies	Yes
	Max. habitable room depth from window for open plan layouts: 8m.	<8.8m	No (minor)
	Min. internal areas: Master Bed - 10m ²	Complies	Yes
	Other Bed - 9m ²	Complies	Yes
	Min. 3m dimension for bedrooms	>9m ²	Yes
	Min. width living/dining: • 1B – 3.6m • 2B – 4m • 3B – 4m	>3.6m >3.8m >4m	Yes No (minor) Yes
The dimensional non-compliances relate only to a small percentage of units. The non-compliances are considered to be minor and do not unacceptably compromise the amenity of future occupants.			

4E: Private open space & balconies	Min. area/depth: 1B - 8m ² /2m 2B - 10m ² /2m 3B - 12m ² /2.4m Courtyard – 15m ² /3m	Complies Complies Complies Complies	Yes Yes Yes Yes
	Principle private open spaces are provided off living rooms with secondary access from bedrooms where possible	Compliant	Yes
	Max. apartments –off circulation core on single level: 8-12	5-9	Yes
4F: Common circulation & spaces	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	All buildings have 2 or 3 lifts	Yes
	Corridors >12m length from lift core to be articulated.	Not articulated (all straight)	No (acceptable, due to below)
	The corridors are also provided with extra width and natural light and ventilation.	Each core has natural light and ventilation.	Yes
4G: Storage	Min. 50% required in units (1496m ³)	Storage provided in apartments and there is space for carpark storage provided in the residential visitor parking level. A condition of consent will be imposed to ensure the adequate quantum of storage is provided.	Yes
4H: Acoustic Privacy	The proposal has generally been designed so that like-use areas of the apartments are grouped to avoid acoustic disturbance where possible. Noisier areas such as kitchens and laundries are designed to be located away from bedrooms where possible.		
4J: Noise and pollution	<p>Apartments are setback from podium edges. Loading and waste collection is provided internally to minimise noise. Plant areas have been located away from apartments and will be treated with acoustic attenuators as recommended by the acoustic report. Noisy areas at ground floor are recessed below awnings and/or separated by landscaped zones.</p> <p>The application includes an acoustic report which recommends construction methods/materials/treatments to be used to meet the criteria for the site, given both internal and external noise sources including outdoor dining, childcare uses and the proximity to the future light rail line. A condition is included requiring the implementation of the report's recommendations.</p>		
4K: Apartment Mix	The proposed units vary in size, amenity, orientation and outlook to provide a mix of options for future residents. A variety of apartments sizes are provided across all levels of the apartment building as per the Melrose Park DCP unit mix requirements.		
4M: Facades	<p>There are a number of façade treatments, to distinguish different uses and respond to the environment. Materials have been selected in response to the local context brick, steel and off-form concrete are used within the development to relate to the existing character of the area.</p> <p>To maximise depth in the facades a condition is included requiring that all windows have minimum 150mm reveals.</p> <p>The façades are integrated with landscaping to provide a green and appropriate amenity development.</p>		

4N: Roof design	Solar PV panel arrays are proposed for the roof of towers A and D. Roof design maximises solar access to apartments during winter and provides shade during summer via overhangs that shade walls and windows from summer sun.		
4O: Landscape Design	The application includes a landscape plan, which demonstrates that the proposed development will be adequately landscaped. The proposal includes green roofs and extensive podium landscaping providing high quality communal open spaces for future residents.		
4P: Planting on structures	The landscape drawings outline that planting on structures would have adequate soil depth to accommodate good quality planting.		
4Q: Universal Design	Universal design features are included in apartment design to promote flexible housing for all community members. Developments achieve a benchmark of 20% of the total apartments incorporating the Livable Housing Guideline's silver level universal design features.	The development achieves 20% of the total apartments incorporating the Livable Housing Guideline's silver level universal design features.	Yes
4S: Mixed Use	The proposal is considered to provide an appropriate mix of uses given the zoning and desired future character of the area.		
4T: Awnings and Signage	As per the Melrose Park DCP sun and rain protection is provided along all of the elevations including the north and south elevations which will provide activation to the park and light rail station. Some commercial/retail signage is proposed which has been designed in to the building.		
4U: Energy Efficiency	The BASIX Certificate demonstrates the development meets the pass mark for energy efficiency (Score: 31, Target: 25).		
4V: Water management	The BASIX Certificate demonstrates that the development exceeds the pass mark for water conservation (Score: 41, Target: 40).		
4W: Waste management	<p>All units are provided with sufficient areas to store waste/recyclables internally before disposal. Waste chutes, with associated collection rooms in the basement, are provided in each building core. From there waste will be transported to the main waste storage room adjacent the service bay. Recycling bins will be located on each floor, adjacent each waste chute. From there recycling will be transport to the main waste storage room adjacent the service bay. Waste will be collected off-street from the servicing area. Appropriate conditions are included to ensure smooth maintenance and operations of the waste management system.</p> <p>A waste management plan has been prepared by a qualified consultant, demonstrating compliance with Council's waste controls. All residential and commercial units are to be provided with sufficient areas to store waste/recyclables.</p>		
4X: Building maintenance	The proposed materials are considered to be sufficiently robust, minimising the use of render and other easily stained materials.		

7.9 Parramatta Local Environmental Plan 2023

As discussed under Section 6.3 above, this development application was lodged when PLEP2011 was still in effect in anticipation of a PP (RZ/1/2016) amending the legislation to rezone the land and update the FSR/HOB controls.

On 2 March 2023, PLEP2011 was repealed and replaced with PLEP2023, which included a savings provision as prescribed below:

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

Note—

However, under the Act, Division 3.5, a development application may be made for consent to carry out development that may only be carried out if the environmental planning instrument applying to the relevant development is appropriately amended or if a new instrument, including an appropriate principal environmental planning instrument, is made, and the consent authority may consider the application. The Division requires public notice of the development application and the draft environmental planning instrument allowing the development at the same time, or as closely together as is practicable.

On 10 November 2023 the amendments pursuant to the PP were adopted by PLEP2023. In that regard, despite the savings provision, the relevant objectives and requirements of the PLEP2023, as amended, have been considered in the assessment of the development application and are contained within the following table.

