



SYDNEY CENTRAL CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSCC-44
DA Number	DA/646/2019
LGA	City of Parramatta (formerly Hornsby Shire Council)
Proposed Development	16 storey mixed use seniors living tower comprising 14 assisted living apartments, 20 care apartments, 60-bed residential aged care facility, 96 independent seniors living units and ancillary offices/retail; 155 car parking spaces in 4 basement levels; signage zones; landscaping; site amalgamation; public domain works; demolition of existing buildings and tree removal. This seniors living development is proposed pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
Street Address	43 - 53 Oxford Street, EPPING NSW 2121 (Lots 1-3 & 5 DP18447, Lots A & B DP357452)
Applicant	G M Fielden
Owner	Uniting Church In Australia - Epping
Date of DA lodgement	12 November 2019
Number of Submissions	44
Recommendation	Approval
Regional Development Criteria	The development has a capital investment value of more than \$30 million.
List of all relevant s4.15(1)(a) matters	• Environmental Planning and Assessment (EP&A) Act 1979 • EP&A Regulation 2000 • SEPP (Building Sustainability Index: BASIX) (BASIX SEPP) 2004 • SEPP (Infrastructure) (ISEPP) 2007 • SEPP (State and Regional Development) 2011 • SEPP (Sydney Harbour Catchment) (SEPP Sydney Harbour) 2005 • SEPP No. 55 (Remediation) (SEPP 55) • SEPP No. 64 (Advertising and Signage) (SEPP 64) • SEPP (Housing for Seniors or People with a Disability) 2004 • SEPP No. 65 (Design Quality of Residential Apartment Development) (SEPP 65) & Apartment Design Guide (ADG) • Hornsby Local Environmental Plan (HLEP) 2013 • Hornsby Development Control Plan (PDCP) 2013

List all documents submitted with this report for the Panel's consideration	• Attachment 1 – Architectural Drawings • Attachment 2 – Landscape Drawings • Attachment 3 – Overshadowing Analysis • Attachment 4 – Emergency Management Plan • Attachment 5 – Dept. of Planning cl. 4.6 Circular • Attachment 6 – Dept. of Planning Contributions Exemption • Attachment 7 – Dept. of Planning ADG Circular
Clause 4.6 requests	• Hornsby Local Environmental Plan 2013 • Clause 4.3 – Height of Buildings • R4 High Density Residential zone
Summary of key submissions	• Overshadowing • Building Setback/Separation • Traffic • On-Street Parking • Height • Privacy • Overdevelopment • Quality of Care • Lack of Infrastructure • Construction Impacts • Loss of Trees • View Loss • Quality of communal open space • Fire Evacuation • Bulk • Acoustic Privacy • Wind
Report prepared by	Alex McDougall
Report date	21 August 2020

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

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

Clause 4.6 Exceptions to development standards - If a written request for a contravention to a development standard (Clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

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

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

1. Executive Summary

The proposal provides for construction of a 16 storey mixed use seniors living tower comprising 14 assisted living apartments, 20 care apartments, 60-bed residential aged care facility, 96 independent seniors living units and ancillary offices/retail; 155 car parking spaces in 4 basement levels; signage zones; landscaping; site amalgamation; public domain works; demolition of existing buildings and tree removal. This type of development is known as a 'vertical village', as the seniors living typologies share facilities and open space areas and residents can move between typologies as they 'age in place'. The residential care facility and seniors living units are proposed pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

The proposed development generally follows the form for the site envisaged by Hornsby Shire Council Local Environmental Plan (HLEP) 2013, Hornsby Shire Council Development Control Plan (HDCP) 2013, and the Parramatta Public Domain Guidelines.

The Applicant has submitted a request to exceed the building height standard under Clause 4.6 of HLEP 2013. The request is considered to be well founded for reasons including, but not limited to, the constraints imposed by the site and the desirability of providing varying forms of seniors housing in the area.

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 a high quality of life for future occupants.

The amenity impacts on adjoining and nearby properties and the public domain are considered to be reasonable. It is considered that the proposed increase in traffic is commensurate with the level anticipated by the planning controls.

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

2. Key Issues

Hornsby Local Environmental Plan 2013

- **Height of Buildings (cl. 4.3)** – Acceptability of clause 4.6 variation request:
 - Control: <48m
 - Proposed: 54.1m (12.7% variation)
 - Prior Approvals: Variations of up to 33% have been allowed in the East Epping Town Centre.
 - Assessment: Considered to be acceptable given the constraints imposed by the site and the desirability of providing varying forms of seniors living accommodation in the area.

Apartment Design Guide

- **Overshadowing (cl. 3B-2)** –
 - Control: 70% of living areas and private open spaces of adjoining properties to receive 2 hours of solar access at mid-winter between 9am and 3pm.
 - Proposed: Results in 4 units at 2-4 Chester Street, which currently do not receive the required 2 hours of solar access, receiving 15 minutes less solar access at mid-winter between 9am and 3pm.
 - Assessment: The proposal complies with the requirement. Further, non-compliances with building envelope controls do not result in additional overshadowing beyond complying envelope (See Attachment 3)

- **Bicycle Parking** – Only 15 spaces for staff/visitors, no dedicated spaces for residents. Condition to be included requiring personal storage lockers be capable of accommodating at least 1 bicycle.

Other

- **Emergency Management** – The applicant has submitted a comprehensive draft Emergency Management Plan. Conditions are included requiring implementation of Plan and compliance with the BCA.

3. Site Description, Location, and Context

3.1 Site and Location

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



Figure 1. Locality Map (subject site in blue)

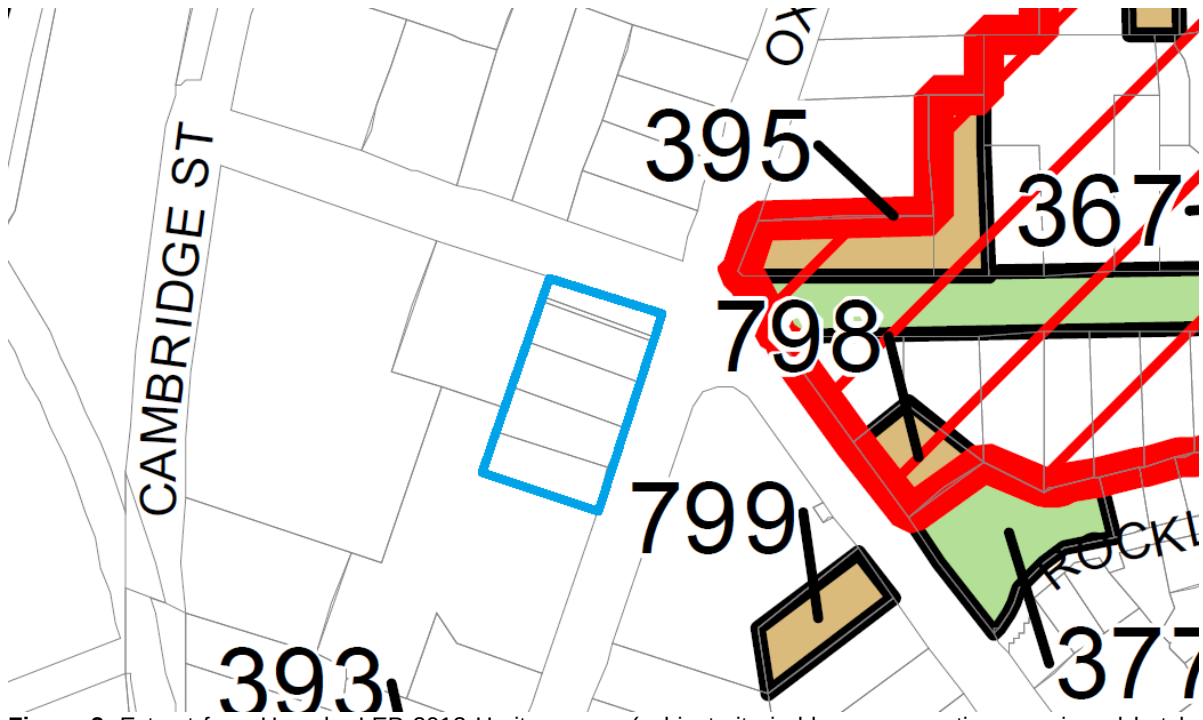


Figure 2. Extract from Hornsby LEP 2013 Heritage map (subject site in blue, conservation area in red hatch, heritage items in green and gold).