Development standard	Proposal	Compliance
2.3 Zoning E1 – Local Centre	The proposed uses, outlined below, are permissible with development consent in the zone. <ul style="list-style-type: none"> • Shop-top Housing • Retail Premises • Business Premises • Office Premises • Medical Centre • Centre-based Child Care Centre • Indoor recreation facility 	Yes
Zone Objectives	The proposal is considered to be in keeping with the objectives of the E1 Local Centre zone for the following reasons: <ul style="list-style-type: none"> • The proposal provides a range of retail, business and community uses that will serve the needs of the people who live, work and visit the area. • Encourages investment in local commercial development that generates employment opportunities and economic growth. • Enables residential development that contributes to vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area. • Encourages business, retail, community and other non-residential land uses on the ground floor of buildings. • Ensures the scale and type of development does not adversely affect the amenity of the surrounding neighbourhood. 	Yes
4.1 Minimum Subdivision Lot Size No minimum specified for site	N/A	N/A
4.3 Height of Buildings 95m	<88.1m	Yes
4.4 Floor Space Ratio 1.85:1 (x18,068sqm site) = 33,425.80sqm GFA	Residential: 43,587sqm Non-Residential: 30,001sqm 73,602sqm (4.07:1)	No, please refer to Clause 4.6 discussion below.

Development standard	Proposal	Compliance
4.6 Exceptions to Development Standards	<p>Clause 4.4 'FSR' – As part of the planning proposal process a Gross Floor Area (GFA) map was developed as part of the DCP to distribute the gross floor area generated by the wider precinct. The distribution is based on achievement of the built form anticipated by the DCP. While the proposal exceeds the allowable FSR based on the area of the site, it is consistent with the distribution of floor space approved in the GFA map. Notwithstanding, the applicant has provided a clause 4.6 variation request which is assessed at the end of this table.</p> <p>The Clause 4.6 variation request is considered to be well founded in that it has demonstrated that there are site-specific reasons for contravening the development standards.</p>	Yes
5.10 Heritage conservation	The site is not heritage listed and is not in the vicinity of any heritage items.	N/A
5.21 Flood Planning	<p>The site is not directly affected by fluvial flooding but is subject to overland flow.</p> <p>The applicant has undertaken overland flow analysis and has designed the proposed floor levels to be at or above the adopted flood planning level. As such the proposal is considered to adequately respond to the risk.</p>	Yes
6.1 Acid Sulfate Soils	The proposal is above 5m AHD and is not likely to lower the water table.	N/A
6.2 Earthworks	<p>A significant drop in elevation occurs between Victoria Road and Hope Street. The intervening block, of which the subject site is a part, has historically been locally flattened into a series of steps to provide for large warehouses and factory buildings. The desired future character of mixed use and residential development, and the associated road network, requires that this stepping be flattened to achieve a consistent shallower gradient to maximise accessibility. As part of the associated infrastructure development application, the road levels were set. The proposal matches the levels approved for the surrounding roads.</p> <p>The applicant has demonstrated that the proposal would have an acceptable impact on drainage patterns.</p> <p>The fill is sufficiently setback from the nearest adjoining residential properties so as not to impact their amenity. The closest residential properties are located on Hughes Avenue over 130m from the western extent of the site and Wharf Road over 225m from the eastern extent of the site. As such, the proposal is considered to have an acceptable impact on the amenity of adjoining and nearby properties.</p> <p>The potential for disturbing archaeology relics is covered by the recommended condition of consent provided by the Office of Environment and Heritage.</p> <p>The proposal includes the relevant sediment controls plans. Further sediment control conditions are included in the draft consent.</p>	Yes

Development standard	Proposal	Compliance
6.12 Ground floor development in Zone E1	The commercial podium does not have any residential uses at the ground floor facing the street, with the exception of entrance lobbies, access for fire services and vehicular access.	Yes
9.2 GFA for Residential and Non-Residential Purposes		
>30,000sqm non-residential	30,001sqm	Yes
Residential GFA all Area 1 buildings <434,023sqm	Area 1 total residential GFA total after development: 43,587sqm (subject development is the first development with residential GFA in the area)	Yes
9.4 Design Excellence	The proposal was referral to Council's Design Excellence Advisory Panel. See Attachment 2 for their comments. In that regard, the proposal satisfies the requirements of this clause and consent can be granted.	Yes
9.5 Concurrence		
Concurrence of Planning Secretary required	Concurrence has been provided.	Yes

7.9.1 Clause 4.6 Variation Assessment – Floor Space Ratio

Clause 4.6 of PLEP 2011 allows the consent authority to provide an appropriate degree of flexibility in applying certain development standards, where flexibility would achieve better outcomes.

Clause 4.6(1) – Objectives of clause 4.6

The objectives of this clause are:

- “(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances”*

Clause 4.6(2) – Operation of clause 4.6

The operation of clause 4.6 is not limited by the terms of Clause 4.6(8) of this LEP, or otherwise by any other instrument.

Floor Space Ratio Variation Request

The proposal does not comply with the Clause 4.4 ‘Floor Space Ratio’ development standard, as outlined in the table above and as such the applicant has submitted a request to vary the FSR standard under Clause 4.6 of the PLEP 2011.

Clause 4.6(3) - The Applicant's written request

Clause 4.6(3) requires that the applicant provide a written request seeking to justify contravention of the development standard. The request must demonstrate that:

- “(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
(b) there are sufficient environmental planning grounds to justify contravening the development standard.”*

The applicant has provided the following environmental planning grounds to justify the non-compliance with the development standard (relevant extracts provided). The full request is included at Attachment 4.

- *The floor space ratio control of 1.85:1 is applicable to the entire Melrose Park North precinct and is based on a total density for development within the entire precinct. Part 4.3.10.2.2 of the Parramatta Development Control Plan 2011 specifically identifies that individual sites are likely to have differing FSRs based on the GFA allocated to that particular site, noting that the objectives of this part are to:*
 - *0.01 Regulate the density of development identifying a maximum GFA for lots, resulting from the maximum floor space ratio in the PLEP 2011.*
 - *0.02 Ensure development floor plate sizes and building footprints are not excessive.*
- *Figure 4.3.10.2 of the Parramatta Development Plan 2011 specifically identifies a total Gross Floor Area available for the subject site of 73,596 square metres and the proposal is compliant with this provision. Moreover, Figure 4.3.10.2 of the Parramatta Development Plan 2011 and Clause 9.2(2) of the PLEP 2011 mandates a minimum of 30,000 square metres of gross floor area for non-residential purpose, which alone would result in an FSR of 1.66:1 without any residential gross floor area.*
- *The proposed built form, including the arrangement and height of buildings above the podium is exactly as anticipated by Part 4.3.10.22 of the Parramatta Development Control Plan 2011 and therefore the FSR variation does not result in unexpected impacts or a development outcome beyond that which has been planned for the site after many years and a rigorous strategic planning process.*
- *The site has the demonstrated environmental capacity to support the proposed density, noting that it is exceptionally well located with immediate proximity to a future light rail station. In addition, the site is also within a precinct has been ear marked for significant jobs and housing. Therefore, it is critically important to ensure that this significant landholding optimises the delivery of housing and employment floor space to support this growth, within the identified urban design framework for the site.*
- *The proposal will deliver a high quality transit orientated development that will increase the vibrancy of the precinct.*
- *The density proposed does not prevent achievement of the 9 principles of SEPP 65.*
- *There are no unanticipated impacts in terms of shadow, view, visual and acoustic privacy impacts resulting from the proposed variation to the floor space ratio development standard which would warrant strict compliance.*
- *The proposed density will not result in an unacceptable impact on local traffic conditions as discussed in the Traffic and Parking Assessment prepared by JMT Consulting which accompanies the application.*
- *The proposed density is generally as anticipated by the TMAP which informed the Planning Proposal and Gross Floor Area allocation to the subject site under Part 4.2.10.2.2 of the Parramatta Development Control Plan 2011.*
- *The proposed variation allows to site to optimise the delivery of housing and employment floor space in an ideal location within the demonstrated environmental capacity of the site and the proposed variation therefore allows for the most efficient and economic use of the land.*
- *Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public.*
- *Having regard to the planning principle established in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191 most observers would not find the proposed development offensive, jarring or unsympathetic to its location and the proposed development will be compatible with its context.*

An assessment to determine whether compliance with the standard is ‘unreasonable and unnecessary’ has been undertaken. It is considered that there are ‘sufficient planning

grounds' to support the variation and recommend the variation be approved for the following reasons:

Unreasonable and Unnecessary

An assessment against the relevant case law established in the NSW Land and Environment Court has been undertaken below. These cases establish tests to assist in determining whether a variation under Clause 4.6 of an LEP is acceptable and whether compliance with the standard is unreasonable or unnecessary.

Wehbe v Pittwater Council

Case law in the NSW Land & Environment Court has considered circumstances in which an exception to a development standard may be well founded. In the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827 the presiding Chief Judge outlined the following five (5) circumstances:

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

Floor Space Ratio Objectives	Proposal
(a) To ensure buildings are compatible with the bulk, scale and character of existing and desired future development in the surrounding area	The built form is consistent with the desired future strategic planning intent of the precinct, as evidenced by compliance with the DCP density and built form requirements.
(b) to regulate density of development and generation of vehicular and pedestrian traffic,	The density of development is consistent with the strategic planning intent of the precinct, as evidenced by compliance with the DCP GFA allocation and parking standards.
(c) to provide a transition in built form and land use intensity within the area covered by this Plan,	The built form is consistent with the strategic planning intent of the precinct, as evidenced by compliance with the DCP building envelope diagrams.
(d) to require the bulk and scale of future buildings to have regard to heritage sites and their settings,	The site is not located in the vicinity of any heritage items.
(e) to reinforce and respect the existing character and scale of low density residential areas.	The site is well separated from existing low density residential areas (130m to west, 225m to east).

2. *The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*

The applicant does not challenge that the underlying objectives are not relevant.

3. *The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable*

If compliance was required, the built form and density anticipated by the DCP could not be achieved. The DCP outcomes are the 'underlying objectives' and as such strict compliance with Clause 4.4 of the LEP would thwart them.

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

The applicant does not contend that the floor space ratio standard has been abandoned.

5. *The zoning of particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant does not challenge that the zoning is inappropriate or that the standard is unreasonable or unnecessary.

Four2Five Pty Ltd v Ashfield Council

The decision in the Land & Environment Court case of *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, suggests that 'sufficient environmental planning grounds' for a Clause 4.6 variation is more onerous than compliance with zone and standard objectives. The Commissioner in the case also established that the additional grounds had to be particular to the circumstances of the proposed development, and not merely grounds that would apply to any similar development.

In this case, the DCP controls are considered to be site specific justification.

Initial Action Pty Ltd v Woollahra Municipal Council

Chief Judge Preston, in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 clarified, at paragraph 87, that, "*Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development*". While it is considered that the proposal does have several benefits over a compliant scheme, the Panel does not have to be satisfied with regard to such a test.

Clause 4.6(4) - Consent Authority Assessment of Proposed Variation

Clause 4.6(4) outlines that development consent must not be granted for development that contravenes a development standard unless:

- "a) *the consent authority is satisfied that:*
 - i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- b) *the concurrence of the Secretary has been obtained."*

The matters of clause 4.6(4)(a)(i) have been dealt with in the preceding section. Clause 4.6(4)(a)(ii) and Clause 4.6(4)b) have been assessed as follows:

Public Interest

As outlined above, the proposal is considered to be consistent with the objectives of the floor space ratio standard. The proposal is consistent with the objectives of the zone as set out in the table above.

Concurrence

'The concurrence of the Secretary has been obtained'

Assumed concurrence is provided to regional planning panels (such as the SCCPP) as per NSW Department of Planning Circular 'Variations to development standards' Ref: PS 18-003 dated 21/02/2018. There is no limit to the level of non-compliance for which concurrence can be assumed.

Conclusion

In summary, it is considered that breaching the floor space ratio standard is appropriate as it is consistent with the rezoning of the land and the associated DCP.

It is considered that the applicant's written request has adequately addressed the matters required to be demonstrated and that the request to vary the height development standard within Parramatta LEP 2011 can be supported as the proposal continues to achieve the objectives of the FSR development standard and the zoning and is in the public interest. In reaching this conclusion, regard has been given to the relevant Judgements of the LEC.