The site is currently occupied by five 2-3 storey residential flat buildings containing 26 vacant seniors independent living units. As a result of the Epping Town Centre Urban Activation Precinct Strategy 2014, surrounding development is undergoing a transition from low-medium density residential, retail and commercial development to high-rise mixed use developments.

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



Figure 3. Site as viewed from Chester Street looking south.



Figure 4. Site as viewed from Oxford Street looking south-west

3.2 History

The subject application is a follow-on from DA/625/2018 which sought approval for the following:

19 storey mixed use tower comprising 83 bed residential care facility, 152 independent seniors living units and ancillary offices/retail; 178 basement car parking spaces; landscaping; site amalgamation; public domain works; following demolition of existing buildings and tree removal.

The application was withdrawn 19 December 2018.

Subsequent to withdrawal an informal pre-lodgement process was undertaken to explore solutions to Council's key concerns with the original proposal. The current application includes the following key changes from the previous application to address those concerns:

- Reduction from 19 to 16 storeys
- Retention of significant tree in south-western corner of site
- Increase in width of vertical break in eastern facade

3.3 Context

The following applications in the vicinity of the site are relevant to the proposal:

Site	DA	Description/Details
16-18 Cambridge Street	DA/560/2018	Demolition of existing structures, tree removal and the construction of a 22 storey shop top housing development containing a retail shop, commercial office space and 84 residential apartments. The development provides 104 parking spaces. The proposal is Integrated Development under the Water Management Act 2000. Approved 09/10/19. Note. Height Breach (3%)

Site	DA	Description/Details
44-48 Oxford Street	DA/485/2016	Demolition of all existing structures including the Heritage listed dwelling on site, tree removal, construction of a mixed use development in the form of 2 towers (15 & 18 Storeys tall) over a podium and basement car parking. Approved (Deferred Commencement) 10/10/18 Note. Height Breach (19.8%)
24-36 Langston Place	DA/237/2017	27 storey mixed use tower comprising ground floor retail unit, first floor commercial office unit and 101 shop top housing units above, including 91 parking spaces in 4 basement levels; following demolition of existing buildings. Approved 03/10/18. Note. Height Breach (21.9%)
37-41 Oxford Street	DA/314/2017	30 Storey Mixed Use Tower Building with 4 Storey Basement (Concept Approval Only). Approved 07/03/18. Note. Height Breach (32.9%)
2-4 Cambridge Street	DA/1063/2016	Amalgamation of 3 lots into 1, tree removal, demolition of existing structures and construction of a 23 storey shop top housing development containing a retail shop, commercial office space and 83 residential apartments over basement parking for 128 vehicles. Approved (Deferred Commencement) 06/12/17.
12-22 Langston Place	DA/468/2016	Construction of 3 mixed use towers (19, 24 and 29 storeys) comprising 463 residential units, 1681sqm of retail floor space and 4 basement levels containing space for 529 cars, 388 bicycles, 35 motorcycles, storage, refuse and servicing; public domain upgrades including 2-way vehicular lane between towers 2 and 3, pedestrian through-site links, and public open spaces; following demolition of existing building and car park. Approved (Deferred Commencement) 02/08/17. Note. Tower 3 Height Breach (28.9%)
30-42 Oxford Street	DA/585/2016	Demolition of existing structures, retention of a heritage item and construction of a 17 storey mixed use development comprising ground floor retail over basement carpark and shop-top housing comprising 254 units in two (2) residential towers. Approved 20/07/16. Note. Height Breach (10%)
35 Oxford Street	DA/365/2016	Demolition and construction of a 22 storey shop-top housing development comprising 54 residential units, one (1) retail unit and basement car parking. Approved 14/07/16.
20-28 Cambridge Street	DA/681/2015 (Hornsby)	Demolition of existing structures and construction of two (2) x 22 storey buildings and one (1) x seven (7) storey building, each comprising ground floor retail/business tenancies totalling 966m ² , and the upper levels containing a total of 501 residential units, with combined basement car parking for 519 cars. Approved 24/02/16.

Table 1: Applications relevant to the proposal.

4. The Proposal

4.1 Summary of Proposal

The proposal involves the following:

- Demolition of the existing 5 x 2-3 storey buildings which contain 26 Independent Living Units
- Removal of 5 trees
- Excavation of 4 basements levels for the provision of 155 car parking spaces;
 - 93 Independent Living Unit Resident Spaces
 - 20 Independent Living Unit Visitor Spaces

- 20 Residential Aged Care Facility Staff Spaces
- 6 Residential Aged Care Facility Visitor Spaces
- 10 Assisted Living Resident Spaces
- 5 Care/Assisted Living Visitor Spaces
- 1 Retail Space
- Construction of a 16 storey seniors living mixed use development with a 3 storey podium and 13 storey tower element above comprising:
 - Ground floor ancillary office and retail uses;
 - 34 Care/Assisted Living Apartments (CAL) within mid-tower;
 - 1-bed: 26
 - 2-bed: 8
 - 60-bed Residential Aged Care facility (RAC) within mid-tower;
 - 96 Independent Living Apartments (ILU) within upper-tower;
 - 1-bed: 18
 - 2-bed: 65
 - 3-bed: 13
- Landscaping including planting of 36 trees;
- Site Amalgamation;
- Car Share space;
- Public Domain Works; and
- Signage Zones.

The seniors living uses are proposed pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Note. UnitingCare is a registered Community Housing Provider and intends to maintain ownership of the entire Seniors Living development in perpetuity. Units are leased for the life of the occupants.