8. Development Control Plans

Similar to the situation with the LEP assessment above, the application was lodged prior to Parramatta DCP 2011 being replaced with Parramatta DCP 2023 on 18 September 2023. In that regard the savings provision requires the assessment of the application against the provisions of Parramatta DCP 2011.

However, a site-specific Melrose Park North section was also introduced into Parramatta DCP 2023 on 1st December 2023. The application of this new section takes immediate effect, with no additional savings provisions adopted. Since these controls were specifically created for the precinct, an assessment has been undertaken against those provisions has also been included below.

8.1 Parramatta Development Control Plan 2011

An assessment of the proposal against the relevant controls in the Parramatta Development Control Plan 2011 is provided below:

Development Control	Proposal	Comply
2.4 Site Considerations		
2.4.1 Views and Vistas	A significant district view from Victoria Road, over the site, is identified in the DCP. This view is generally protected, in part, by the provision of north-south roads throughout the wider concept site.	Yes
2.4.2.1 Flooding	See LEP assessment above.	
2.4.2.2 Protection of Waterways	See SEPP assessment above.	
2.4.2.3 Protection of Groundwater	<p>The development proposal seeks to collect the groundwater from the basement levels and implement an assessment and treatment plan before draining into Council's stormwater system.</p> <p>This proposal is not supported because the assessment of DA/1100/2021 has indicated that the downstream stormwater infrastructure is already operating at capacity and will not be able to accommodate additional ground water.</p>	Yes

Development Control	Proposal	Comply
	In that regard, a condition has been imposed to tank the basement to protect the groundwater. The imposition of this condition is considered to satisfy the requirements of this control.	
2.4.3.1 Sedimentation	The erosion and sediment control plan submitted with the application is considered to be appropriate.	Yes
2.4.3.2 Acid Sulfate Soils	See LEP assessment above.	
2.4.3.3 Salinity	The site is identified as being of moderate salinity potential. As such no special measures are required.	N/A
2.4.4 Land Contamination	See LEP assessment above.	
2.4.5 Air Quality	The application was accompanied by an Air Quality Report. The report was referred to Council's Environmental Health Officer, who raised no objection to the development, subject to the imposition of conditions of consent.	Yes
2.4.6 Development on Sloping Land	The proposed podium steps down with the site.	Yes
2.4.7 Biodiversity	<p>The proposal does not include the removal of any trees. However, the site was cleared of all substantive vegetation in July/August 2017.</p> <p>The proposal includes the planting of 135 trees in the street, setbacks and on-structure. Given the local centre zoning and anticipated built form for the site, this quantum of planting is considered to be appropriate.</p>	Yes
2.4.8 Public Domain	The proposed public domain interface for the development has been reviewed by Council's Public Domain Officer, who raised no objections subject to the imposition of conditions of consent.	Yes
3.2 Building Elements		
Building Form and Massing	See Melrose Park specific controls below.	N/A
Building Facades and Articulation	See Melrose Park specific controls below.	N/A
Roof Design	The proposal generally employs flat roof designs with parapets and roof plant screening, which is considered to be appropriate for the style of development.	Yes
Energy Efficient Design	See Melrose Park specific controls below.	N/A
Streetscape	See Melrose Park specific controls below.	N/A
Fences	No fences are proposed	N/A
3.3 Environmental Amenity		
3.3.1 Landscaping	As outlined above, the proposal is considered to provide sufficient landscaping.	Yes
3.3.5 Solar Access	<p>As the adjoining land to the south is currently industrial the proposal would not overshadow any existing residential units or open space.</p> <p>However, there is currently a Planning Proposal under assessment for the precinct to the south. As outlined in Figure 3, residential buildings are proposed opposite Hope Street.</p> <p>The built form for this future stage is in the preliminary stages and as such it is difficult to provide an assessment of the likely impact.</p>	Yes
Cross Ventilation	See ADG assessment above.	N/A
3.3.6 Water Sensitive Urban Design	See Melrose Park specific controls below.	N/A
3.3.7 Waste Management	The applicant submitted a comprehensive operational waste management plan which demonstrates that the	Yes

Development Control	Proposal	Comply
	<p>building can safely, quickly, and quietly store and remove waste.</p> <p>The proposal includes a garbage chute system and interim recycling bins on each level which is considered to be ideal.</p> <p>The operational waste management plan was reviewed by Council's Waste and Cleansing Department, who raised no objections, subject to the imposition of conditions of consent.</p>	
3.4 Social Amenity		
3.4.1 Public Art	<p>The applicant has developed a public art strategy which does the following</p> <ul style="list-style-type: none"> Identifies the through site links as the most logical place for public art, Sets a budget in line with Council's guidelines Identifies wall and ground art as most appropriate types of art and provides examples. Sets out a schedule for development of the artwork. Considers maintenance. <p>The strategy was reviewed by Council's Public Art Officer who raised no objections, subject to the imposition of conditions of consent.</p>	Yes
3.4.4 Safety and Security	<p>The proposal would provide passive surveillance of the public domain.</p> <p>The applicant has submitted a Crime prevention Through Environmental Design report which outlines recommendations to ensure safety and security. A condition is included enforcing the recommendations of this report.</p> <p>The town centre commercial uses would have building managers and security personnel.</p> <p>Mailboxes are located within access-restricted lobbies which will reduce theft.</p> <p>Residential storage is located in secure access controlled rooms within car park.</p>	Yes
3.5 Heritage		
3.5.1 General	See LEP assessment above.	Yes
3.5.2 Archaeology	Based on previous referrals for similar works in the area to the Office of Environment and Heritage, conditions are included for unexpected finds.	Yes
3.5.3 Aboriginal Cultural Heritage	The site is identified as having low Aboriginal sensitivity.	N/A
3.6 Movement and Circulation		
3.6.1 Sustainable Transport		
Car Share		
1 car share if over 50 units	2 car share spaces are proposed with 1 for the residential component and 1 for the commercial component.	Yes
3.6.2 Parking and Vehicular Access		
Car & Bicycle Parking	See Melrose Park specific controls below.	N/A
3.6.3 Accessibility and Connectivity		
Through Site Links	See Melrose Park specific controls below.	N/A

Development Control	Proposal	Comply
3.7 Residential Subdivision		
Stratum	<p>There are no specific controls related to stratum subdivision. Notwithstanding, stratum subdivision of the proposed uses is considered to be appropriate.</p> <p>The boundaries of the strata are generally consistent with the proposed uses. Two separate residential strata are proposed to separate the north and south towers. However, the plans do not nominate boundaries in the residential visitors car park, with the entirety of the visitor parking belonging to the northern towers. Notwithstanding, this is considered to be acceptable as final boundaries and easements can be dealt with at subdivision certificate stage.</p> <p>The podium top communal open space is split between the two residential strata. To clarify, a condition will be included requiring mutual easements over the whole space.</p> <p>Conditions are included requiring a subdivision certificate application.</p> <p>A stratum lot 6 'light rail lot' is proposed to facilitate future possible land acquisition. A covenant will be required on the lot restricting any additional floor space.</p>	Yes

8.2 Melrose Park North Site-Specific Development Control Plan (as adopted by Parramatta Development Control Plan 2023)

8.2.6.1 Introduction		
<i>Desired Future Character</i>	<p>The proposal is considered to be consistent with the general objectives in that:</p> <ul style="list-style-type: none"> • The town centre will contribute towards a legible, coherent, and attractive suburb; • Is a building that forms a coherent outcome, addresses the streets and provides pedestrian connections; • Provides high quality public domain spaces; • Meets the ESD requirements; and • Ensures that infrastructure is delivered. 	Yes
<i>Design Excellence</i>		
1:20 sections	1:50 sections have been provided and reviewed by Council's Public Domain Officer who raised no objections subject to the imposition of conditions of consent.	No, but acceptable
Public Domain Alignment drawings	These drawings have been conditioned to be provided prior to the issue of the Construction Certificate.	Yes
<i>Water Management Plan</i>		
OSD	917m ³	Yes
WSUD	12 cartridge filters	Yes
Rainwater Capture/Reuse	Has been conditioned.	Yes

8.2.6.2 Built Form		
<i>Allocation of GFA</i>		
>30,000sqm commercial <43,596sqm residential	30,001sqm 43,587sqm	Yes Yes
<i>Street, Block Open Space and Building Layouts</i>		
Subdivision consistent with masterplan	Boundary as set out in masterplan	Yes
<i>The Building Envelope (see Figure below)</i>		
2 retail levels 3 parking levels sleeved with residential	3 commercial levels 3 parking levels partly sleeved	No (minor) Part
N2 to align with N6	Generally in alignment	Yes
N6 to align with N9 east and west side	East: Generally in alignment West: Generally in alignment	Yes Yes
N7 to align with N2 west side	Generally in alignment	Yes
<i>Street Setbacks</i>		
Podium: North 5m East 0m West 0m South 12m	5m 0m 0m 12-13m (entry awning overhangs setback area. As this setback area is to accommodate light rail, a condition is included requiring a covenant be put on the land noting that the awning may need to be modified or removed at the owner's expense).	Yes Yes Yes Yes
Tower (to podium): North 2m (N2, N6), 0m (N3) East 5m West 6m South 2m	2m (N2), 1.9-2.5m (N6) >0m (N3) 4.8-7.0m (N6), 3.4m-7.6m (N9) >6m >2m	Yes Yes No Yes Yes
	In regard to the non-compliance on the eastern elevation of Tower N9, the 3.4m setback is only limited to the living area of Unit 6. The width of non-compliance spans 4.4m and will not create significant visual impact in regard to the presentation of the development to the surrounding precinct. In that regard, it is considered to be acceptable.	
<i>Building Separation</i>		
24m between N6/N9	23.5m	No (minor)
24m between N2/N7	22m	No (minor)
<i>Tower Design and Slenderness</i>		
Tower Floorplate <1,000sqm	N2 = 893sqm N3 = 875sqm N6 = 875sqm N9 = 963sqm N5 = 825sqm N7 = 874sqm	Yes Yes Yes Yes Yes Yes

Tower Length <50m	N2 = 52m N3 = 38.0m N6 = 43.0m N9 = 52m N5 = 40.0m N7 = 48.0m	No Yes Yes No Yes Yes
<i>Building Height</i> N2 - 24 storeys N3 - 6 storeys N6 - 15 storeys N7 - 12 storeys N5 - 6 storeys N9 - 24 storeys	24 storeys 6 storeys 15 storeys 12 storeys 6 storeys 24 storeys	Yes Yes Yes Yes Yes Yes
<i>Floor to Floor Heights</i> Commercial >3.6m Residential >3.1m Ground Floor Active >4.5m	3.6m-4.2m 3.2m 6.3m-6.8m (Northern Retail), 4.3m (Southern Retail)	Yes Yes Yes No (minor)
<i>The Perimeter Block Buildings and Podium</i> Define Street Edge Modulated in Vertical Increments Be articulated horizontally Predominantly Masonry Depth/Relief Plinths No undercrofts 3 storeys above ground car parking, sleeved Detailed Drawings	The street edge was reviewed by Council's Public Domain Officer who raised no objections, subject to the imposition of conditions of consent. Yes Yes Yes Yes Yes No undercrofts provided. 3 storeys - Only partly sleeved. Considered acceptable as the east and west elevations provide an acceptable presentation to the street. Drawings have been reviewed by Council's Public Domain Officer who raised no objections, subject to the imposition of conditions of consent.	Yes Yes Yes Yes Yes Yes No, but acceptable Yes
<i>Retail Ground Floor Frontage</i> Active ground floor frontage Service frontage minimized Internal tenancy widths create fine grain frontage Free board No Colonnades	Not on east, west, or south No South dominated by commercial lobby. Provided. Colonnade provided on southern elevation.	No, but acceptable No, but acceptable No, but acceptable Yes No, but acceptable