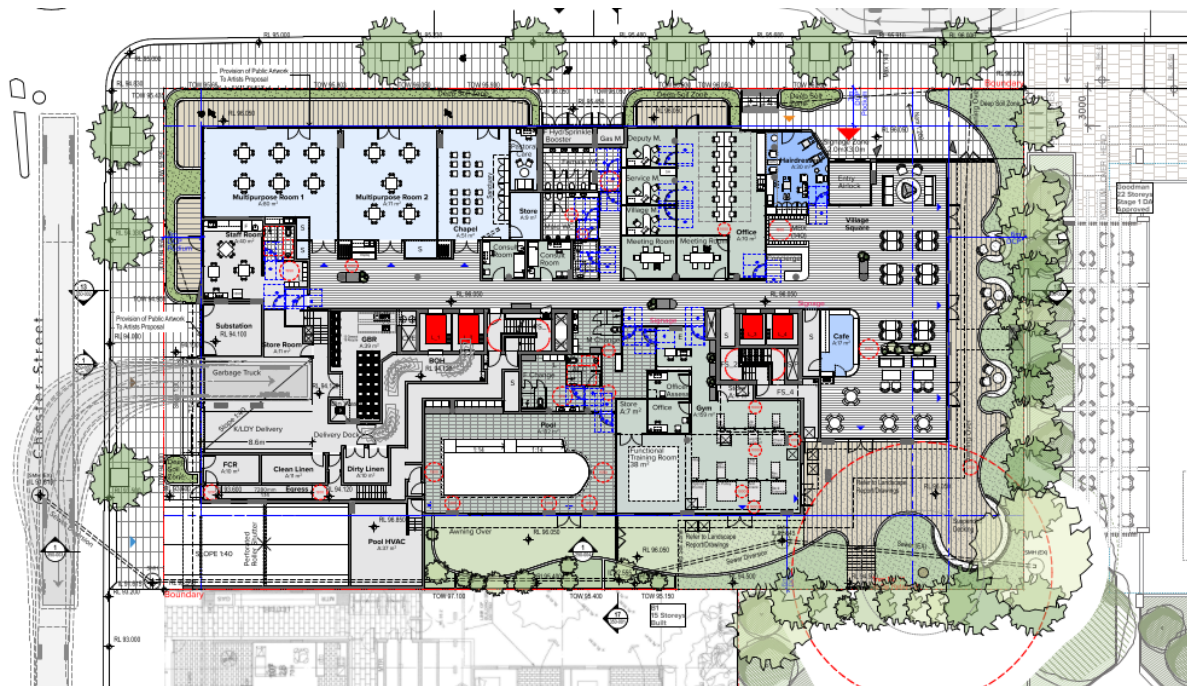


Figure 5. Proposed ground floor plan.



Figure 6. Photomontage of proposal as viewed from corner of Oxford Street and Chester Street looking south-west.

4.2 Summary of Amendments Since Lodgement

The applicant submitted revised drawings and documentation addressing concerns raised by Council's DEAP, Council officers and external referral bodies including, but not limited to, the following changes:

- The planters along the front setback have been stepped to reduce their bulk;
- Several units have been rearranged to improve outlook and balcony size;
- The vehicular access façade has been revised to add materials and visual interest;
- Increased bicycle parking from 5 to 15 spaces;
- Awning increased in size for wind mitigation;
- Landscaping on western boundary stepped down to boundary;
- Planters in communal open space slot gardens reduced in height;
- Draft emergency evacuation plan provided;
- Extent of glazing reduced on north and east elevations to reduce thermal loading and glare and improve heritage relationship;
- Lower level balustrades on north and east elevations changed from glass to metal to improve heritage relationship;
- Upper level balustrades to some units fitted with frittered glass to reduce glare;
- Exposed slabs changed from white to grey to improve heritage relationship;
- Solar shading added to parts of north facade to reduce thermal loading and glare;
- Additional insulation to improve thermal performance;
- Façade expression revised to reduce overshadowing on adjoining building to the west (2-4 Chester Street);
- Recycling waste storage cupboards added to each floor and provision of dual chute waste system; and
- Reduced depths of communal slot balconies to reduce apparent bulk of building.

5. Referrals

The following referrals were undertaken during the assessment process:

5.1 Sydney Central City Planning Panel Briefing (13/02/2020)

The matters raised by the Panel at its Briefing meeting are addressed below:

Issues Raised	Comment
Safety is a priority and an evacuation plan should be provided ASAP	The applicant has provided a draft emergency management plan which includes planning for evacuation. A condition is included requiring a detailed plan prior to occupation. Evacuation planning is primarily a function of the Building Code of Australia, which is also enforced by condition.
Height is currently non-compliant	Noted. The Clause 4.6 request is considered to have merit. See assessment in Section 7.10 below. The applicant's Clause 4.6 request is included at Appendix 1.
Solar access requirements for residents should take into account Seniors SEPP requirements	The SEPP Seniors solar access provision (i.e. 3 hours solar access) is a non-discretionary development standard. It is not intended as a minimum standard, but a standard which, if achieved, cannot be basis for refusal. It is considered that the ADG solar access requirement (i.e. 2 hours solar access) is a more appropriate guide in the context of the high density character of the area.
Breaking up of the façade is supported from a design point of view, however care must be taken that the plantings in the resultant 'slot' are viable, and that the wintergardens do indeed receive winter sun	As required by DEAP, the applicant has reduced the depth of the slot terraces. Council's tree and landscape officer is satisfied that the proposed terrace plantings are shade tolerant species. The terraces will not receive much direct sun. However, they will provide shady spaces with ambient daylight which may be desirable to residents in the hotter summer months. Further, the rooftop open space is an alternative option which will receive sun all year round for most of the day.
Setback controls are in place for the upper storeys which have not been acknowledged in the current design. If applied, setbacks may assist in improving solar access to the adjoining building, which it appears may be substantially overshadowed	Council's DEAP panel do not consider further setbacks to be appropriate. Further setbacks would result in a ziggurat effect which is discouraged in the ADG. The applicant has demonstrated that the non-complying elements do not result in loss of solar access for adjoining units.
Proximity of a Heritage Conservation areas should be acknowledged, and the building response should take this into this account, for example through the use of materials and colours	The applicant subsequently provided heritage impact advice from a qualified consultant. Council's Heritage officer raised concern with the high proportion of glazed façade, high reflectivity of the facade, recommended a more recessive colour for expressed concrete slab elements, and suggested balcony balustrades not be transparent. The applicant subsequently addressed all of these issues to the satisfaction of Council's heritage officer.
Car parking proposed currently exceeds DCP requirements and should be reviewed considering traffic impacts	Subject to receipt of legal advice, it is considered that the DCP maximum parking rates do not apply to the development as they are superseded by SEPP Seniors. See assessment in Section 7.8 below.
Provision for bicycle parking for residents who have their own bikes should be considered.	A condition is included requiring the individual basement storage cages be of a size and dimensions capable of accommodating a bicycle.

Table 2: SCCPP briefing notes and response.

5.2 Design Excellence Advisory Panel

Council's DEAP considered the previous application (DA/625/2018) on two occasions and provided advice which informed the subject application.

The Panel first considered the subject application at a meeting on 13 February 2020. Of note the panel suggested the following:

- Tiered planters along the front boundaries to reduce scale of raised ground floor;
- Softening the appearance of the vehicular entry;
- Reducing the amount of exposed glass to improve thermal comfort; and
- Modifying the mid-tower landscape terraces to better define the break between the two building forms.

The applicant subsequently submitted revised drawings responding to these concerns. The Panel further considered the application at a meeting on 9 July 2020. The Panel gave the application a 'green light' and stated the following:

The Panel commends the applicant and the design team for thoroughly responding to all the matters raised at the previous panel meeting.

The design has been refined to a high level, providing improved amenity to the residents and streetscape.

The panel was impressed with the attention to detail regarding ESD and thermal analysis to inform the design of the building facades, material selection and colour palette approach as well as for the use of a range of ESD initiatives such as solar PV panels and waste and water recycling.

The addition of the awning to the car park entry is an improvement and the proposal to incorporate artwork to the loading dock screening is fully supported.

DEAP also accepted the applicant's proposed use of the 8:30am to 3pm window to demonstrate solar access compliance. The DEAP panel's full comments are included at Appendix 2.

5.3 External

Authority	Comment
Ausgrid	Acceptable, subject to conditions of consent.
Sydney Water	Acceptable, subject to conditions of consent.
Quantity Surveyor	Cost of works commensurate with proposal.
Wind Consultant	Acceptable subject to recommendations in report.

Table 3: External referrals

5.4 Internal

Authority	Comment
Development/Catchment Engineer	Acceptable, subject to conditions of consent.
Landscape Officer	Acceptable, subject to conditions of consent.
Traffic Engineer	Acceptable, subject to conditions of consent.
Environmental Health – Acoustic	Acceptable, subject to conditions of consent.
Environmental Health – Waste	Raised concern that the applicant's intention to hire a private waste contractor, and thus not accommodate Council's waste dimensional requirements (single waste chute, bin size, truck size), would cause problems if the building

Authority	Comment
	reverted back to Council waste collection in the future. The applicant has demonstrated that the service dock can accommodate a Council vehicle. A condition is included requiring compliant bin sizes. The applicant has provided a dual chute system and a recycling cupboard on each level to avoid bulky cardboard and broken glass contaminating the recycling chute.
Environmental Health – Contamination	Acceptable, subject to conditions of consent.
Public Domain	Acceptable, subject to conditions of consent.
Social Outcomes	Generally acceptable, raised concern with amount of communal open space on lower levels, and quality of communal open space generally. As outlined in this report the quality of open/communal space is considered to be sufficient.
Civil Assets	Acceptable
Heritage	Council's Heritage officer raised concern with proportion of glazed façade, reflectivity, recommended a more recessive colour for expressed concrete slab elements, and suggested that balcony balustrades should not be transparent. Subsequently the applicant addressed these concerns to the satisfaction of the heritage officer.
ESD	Acceptable.

Table 4: Internal referrals

6. Environmental Planning and Assessment Act 1979

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

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

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

6.2 Section 4.15: Evaluation

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

Provision	Comment
Section 4.15(1)(a)(i) - Environmental planning instruments	Refer to section 7
Section 4.15(1)(a)(ii) - Draft environmental planning instruments	Refer to section 8
Section 4.15(1)(a)(iii) – Development control plans	Refer to section 9
Other Planning Controls	Refer to section 10
Section 4.15(1)(a)(iiia) - Planning Agreement	Refer to section 11
Section 4.15(1)(a)(iv) - The Regulations	Refer to section 12
Section 4.15(1)(a)(v) - Coastal zone management plan	Not applicable.
Section 4.15(1)(b) - Likely impacts	Refer to section 13
Section 4.15(1)(c) - Site suitability	Refer to section 14
Section 4.15(1)(d) – Submissions	Refer to section 15
Section 4.15(1)(e) - The public interest	Refer to section 16

Table 5: Section 4.15(1)(a) considerations

7. Environmental Planning Instruments

7.1 Overview

The instruments applicable to this application comprise:

- SEPP (Building Sustainability Index: BASIX) (BASIX SEPP) 2004;
- SEPP (Infrastructure) (ISEPP) 2007;
- SEPP (State and Regional Development) (SEPP SRD) 2011;
- SREP (Sydney Harbour Catchment) (SREP (Sydney Harbour)) 2005;
- SEPP No. 64 – Advertising and Signage (SEPP 64);
- SEPP No. 55 (Remediation) (SEPP 55);
- SEPP (Housing for Seniors or People with a Disability) 2004;
- SEPP No. 65 (Design Quality of Residential Apartment Development) (SEPP 65); and
- Hornsby Local Environmental Plan (HLEP) 2013.

Compliance with these instruments is addressed below.

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

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.

7.3 State Environmental Planning Policy (Infrastructure) 2007

The proposal does not constitute a ‘traffic generating development’ as it proposes less than 300 residential units and less than 200 car parking spaces. As such the proposal does not require referral to Road and Maritime Services (RMS).

7.4 State Environmental Planning Policy (State and Regional Development) 2011

The proposed development has a Capital Investment Value (CIV) of more than \$30 million. As such, Part 4 of this Policy provides that the application is ‘regionally significant development’ and thus the Sydney Central City Planning Panel (SCCPP) is the consent authority for this application.

7.5 Sydney Regional Environmental Policy (Sydney Harbour Catchment) 2005 (Deemed SEPP)

This Policy, which applies to the whole of the Parramatta Local Government Area (LGA), aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment, and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole. The nature of this project and the location of the site are such that there are no specific controls which directly apply, with the exception of the objective of improved water quality. That outcome will be achieved through the imposition of suitable conditions to address the collection and discharge of water during construction and operational phases of the development.

7.6 State Environmental Planning Policy No. 55 – Remediation of land

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

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

Council's Environmental Health team have reviewed the proposal and consider there to be no unacceptable contamination risk subject to conditions. As such the site is considered to be suitable for the proposed use.

The applicant has provided a hazardous material inspection report which indicates there is contaminated material including asbestos in the structure of the building. The report makes recommendation in regards to its safe removal and disposal. Appropriate hazardous waste conditions are included.

7.7 State Environmental Planning Policy No. 64 – Advertising and Signage

SEPP 64 was gazetted on 16 March 2001 and 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 3 building identification signage zones:

- 2 x top of building signs, east and northern elevations: 3.2m (L) x 0.9m (H)
- 1 x ground floor wall sign, east elevation, 2.0m (L) x 3.0m (H)

Clause 8 of SEPP 64 requires assessment of the signage zones against Schedule 1 Assessment Criteria. An assessment is provided below:

Assessment Criteria	Assessment
1. Character of the Area	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Yes. The Epping Town Centre Core East is transitioning from low-medium density residential, retail and commercial development to high-rise mixed use development. The signage zones are considered to be compatible with this town centre typology.
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?	No, subject to condition. The eastern and northern façades will be visible from the adjoining heritage conservation area (HCA). The signs have been located on the far southern side of the eastern façade and far western side of the northern facade which reduces their visibility from the HCA. However, a condition restricting the use of lighting on these signs is considered to be necessary to sufficiently minimise their impact on the HCA.
3. Views and Vistas	
Does the proposal obscure or compromise important views?	No. The signs are within the envelope of the building and there are no important views in the area.
Does the proposal dominate the skyline and reduce the quality of vistas?	No. The signs are within the envelope of the building. Subject to the lighting condition above the proposal will not reduce vistas from the HCA.
Does the proposal respect the viewing rights of other advertisers?	Yes. The proposal will not block any other signs.

4. Streetscape, setting or landscape	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Yes. The signs are commensurate in scale and proportion to the scale of the town centre streetscape. Form is subject to future detail application.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	Subject to future detail application.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	N/A. There is no existing signage to rationalise.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	Yes. The proposal protrudes above tree canopies. As outlined above, this is considered to be reason to require that the top of buildings signs not be illuminated.
5. Site and building	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Yes. The signs are commensurate in scale and proportion to the proposed building. Characteristics are subject to future detail application.
Does the proposal respect important features of the site or building, or both?	Subject to future detail application.
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?	Subject to future detail application.
7. Illumination	
Would illumination result in unacceptable glare?	No, subject to condition. Subject to the lighting condition above the proposal will not result in unacceptable glare on the adjoining HCA.
Would illumination affect safety for pedestrians, vehicles or aircraft?	Subject to future detail application.
Would illumination detract from the amenity of any residence or other form of accommodation?	Subject to future detail application.
Can the intensity of the illumination be adjusted, if necessary?	Subject to future detail application.
Is the illumination subject to a curfew?	Subject to future detail application.
8. Safety	
Would the proposal reduce the safety for any public road?	Subject to future detail application.
Would the proposal reduce the safety for pedestrians or bicyclists?	Subject to future detail application.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	Subject to future detail application.

As such the size and location of the proposed signage zones are considered to be acceptable subject to a condition that the top of building signs not be illuminated. A condition is included requiring a future DA for the detailed signage design.

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

The application seeks to rely on State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 for permissibility and as such is subject to the policy's requirements. An assessment of the proposal against the SEPP is provided below.

Requirement	Proposal
Clause 4 – Land to which Policy applies	Residential Flat Buildings are permitted on the site and as such the policy applies.