	<p>Although there are no active ground floor frontages to the east and west, this is a result of difficulties in managing the topography and basement parking requirements.. Nevertheless, these elevations still provide legible entrances in the middle of the building by way of the east-west through site link. These entrances will be supported by public art and signage to provide an acceptable presentation to the surrounding streetscape.</p> <p>In regard to the southern elevation, the topography of the site will require the shop frontages on the south-west corner to be raised into a colonnade. This is considered to be unavoidable due to the levels being dictated by the flooding and freeboard requirements. With regard to the commercial lobby on the south-east corner of the site, this is considered acceptable as it is well-integrated with the ground floor entrance to the north-south through site link and future PLR2 platforms.</p>	
<p><i>Town Centre Mall Interface</i></p> <p>North-South Arcade in line with pedestrian link in wider masterplan</p>	In line.	Yes
<p><i>Residential Apartment Design Quality</i></p> <p>Upper levels not extend over lower levels</p> <p>Buildings create positive spaces</p> <p>Indentations 2:1 width: depth</p> <p>High levels windows not relied on for light/ventilation</p> <p>Daylight/ventilation to common circulation</p> <p>Balcony long edges out</p> <p>Solid balcony division</p> <p>Common open space inc. WC, seating, shading, BBSs, sinks.</p> <p>Balcony balustrades opaque lower / transparent higher</p> <p>HVAC, downpipes, etc concealed and integrated.</p>	<p>Satisfied</p> <p>Satisfied</p> <p>None provided</p> <p>None provided.</p> <p>Provided</p> <p>Mostly provided</p> <p>Provided</p> <p>Provided</p> <p>Can be Conditioned.</p> <p>HVAC not grouped. This has been imposed as a condition of consent.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No, but conditioned</p>
<p><i>Solar Access (residential)</i></p> <p>Design criteria of the ADG</p>	Refer to SEPP discussion above.	Yes
<p><i>Winter Gardens</i></p> <p>Only permitted above 8 storeys</p>	N/A – no winter gardens proposed	N/A

<p><i>Climate Control and Privacy</i></p> <p>Louvres/blinds provided to exposed facades</p>	<p>The development was accompanied by an ESD report which was reviewed by an external ESD consultant. No objections were raised, subject to the imposition of conditions of consent.</p>	<p>Yes</p>
<p><i>Dwelling Mix</i></p> <p>1 bed – 10-20% 2 bed – 60-75% 3 bed – 10-20%</p>	<p>95 x 1-bed (19%) 336 x 2-bed (67%) 62 x 3-bed (12%)</p>	<p>Yes Yes Yes</p>
<p><i>Materials</i></p> <p>Buildings not to stand out.</p> <p>Low embodied energy</p> <p>Durable, maintainable</p> <p>Complement public domain</p>	<p>The materials have been amended as per the request of Council's Urban Design team. The presentation of the buildings are now considered to be acceptable subject to the imposition of conditions of consent.</p>	<p>Yes</p>
<p><i>Servicing and Utilities</i></p> <p>Substations within building</p> <p>Minimise servicing</p>	<p>Achieved.</p> <p>The ground floor servicing is generally limited to the eastern and western elevations which is considered acceptable as these elevations also support the vehicular access for the site.</p>	<p>Yes Yes</p>
<p><i>Town Centre Mall Interface</i></p> <p>Direct N/S sightlines</p> <p>Define the access internally to reflect the external space</p> <p>Allow for pedestrian access to Hope Street during the operation of PLR</p> <p>Provide an E/W connection through the mall</p>	<p>The development will provide the north/west connection between the central park and the river as required. However, due to the significant level changes, direct sightlines are not possible.</p> <p>The internal access will be that of a typical mall.</p> <p>The development allows pedestrian access to Hope Street where the future PLR2 will be located.</p> <p>The development will provide the east/west connection as required.</p>	<p>Yes Yes Yes Yes</p>

8.2.6.3 Public Domain		
<i>Street Network and Footpaths and Street Trees</i>		
Street network per masterplan	Proposal does not modify approved street widths.	Yes
Footway, materials, street trees per Public Domain Guidelines	Can be conditioned.	Yes
Cycleway to be provided.	Can be conditioned.	Yes
<i>Pedestrian Connections</i>		
Consistent with Masterplan	Consistent	Yes
Extend from street to street	Achieved	Yes
Fully accessible	Achieved	Yes
Width >6m	5.7m-7.4m (east-west), 9.0m-15.8m (north-south)	No (minor)
<i>Overhead Powerlines</i>		
To be underground	Can be conditioned.	Yes
<i>Awnings</i>		
Provided at Town Centre	Continuous pedestrian awnings provided to the north and west elevations.	Yes
<i>Pedestrian Access and Mobility</i>		
Access in accordance with relevant legislation	The development was reviewed by Council's Accessibility Officer who raised no objections subject to the imposition of conditions of consent.	Yes
<i>Solar Access & Overshadowing of Public Spaces</i>		
Demonstrate solar access to parks and public spaces.	The site is largely south of public spaces. Any overshadowing to the parklands located to the west will be resolved by 11am.	Yes
<i>Landscape Design</i>		
Landscape Maintenance Plan	Provided	Yes
Canopy trees in front setbacks	Trees in the public domain have been proposed on the western, northern and eastern setbacks. None have been proposed to the south as that will be the interface with the future PLR2.	Yes
<i>Planting on Structures</i>		
Minimum soil depths	The application was referred to Council's Senior Landscape Officer, who raised no objection to the rooftop landscaping in regard to soil depth, drainage or plant selection.	Yes
Drainage		
Maximise width of planters 1 tree/80sqm		

8.2.6.4 Vehicular Access, Parking, Servicing		
<i>Access and Parking</i>		
Minimise entry points	4 entries (8 total lanes). Considered acceptable for the scale of the development proposed.	Yes
Vehicle access from less busy streets	All vehicle entry points from east and west elevations.	Yes
Shared access	Not applicable.	N/A
Access ramps not parallel to street	Both ramps on the eastern elevation are parallel to street. This is considered acceptable given the difficult topography of the site and basement requirements. The bulk of the ramp is hidden behind the façade of the building and will not contribute to negative impacts to the streetscape.	No, but acceptable
Doors behind façade.	Provided	Yes
High quality vehicle entry materials	Provided	Yes
<i>Vehicular Driveways and Maneuvering Areas</i>		
Driveways >10m from intersections	>10m	Yes
Enter and exit in forward direction	Achieved	Yes
Pedestrian access >3m from driveways	>3m	Yes
Loading docks consolidated	Achieved	Yes
Vehicular entrances not to terminate views at end of street, connections	Achieved	Yes
<i>On-Site Parking</i>		
Residential Occupants <1/1 bed (x96 units) = 96 <1.25/2 bed (x336 units) = 420 <1.5/3 bed (x 62 units) = 93 Total = <617	506	Yes
Residential Visitors <0.25/unit (x494) = 123.5	105	Yes
Retail <1/30 per sqm (18,442sqm) = <614	574	Yes
Commercial <1/50 per sqm (9,452sqm) = <189	189	Yes