Clause 11 – Residential care facilities	The 'RAC' constitutes a <i>residential care facility</i> as defined by the SEPP.
Clause 13 – Self-contained	The 'ILU' units constitute <i>in-fill self-care housing</i> and <i>self-contained dwellings</i> as defined by the SEPP. The 'CAL' units constitute <i>serviced self-care housing</i> and <i>self-contained dwellings</i> as defined by the SEPP.
Clause 18 – Restrictions on occupation of seniors housing allowed under this Chapter	A condition is included in the draft consent restricting occupancy of the dwellings and RAC to those outlined in this clause.
Clause 26 – Location and access to facilities Residents to have access to identified services (banks, shops, service providers, etc) within 400 metres of the site or be within 400 metres from a public transport service. The average gradient pathway is no more than 1:14, although the following gradients are also acceptable: (i) A gradient no more than 1:12 (8.3%) for slopes for a max. of 15m at a time; (ii) A gradient no more than 1:10 for a max. of 5m at a time; (iii) A gradient no more than 1:8 for distances no more than 1.5m at a time.	The site is within 400m of bus stops, Epping Train Station and services, all accessible at appropriate gradients. The proposal has 24/7 step free access to services on Oxford Street.
Clause 27- Bush fire prone land	The site is not bush fire prone land.
Clause 28 – Water and sewer	Water and sewer are available to the site. The proposal was referred to Sydney Water who raised no objection to the proposal.
Clause 29 – Compatibility criteria The following must be considered: • The natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development. • The services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision, • The impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.	There are no known significant environmental values, resources or hazards on the site. The existing and approved uses in the vicinity are primarily shop top housing developments and residential flat buildings. The proposed Seniors Living is considered to be compatible with these uses. The site directly adjoins land zoned B2 – Local Centre with the primary uses in the area likely to be shop-top housing in the future and the site itself provides additional ancillary retail and recreational services. As such there will be significant retail opportunities for residents. The proposal is in close proximity to a number of medical centres. The proposal is in close proximity to Epping Train Station and as such has good access to public transport. Additional infrastructure is to be provided in the area in keeping with the established Developer Contributions schemes and state-government funding. The proposal, while exceeding the height limit, will be in keeping with the scale of development existing, approved and proposed in the area. See further discussion under ADG and LEP assessments below.

Clause 30 – Site Analysis Consent not to be granted unless site analysis prepared by the applicant has been submitted and has formed part of the assessment.	The application includes surveys and architectural plans which detail the required considerations.
Clause 31 – Design of in-fill self-care housing Consideration of the provisions of the <i>Seniors Living Policy: Urban Design Guideline for Infill Development</i> (in addition to any other matters that are required to be, or may be, taken into consideration).	The ILUs are identified as in-fill self-care housing. As such the applicant must demonstrate compliance with the <i>Seniors Living Policy: Urban Design Guideline for Infill Development</i> guidelines. An assessment is provided at the end of this table.
Clause 32 – Design of Residential Development.	See below.
Clause 33 – Neighbourhood amenity and streetscape	The proposal is in keeping with the desired future character of the area, a high density mixed use area. The site is located adjacent a heritage conservation area. Given the separation from the area and the closest heritage item (~40m), the proposal would not have a direct impact on the curtilage of any items. The building would be visible in background views of the HCA. The applicant has adopted the recommendations of Council's heritage expert, including minimising reflectivity, provision of solid balustrades at lower levels and recessive façade colours, and as such is considered to suitably minimise its impact on the HCA.
Clause 34 – Visual and acoustic privacy	The communal balconies on Levels 1-5 overlook adjacent units 1.05/2.05/3.01/4.01/5.01 respectively. A condition is included requiring a privacy screen on the balconies to resolve this conflict. The ground floor communal terrace on the western side of the site would be 2.75m above the adjoining ground level units at 2-4 Chester Street. While the draft landscape plans includes a row of hedges along this boundary, it is considered necessary to provide a privacy screen along the western extent of the terrace to ensure the privacy of those adjoining units. A condition is included to this effect. The proposal includes a comprehensive acoustic and vibration report which considers the impact of external noise/vibrations sources on occupants and internal noise sources on adjoining/nearby properties. The report includes testing of the background noise levels and makes recommendations for treatments to ensure occupants and neighbours will not be unduly affected. A condition is included requiring compliance with the recommendations in this report.
Clause 35 – Solar access and design for climate	The applicant has demonstrated that the proposal would ensure adequate solar access and ventilation is maintained to adjoining properties (See ADG assessment below). The applicant has demonstrated that the proposed units would receive appropriate solar

	access and natural ventilation (See ADG assessment below).
Clause 36 - Stormwater	The stormwater management system has been reviewed by Council's Engineer and is considered to be acceptable subject to condition.
Clause 37 – Crime prevention	A Crime Prevention Through Environmental Design assessment has been included as part of the Statement of Environmental Effects. The proposal is considered to adequately provide sightlines, casual surveillance and secure access.
Clause 38 – Accessibility	Level, step-free access is provided to all entries and units.
Clause 39 – Waste management	Garbage chute and recycling chutes provided. Recyclables cupboards provided on each level for bulky items and glass. These items will be transported from each level to waste room by staff.
Clause 45 – Vertical Villages	This clause allows a 0.5:1 bonus for vertical villages where the proposal includes 10% affordable housing and delivers on-site support services for its residents, which means: (a) 3 meals a day provided on a communal basis or to a resident's dwelling, and (b) personal care, and (c) home nursing visits, and (d) assistance with housework. While the proposal includes the provision for 10% affordable housing, and support services apply to the RAC and CAL units they do not apply to the independent living units and as such the bonus does not apply. The application does not seek to rely on this bonus.

Part 4 Development standards to be complied with

Requirement	Proposal	Compliance
40 Development standards—minimum sizes and building height		
(4) Height in residential zones where residential flat buildings are not permitted	Residential flat buildings are permitted.	N/A
(5) Development applications to which clause does not apply	The applicant is a registered community housing provider	Yes
Division 2 Residential care facilities – standards concerning accessibility and useability		
There are no standards in this division. Rather, a note requires compliance with the Commonwealth Aged Care Accreditation Standards and the BCA. On 1 July 2019, the Commonwealth Aged Care Accreditation Standards were replaced with the Aged Care Quality Standards which are contained within the Quality of Care Principles 2014 [Commonwealth]. The standards relate mainly to the operation of the building. The standards continue to apply under the relevant federal legislation regardless of any conditions of consent. As such a note is included at the end of the consent reminding the applicant of the requirement to comply with these standards. An assessment of the proposed residential care facility against the Building Code of Australia has been provided by the applicant. It identifies Fire Engineering Performance Solutions. A draft emergency evacuation plan has also been provided. Conditions will be included requiring compliance with the BCA and implementation of an Emergency Management Plan.		
41 Standards for hostels and self-contained dwelling		
An assessment of the proposed self-contained dwellings against Schedule 3 of the SEPP is provided at the end of this table.		

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

Part 7 of the Seniors SEPP contains development thresholds which, if achieved, cannot be used as grounds to refuse consent. For ease of reference these development standards as compared to the proposal are tabulated below:

Standard	Proposal
48 Standards that cannot be used to refuse development consent for residential care facilities	
building height: < 8m / 2 storeys	The proposed RAC does not satisfy this criterion and thus cannot benefit from this clause.
density and scale: < 1:1	The proposed RAC does not satisfy this criterion and thus cannot benefit from this clause.
landscaped area: > 25sqm/bed (1,500sqm)	The proposed RAC does not satisfy this criterion and thus cannot benefit from this clause.
parking: 1/10 beds + 1/2 employees + 1 ambulance [6 + 20 = 26 + ambulance]	26 + ambulance The proposed RAC satisfies this criterion and as such the quantity of parking for the RAC cannot be used to refuse consent. A condition is recommended requiring these spaces be retained by the RAC are not used by the ILUs.
50 Standards that cannot be used to refuse development consent for self-contained dwellings	
building height: < 8m / 2 storeys	The proposal does not satisfy this criterion and thus cannot benefit from this clause.
density and scale: < 0.5:1	The proposal does not satisfy this criterion and thus cannot benefit from this clause.
landscaped area: > 30% site area	The proposal does not satisfy this criterion and thus cannot benefit from this clause.
deep soil zones: >15% site area	The proposal does not satisfy this criterion and thus cannot benefit from this clause.
solar access: living rooms and private open spaces, min 70% of dwellings, > 3 hours direct sunlight, 9am-3pm, mid-winter,	The proposal does not satisfy this criterion and thus cannot benefit from this clause. As discussed this standard is not intended as a minimum standard, but a standard which, if achieved, cannot be basis for refusal. A more detailed discussion on solar access is found in the ADG discussion at 4A: Daylight/Solar Access.
private open space for in-fill self-care housing: >6sqm (1 bed) >10sqm (2+ bed) min dims. 2m, access from living area.	1 bed: >8m ² , >2m 2+ bed: >10m ² , 2m The proposal satisfies these criteria and as such cannot be refused on this ground.
parking: > 1 car spaces/ 5 dwellings (130 units = 26 parking spaces)	93 The proposal satisfies this criterion and as such the quantity of parking for the ILUs cannot be used to refuse consent. The applicant and Council attained independent legal advice which both found that this clause prevented Council from seeking to apply its DCP maximum parking control to seniors housing.

Seniors Living Policy: Urban Design Guideline for Infill Development

Note. This document primarily provides guidance for low scale development and provides more qualitative controls than quantitative controls. As such it is considered appropriate to defer to the ADG for certain numerical controls.

Standard	Proposal
1. Responding to Context	The proposal is considered to respond to the desired future character of the area, namely towers above podiums. The proposal includes a 3 storey podium with 13 tower storeys above.
	The proposal will continue the street tree pattern to Oxford Street and Chester Street.
	The applicant has undertaken a detailed site analysis and documented how it has informed the design approach in an urban design report.
2. Site Planning and Design	The proposed building is in keeping with the high density character of the area. The building serves to transition from the larger buildings to the south down to the lower scale buildings to the north.
	The most significant natural feature of the site are 3 large gum trees. The proposal requires removal of two of these trees to the front of the site and includes retention of one to the rear. Given the 2 trees to be removed would severely compromise the development potential of the site, significant effort has been put into retaining the third large tree and the proposal includes planting of 36 new trees on site, their removal is considered justified.
	The proposal would provide an acceptable level of amenity to the future seniors living residents.
	The proposal provides a good level of deep soil to the rear of the site.
	The proposal adequately minimises the visual impacts of car parking and vehicular circulation by breaking up the servicing area and driveway with varied materials and a street tree.
	The proposal provides a range of dwellings sizes. A condition is included requiring that all leases have the option of not including car parking.
3. Impacts on Streetscape	The proposed building is not considered likely to appear overly bulky in the context of the area.
	The proposal retains a significant tree and integrates it as a feature of the communal open space.
	The proposal provides a high quality publicly accessible front setback with clear delineation to the private spaces behind.
	The vehicular entrances are located to the western side of the secondary frontage, the entries are recessed from the main building façade, include security doors and as such are considered to be generally acceptable. The use of high quality materials returning into the basement opening will be a condition of consent. The basement driveway represents 18% of the Chester Street frontage and thus satisfies the 25% control.
	The proposal increases activation of the site to both streets and provides additional public open space to the front of the site.
4. Impacts on neighbors	The podium matches the height of the adjoining podium to the west and as such does not result in loss of outlook or overshadowing impacts.
	The Oxford Street facade contains a deep vertical recess that reduces the apparent bulk of the building.
	The roof top open spaces are adequately setback from the roof so as not to create privacy impacts. Conditions are included to restrict privacy impacts from the ground level western communal terrace (outlined in more detail below).
5. Internal site amenity	The proposal includes a high quality entry, ancillary services and a variety of communal open spaces for the various seniors living typologies. It is not considered necessary to provide separate entrances for the Seniors Living typologies as they make up a 'vertical village'.
	The proposal includes a good quality and quantity of communal open space, accessible to all occupants.

Standards for hostels and self-contained dwelling

Standard	Proposal
2 'Siting standards'	All dwellings are wheelchair accessible to a public road (Oxford Street).
3 'Security'	A condition will be included to this effect.
4 'Letterboxes'	The proposal includes letterboxes which satisfy these requirements.
5 'Private car accommodation'	The proposal provides 22 accessible parking spaces for the self-contained dwellings (16%) and thus satisfies the criterion. Notwithstanding, a condition is included requiring the criteria be implemented.
6 'Accessible entry'	The proposal satisfies this criterion.
7 'Interior: general'	The proposal satisfies the dimensional criteria.
8 'Bedroom'	The proposal satisfies the dimensional criteria. The other criteria will be secured via condition.
9 'Bathroom'	A condition will be included to this effect.
10 'Toilet'	The proposal satisfies this criterion.
11 'Surface finishes'	A condition will be included to this effect.
12 'Door hardware'	A condition will be included to this effect.
13 'Ancillary items'	A condition will be included to this effect.
15 'Living room and dining room'	A condition will be included to this effect.
16 'Kitchen'	A condition will be included to this effect.
17 'Access to kitchen, main bedroom, bathroom and toilet'	The proposal complies with this criterion as all units are single level units.
18 'Lifts in multi-storey buildings'	The proposal includes 4 lifts and as such complies with this criterion.
19 'Laundry'	The proposal satisfies the dimensional criteria. The other criteria will be secured via condition.
20 'Storage for linen'	A condition will be included to this effect.
21 'Garbage'	A condition will be included to this effect.

For the reasons outlined above the proposal is considered to satisfy the requirements of the SEPP.

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

SEPP 65 applies to the development as it is a new building, is more than three (3) storeys in height, and will have more than four (4) residential units. SEPP 65 requires that residential apartment development satisfactorily address nine (9) design quality principles, and consider the recommendations in the Apartment Design Guide (ADG).

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
<i>Principle 1: Context and Neighbourhood Character</i>	The proposed development is considered to make a positive contribution to the locality and improve the existing streetscape. The character of this locality is undergoing transition from low-medium scale commercial and residential uses to high density mixed use developments. This proposal is consistent with that shift. The site is in close proximity to Epping train station, which has been upgraded to accommodate a frequent metro line, and as such is well connected in terms of public transport.