Motorcycle >1/50 car parking spaces (x1,412) = 29	37	Yes
<i>Bicycle Parking</i>		
Residential 1/2unit (x 494 units) = 247	247	Yes
Retail/Commercial 1/200sqm (x30,001sqm) = 150	150	Yes
8.2.6.5 Sustainability		
<i>Energy and Water Efficiency</i>		
BASIX Energy 50 (2-15 storeys) BASIX Energy 45 (16-30 storeys) BASIX Water 55	ABC = 31 DEF = 31 41	No (but clause superseded by SEPP)
<i>Recycled Water</i>		
Dual reticulation	None proposed. But can be conditioned.	Yes
<i>Electric Vehicle Charging Infrastructure</i>		
Charging infrastructure for residential cars and commercial cars and bicycles	Proposed. Will be secured with a condition.	Yes
<i>Urban Heat – Roofs</i>		
Surfaces used for open space to be landscaped/shaded.	Landscaped open space significantly landscaped and shaded.	Yes
75% of the total roof or podium surface covered by vegetation.	The landscape plans show that a large majority of the podium COS is covered by vegetation.	Yes
<i>Vertical Facades</i>		
To be appropriately shaded	The development was accompanied by an ESD report which was reviewed by an external ESD consultant. No objections were raised, subject to the imposition of conditions of consent.	Yes
<i>Heating and Cooling Systems – Heat Rejection</i>		
Heat rejection grouped on roof	Not grouped on roofs, but has been imposed as a condition of consent.	No, but conditioned
<i>Green Roofs and Walls</i>		
Irrigation	The application was referred to Council's Senior Landscape Officer, who raised no objection to the rooftop landscaping in regard to soil depth, drainage or plant selection.	Yes
<i>Solar Light Reflectivity</i>		
Glare report required	The development was accompanied by a reflectivity report which was reviewed by an external ESD consultant. No objections were raised, subject to the imposition of conditions of consent.	Yes

<i>Building Form and Wind Mitigation</i>		
Wind report required	The development was accompanied by a wind impact report which was reviewed by an external wind consultant. No objections were raised, subject to the imposition of conditions of consent.	Yes

9. Planning Agreements

Voluntary Planning Agreements (VPAs) with both Council and the State government apply to the site.

The local VPA has the following requirements that relate to the subject application:

- Provision of 6 fully completed and fitted Affordable Housing Units, containing at least 9 bedrooms (3 x 2 bedroom units and 3 x 1 bedroom units).
- Schedule 2, clause 5.3, requires pre-submission of detailed plans of the affordable units. This has been conditioned.
- Provision and dedication of NSR-2 between EWR-6 and Hope Street.
- Provision and dedication of NSR-3 between EWR-6 and Hope Street
- Provision and dedication of EWR-6 between NSR-2 and Wharf Road.

These requirements are secured by the VPA and by conditions of consent.

10. The Regulations

The recommendation of this report includes conditions to ensure the provisions of the Regulations, such as the Building Code of Australia, would be satisfied.

11. The Likely Impacts of the Development

Staging

The applicant seeks to construct the development in stages. The proposed staging is considered logical, in that the relevant ancillary services will be available at an appropriate time. Conditions are included allowing for the staging as proposed.

In regard to the staging of the precinct, conditions of consent have been imposed to ensure that sufficient road and drainage infrastructure requirements approved under DA/1100/2021 have been finalised and in place to support the development.

Other

Fire safety is addressed by way of appropriate conditions. The other likely impacts of the development have been considered in this report.

12. Site Suitability

The subject site and locality are affected by overland flow flooding. Council's engineers have assessed the application and consider the proposal to be satisfactorily designed to minimise risk to human safety and property.

Suitable contamination investigations and planning has been provided to demonstrate that the site can be made suitable for the proposed uses subject to remediation works and subsequent validation.

The proposal is considered to have an acceptable impact on biodiversity as it results in a significance net increase of planting on the site.

No other natural hazards or site constraints are likely to have a significant adverse impact on the proposed development. Accordingly, the site is considered to be suitable for the proposed development subject to the conditions provided within the recommendation to this report.

13. Submissions

The application was notified in accordance with Council's Notification DCP. The notification ran for a 21-day period between 18 October and 8 November 2022. It is noted that the notification was carried out to an area wider than required by the Parramatta Notification Procedures.



Figure 5. Notification map (black - required area, blue, notified area)

12 submissions were received. The public submission issues are summarised and commented on as follows:

Issues Raised	Comment
Traffic Impacts (and associated acoustic impacts), lack of public transport, conflict between trucks and cars, intersection impacts	<p>The application was accompanied by a Traffic Impact Assessment report, which was reviewed by both Council's Traffic and Transport Officer, and Transport for NSW.</p> <p>The report provided modelling for the town centre as well as the four surrounding intersections. The modelling showed that the town centre, all intersections, and access points performed at a satisfactory level of service.</p>

	<p>In regard to public transport, TfNSW has provided conditions of consent to ensure that the development of future PLR2 will not be hampered as a result of the proposal.</p> <p>In regard to the conflict between trucks and cars, the loading dock has a completely separate driveway location to the residential and retail/commercial driveway entrances.</p>
Insufficient Infrastructure to support additional density (roads, parks)	The infrastructure upgrades for the Melrose Park North precinct has been assessed under a separate application (DA/1100/2021).
Out of Character, visual impact, inappropriate building materials (concrete)	<p>The Melrose Park precinct is undergoing a transition from the industrial/low density residential character into a higher density locality. The recent Planning Proposal has rezoned the precinct to reflect the desired character, with the subject site being rezoned to E1 Local Centre.</p> <p>In that regard, the proposed building envelope is generally consistent with the controls prescribed by the precinct controls. The materials have been reviewed and conditions have been imposed by Council's Urban Design team to minimise the visual impact of the development.</p>
Incompatible with existing uses (adjacent 24/7 industrial), may limit expansion of industrial,	<p>As above, the proposed use of the site is consistent with the desired future character of the area. The proposed development is not anticipated to prevent future expansion of industrial activities.</p> <p>It is of note that the industrial land to the south has a planning proposal to redevelop the sites into High Density Residential land.</p>
Loss of Views	<p>The application was accompanied by a Visual Impact Assessment. In general, the development complies with the building envelope controls and maintains views along the north-south road corridors.</p> <p>The banner signs that extend off the elevation of the building have been conditioned to be deleted, to prevent visual distraction along the view corridor.</p>
Overshadowing	The developments heights and setbacks are generally consistent with the Melrose Park North DCP, which has identified where the towers are to be located and orientated to ensure the overshadowing impacts of the adjoining buildings and the future open spaces will be minimised. The proposal will primarily overshadow the industrial sites opposite Hope Street. These industrial lands are part of the Melrose Park South Planning Proposal seeking to implement high density residential development. The built form for this future stage is in the preliminary stages and as such it is difficult to provide an assessment of the likely impact.
Reduced Air Circulation	It is unclear how the proposed development would reduce the air circulation of the surrounding area. The application was accompanied with a Pedestrian Wind report that showed the development maintaining comfortable wind levels around the subject site.
Overlooking	The proposed development is not considered to create unreasonable overlooking impacts onto adjoining properties. As a result of being surrounded on all sides by roads, the proposed development will comply with the

	required building separation distances to all future adjoining developments as required by the ADG.
Loss of on-street parking	The development itself does not result in the loss of any on street parking. In relation to the potential for residents or visitors to park in adjacent streets, this has been mitigated through careful consideration of parking rates, including visitor spaces. New proposed on street parking within the precinct will be managed by Council so that appropriate waiting restrictions can be managed to reduce impact on surrounding areas.
Hospital use not clearly defined, could impact traffic	The hospital use has been deleted and no longer forms part of the proposal.
Public Art Inappropriate (Screen)	<p>The application was accompanied by a Public Art Plan that does not suggest having a screen. The plan proposes having a vertical artwork of significant scale at each of the eastern/western entry points. The final artwork has not yet been decided.</p> <p>The proposed Public Art Plan was reviewed by Council's Public Art Officer who raised no objections, subject to the imposition of conditions of consent.</p>
Landscaping Inappropriate (non-native species, insufficient variety of natives)	The submitted landscape plan, as well as proposed planting schedule, has been reviewed by Council's senior Landscape Officer. No objections were raised to the proposed species selection, subject to the imposition of conditions of consent.
Construction Management (dust, disruption to electricity and water supply)	<p>The consent includes conditions imposed to mitigate construction impacts. The conditions include noise management plans, dust control measures, traffic management and waste management.</p> <p>With the conditions in place, it is not anticipated that the proposed development would cause unreasonable impact during the construction stage.</p>
Insufficient Assessment of Environmental Impacts (Noise, Emissions, Odours) on Future Occupants (Residential, Child Care, Hospital)	<p>The proposed development was accompanied with noise impact assessments and odour assessments.</p> <p>It is of note that the other uses proposed in the podium are currently innominate uses and will require further consents to formalise the tenancies. This includes the childcare centre, medical centre and other future retail/commercial uses. Accordingly, a more detailed assessment of the potential impacts will be undertaken when those future consents are being assessed.</p>
Lack of Residential Visitor Car Parking, Impact on on-street parking	<p>The proposed development will provide 105 visitor parking spaces. It is of note that the Melrose Park North precinct prescribes maximum parking rates in order to limit the number of traffic movements in the locality.</p> <p>In that regard, the number of visitor parking spaces complies with the requirements of the Melrose Park DCP.</p>

14. Public Interest

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

15. 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.

16. Developer Contributions

As provided under Section 8 of the VPA, the agreement excludes the application of s7.11, s7.12 and s7.14 of the Environmental Planning and Assessment Act 1979 to the development. However, Section 7.8 requires that the developer pay an additional monetary contribution of 1% of proposed cost of works. As such, a monetary contribution is required and a condition of consent has been imposed requiring the contribution to be paid.

17. Summary and Conclusion

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

Having regard to the assessment of the proposal from a merit perspective, Council officers are satisfied that the development is of an appropriate design and provides for acceptable levels of amenity for future commercial operators and residents.

It is considered that the proposal successfully minimises adverse impacts on the amenity of neighbouring properties and does not compromise the redevelopment of adjoining sites.

While the proposal does not comply with the Floor Space Ratio standard, the proposal is consistent with the GFA allocation for the site envisaged by the DCP and would not prejudice the development of the remainder of the precinct.

Hence the development, irrespective of the departures noted above, is consistent with the objectives of the relevant planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land.

The proposed development is located within a locality earmarked for local centre redevelopment. The proposal would provide additional housing and commercial floor space in an area currently not accessible to the public.

The proposal is considered to adequately respond to the site constraints subject to conditions of consent.

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 approval is recommended subject to conditions.

18. Recommendation

- A. **That** the Sydney Central City Planning Panel approve the variation to the floor space ratio standard in Clause 4.4 of Parramatta LEP 2023, being satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the proposed development will be in the public interest as it is consistent with the objectives of the particular standards and the objectives for development within the zone and the site specific reasons discussed;
- B. **That** the Sydney Central City Planning Panel as the consent authority grant **Consent** to Development Application No. DA/764/2022 for construction of a mixed-use 'town centre' comprising 5 storey commercial podium and 6 x 6-24 storey shop-top housing towers, consisting of approximately 30,001sqm non-residential floor space (retail, business, office, medical centre, centre-based child care centre, and an indoor recreation facility), 494 residential apartments, 1,412 commercial and residential car parking spaces; 2 basement levels; business identification signage zones; to be constructed in 2 stages; 6 lot stratum subdivision, strata subdivision; and public domain works at 33 Hope Street, MELROSE PARK NSW (Lot 200 DP1265603) for a period of five (5) years from the date on the Notice of Determination subject to the conditions under Appendix 1.
- C. **That** submitters be notified of the decision.