Requirement	Council Officer Comments
<i>Principle 2: Built Form and Scale</i>	While the proposal has a large floorplate, the sense of bulk is reduced by the inclusion of a wide vertical break in the Oxford Street façade. The design includes varying colours, materials, and setbacks to provide visual interest. In the context of the large buildings to the south of the site, the proposal will help to step down to the lower scale development to the north.
<i>Principle 3: Density</i>	The site is not subject to an FSR control. As such density is controlled by the other built form controls, such as setbacks and height. While the proposal includes minor non-compliances with some of the built form controls, the high public transport accessibility of the area and access to community facilities, as well as the commitment to affordable and seniors housing, the proposed density is considered to be acceptable.
<i>Principle 4: Sustainability</i>	A BASIX Certificate and relevant reports have been submitted with the development application outlining Environmentally Sustainable Design (ESD) initiatives which meet the required targets. The development achieves a good level of cross ventilation throughout the development with a majority of the proposed units having dual aspects. The application provides suitable provision of bicycle parking for visitors and staff (provided in accessible areas). While resident bicycle parking is not specified, a condition is included requiring that residential storage cages be capable of accommodating at least 1 bicycle. The proposal includes 2 electric car charging spaces in the basement. A condition is included confirming their provision.
<i>Principle 5: Landscape</i>	The proposal is consistent with the objectives of HDCP 2013, and provides appropriate planting to communal open space and surrounding streets, creating an appropriate landscape setting.
<i>Principle 6: Amenity</i>	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. A satisfactory wind assessment report has been provided, which concludes that wind conditions in and around the site are expected to be comfortable and pass the safety criterion subject to wind treatment. The wind treatment measures, which include an awning, are outlined on the drawings or are required via condition of consent.
<i>Principle 7: Safety</i>	The proposal is considered to provide appropriate safety for occupants and the public for the following reasons: • A significant number of units are orientated towards public streets creating passive surveillance. • Entry points into the building are clearly identifiable allowing ease of access for residents and visitors. • Retail components at ground level will activate the precinct to further enforce a sense of passive surveillance. • Access to the rear open space is protected by a gate/fence.
<i>Principle 8: Housing Diversity and Social Interaction</i>	The proposal achieves a mix of apartment sizes at various levels of care. The proposal provides high quality communal open spaces which will foster social interaction.
<i>Principle 9: Aesthetics</i>	The composition of building elements, textures, materials and colours reflect the use, internal design, and structure of the resultant building. The proposed tower is considered to aesthetically respond to the environment and context, contributing in an appropriate manner to the desired future character of the area.

Table 6: Assessment of the proposal against the Design Quality Principles

Design Review Panels

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

Apartment Design Guide

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

Standard	Requirement	Proposal	Compliance
Part 3			
3B-1: Orientation	The orientation of the building is generally acceptable as it is a rectilinear building with façades which run parallel to the boundaries. The proposal addresses Oxford Street with active uses such as a hairdresser and raised decking from the multipurpose rooms. Minimal activation along Chester Street is considered to be appropriate given the residential zoning.		
3B-2: Overshadowing	The adjoining site to the south, 37-41 Oxford Street, benefits from a concept approval for a mixed use tower (DA/314/2017). As part of the assessment of that application the applicant demonstrated that 63% of their units would achieve ADG solar compliance if the subject site were developed in accordance with the height and envelope controls. This figure was accepted as reasonable. The applicant has demonstrated that 65% of the adjoining units would retain solar access and as such has less impact than anticipated. The adjoining site to the west, 2-4 Chester Street, accommodates a 15 storey Residential Flat Building. The applicant has provided a detailed shadow analysis outlining the impact the proposal will have on the solar access of the adjoining building. 9 units will lose up to 1 hour of solar access outside the mid-winter solar access window (i.e. before 9am). 4 of those units will lose approximately 15min of solar access in the mid-winter solar access window (i.e. 9am to 3pm). All of the affected units are already 'non-compliant units' in that they do not currently receive the recommended solar access in mid-winter (i.e. 2 hours of direct solar access between 9am and 3pm). The non-compliance with the building envelope controls do not result in additional overshadowing beyond a complying envelope (See Attachment 3). It is thus reasonable for those units to have expected their solar access to be affected in this way. The shadow cast by the proposal at noon does not reach any of the adjoining properties on the east side of Oxford Street. As such those dwellings continue to receive at least 3 hours of solar access. All adjoining communal open spaces will receive solar access to at least 50% of their principal useable area for 2 hours at mid-winter between 9am and 3pm. For the reasons outlined above, the proposal is considered to have a reasonable overshadowing impact on adjoining/nearby properties.		
3C: Public Domain Interface	The public domain interface is considered to positively contribute to the streetscape by providing a high quality entrance forecourt, high quality materials and stepped planters in front of the ground floor balconies for the multipurpose rooms. Step-free access to the main entrance is provided at a very shallow 1:200 gradient.		
3D: Communal & Public Open Space	Min. 25% of site area (695m ²)	524m ² (ground) 99m ² (Level 2) 86m ² (Level 6) 58m ² (Level 7) 300m ² (Levels 8,10,12,14) 138m ² (Levels 9,11,13) 403m ² (roof) 1608m² (total)	Yes

Standard	Requirement	Proposal	Compliance
	Min. 50% direct sunlight to main communal open space for minimum two (2) hours 9:00am & 3:00pm, June 21 st (347m ²)	403m ² (roof) will receive 2 hours of sunlight in midwinter	Yes
	The landscape plan outlines undercover areas, BBQ's, open air seating areas, and a variety of soft and hard landscaping which is considered to provide good amenity for future occupants.		
3E: Deep Soil	Min. 7% with min. dimensions of 3m (194m ²)	~379m ² (14%)	Yes
3F: Visual Privacy	To 37-41 Oxford Street boundaries (south)		
	<4 storeys, H/NH, 3m	6m	Yes
	<4 storeys, H/H, 6m	6m	Yes
	5-8 storeys, H/NH, 4.5m	6m	Yes
	5-8 storeys, H/H, 9m	6m (screened)	Yes
	>8 storeys, H/NH, 6m	9m	Yes
	>8 storeys, H/H, 12m	9m (screened)	Yes
	To 2-4 Chester Street boundary (west)		
	5-8 storeys, H/NH, 4.5m	6m	Yes
	5-8 storeys, H/H, 9m	9m	Yes
	>8 storeys, H/NH, 6m	9m	Yes
	>8 storeys, H/H, 12m	12m	Yes
	While the southern interface does not provide the recommended separation to achieve privacy, it meets the same aim by screening the windows to block close and direct views.		
3G: Pedestrian Access and Entries	The proposal includes a clearly demarcated, easily identifiable, at-grade pedestrian entrance, well separated from vehicular accesses.		
3H: Vehicle Access	Given the importance of Oxford Street as a primary active frontage and the amount of traffic on this street, it is considered appropriate for the primary vehicular access to be from the secondary road, Chester Street. The loading and waste areas will be screened from the street (doors provided).		
3J: Bicycle and car parking	<u>Car Parking Minimums</u> >0	Residential: 103 Visitor: 25 Total: 128	Yes Yes Yes
	The site is within 800m of a railway station in the Sydney Metropolitan Area and as such the applicable minimum is as set out in the RMS Guide to Traffic Generation Council or the DCP, whichever is less. The DCP only has a maximum rate for residential accommodation in the Epping Town Centre and as such the inferred minimum is zero. As such, the proposal complies with the minimum. For bicycle parking assessment see Hornsby DCP assessment below.		

Standard	Requirement	Proposal	Compliance
Part 4			
4A: Daylight / Solar Access	Min. 2hr for 70% of apartments living & POS 9am - 3pm mid-winter (>91)	61 out of 130 apartments (47%) receive 2 hours 9am - 3pm mid-winter 105 out of 130 apartments (81%) receive 2 hours 8:30am - 3pm mid-winter Land to the north is zoned for 17.5m tall buildings. Given the separation from these sites any redevelopment is unlikely to overshadow the site.	No*
	Max 15% apartments receiving no direct sunlight 9am & 3pm mid-winter (<19)	5 out of 130 apartments (4%)	Yes
	While the proposal does not achieve the required solar access as defined by the ADG, taking into account the 30 minutes of solar access between 8:30am and 9:00am brings compliance up to 81%. Given the minimal number of units which receive no solar access at mid-winter, and high compliance at a slightly prolonged interval, the proposed development is considered to provide adequate solar access to residents. Please note that the ADG is not intended as a set of strict development standards (see Attachment 7).		
4B: Natural Ventilation	Min. 60% of apartments up to 9 storeys naturally ventilated (>42)	42 out of 70 apartments (60%)	Yes
	The proposed development complies with the ADG natural ventilation requirement for the first nine (9) levels.		
4C: Ceiling heights	Min. 2.7m habitable	2.7m	Yes
	Min 2.4m non-habitable	2.5m	Yes
	Min 3.3m for mixed use	3.7m	Yes
4D: Apartment size & layout	1B – Min 50m ²	Yes (53sq.m min)	Yes
	2B – Min 75m ² (2 baths)	Yes (77sq.m min)	Yes
	3B – Min 95m ² (2 baths)	Yes (109sq.m min)	Yes
	All rooms to have a window with total minimum glass area not less than 10% of the floor area of the room.	Complies	Yes
	Habitable room depths max. 2.5 x ceiling height (6.75m)	<7.3m	No (minor)
	Max. habitable room depth from window for open plan layouts: 8m.	<9.2m	No (minor)
	Min. internal areas: Master Bed - 10m ² Other Bed - 9m ² Min. 3m dimension for bedrooms (excl. wardrobe space).	>10m ² >9m ² >3m	Yes Yes Yes
	Min. width living/dining:		
	• 1B – 3.6m	>3.6m	Yes
	• 2B – 4m	>3.8m	No (minor)
	• 3B – 4m	>4m	Yes

Standard	Requirement	Proposal	Compliance
4E: Private open space & balconies	Min. area/depth:		
	1B - 8m²/2m	>8m²/2m	Yes
	2B - 10m²/2m	>10m²/2m	Yes
	3B - 12m²/2.4m	>15m²/2.2m	Yes
	Principle private open spaces are provided off living rooms with secondary access from bedrooms where possible.		
4F: Common circulation & spaces	Max. apartments – off circulation core on single level: 8-12	6	Yes
	Corridors >12m length from lift core to be articulated.	Articulated	Yes
	The corridors are also provided with extra width and natural light/ventilation.		
4G: Storage	1B – 6m³ (x46) = 276 m³ 2B – 8m³ (x73) = 584 m³ (Including 2B + study) 3B – 10m³ (x11) = 110 m³ Total – 970m³	512m³ (in unit) + basement storage	Yes
	Min. 50% required in units (485m³)	512m³	
	A condition is recommended requiring that sufficient total volumes of storage space be allocated as required.		
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	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. A condition is included requiring the implementation of the report's recommendations.		
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 apartment sizes are provided across each level of the apartment building.		
4M: Facades	The façade materials include terracotta cladding, patterned cement cladding, aluminium framing, louvres and paint in various colours to add visual interest. The proposal has a distinctive base (podium), middle (tower element) and top (recessed roof amenity level).		
4N: Roof design	The proposed building has flat roof elements which are considered to be appropriate given the character of the area. Rooftop plant and lift overrun are suitably concealed ensuring they are not visible from the street.		
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 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. Notwithstanding, a condition is included to this effect.		
4Q: Universal Design	20% Liveable Housing Guidelines Silver Level design features (>26)	All Seniors Living units are fully adaptable.	Yes

Standard	Requirement	Proposal	Compliance
	The Seniors Living units are appropriately barrier free and have wheelchair access to Oxford Street. An Access Report has been included as part of the application confirming that the proposed development is capable of meeting the requirement of SEPP 65, and Part 4Q of the ADG. Further design detail of specific elements will be required as the development progresses through to the construction phase to ensure compliance. A condition has been included requiring confirmation prior to CC being issued.		
4S: Mixed Use	The proposal is considered to provide an appropriate mix of seniors uses. The building has a prominent entry including hairdresser and café. Gardens are provided along Oxford Street. There is minimal activation along Chester Streer as it fronts an established low rise residential zone.		
4T: Awnings and Signage	Sun and rain protection is provided along part of the Oxford Street frontage. As there is no requirement for such an awning this is considered to be acceptable. The proposal includes a ground floor building identification signage zone adjacent the main entrance which will help to identify it from a distance as recommended by the control.		
4U: Energy Efficiency	The BASIX Certificate demonstrates the development achieves the pass mark for energy efficiency (Score: 25, Target: 25).		
4V: Water management	The BASIX Certificate demonstrates that the development achieves the pass mark for water conservation (Score: 40, Target: 40).		
4W: Waste management	Waste management plans for demolition, construction and operational stages have been provided. Waste and bulky goods storage rooms have been provided. The proposal includes a dual garbage/recycling chute with a small recyclable cupboard on each floor for bulky/glass recycling.		
4X: Building maintenance	The proposed materials are considered to be sufficiently robust, minimising the use of render and other easily stained materials.		

Table 7: Assessment of the proposal against the ADG

7.10 Hornsby Local Environmental Plan 2013

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

Development standard	Proposal	Compliance
2.3 Zoning		
R4 – High Density Residential	The proposal is a mixed use ‘vertical village’ development comprising the following Seniors Living elements: • In-fill self-care housing • Serviced self-care housing • Residential aged care facility While not permissible as per the LEP zoning, the Seniors Living uses are permissible pursuant to SEPP Seniors Living (see further justification under Section 7.9 above). The retail uses (hairdresser and café) at ground level are considered to be ancillary to the primary use as they will primarily be attended by residents. The proposed building identification signage is permissible with consent.	Yes

Zone Objectives		
	The proposal is considered to be in keeping with the objectives of the R4 High Density Residential zone for the following reasons: • The proposal provides for the housing needs of the area. • The proposal adds to the variety of housing types. • The proposal includes ancillary services for the occupants which will also be open to the public.	Yes
4.3 Height of Buildings		
Control: 48m	Max Height 54.1m	No (6.1m, 12.7% breach)
4.4 Floor Space Ratio		
No Control (density dictated by built form controls)	6.6:1	N/A
4.6 Exceptions to Development Standards		
	Variation to clause 4.3 'Height of Buildings' standard.	Yes (see below)
5.10 Heritage conservation		
	The site adjoins the East Epping Heritage Conservation Area and two locally listed heritage items. The proposal is separated from the heritage items and conservation area by approximately 45m. The East Epping Heritage Conservation Area – Character Statement makes the following mention of the Uniting Church, <i>the Inter-war period Uniting Church at the intersection of Chester, Oxford and Essex Streets [is] of historic and social significance to the locality.</i> The DCP recommends that contemporary design be sympathetic to the characteristic built form of the conservation area, particularly in terms of bulk, scale, height, form or materials. The height and setback controls were set in the context of the conservation area. The proposal is generally consistent with those controls. The Character Statement also states that, <i>"Clean faced brick (red/brown colours) or weatherboards should be used for walls...Traditional materials, such as slate or terracotta tiles should be used for new roofs"</i>. The use of red and orange terracotta cladding responds to the red brick and terracotta roof tiles characteristic of the area, while the light and dark green cladding is reminiscent of the landscaped character of the area.	Yes

	The applicant has adopted the recommendations of Council's heritage expert, including minimising reflectivity, provision of solid balustrades at lower levels and recessive façade colours, and as such is considered to suitably minimise its impact on the HCA and heritage items. As such, the proposal is considered to have an acceptable impact on the curtilage of the nearby heritage conservation area and heritage items due to general compliance with the height and envelope controls and use of complimentary materials.	
6.2 Earthworks		
	The application includes a geotechnical report which outlines measures to reduce the impacts of earthworks. Council's engineers have recommended a condition requiring a more detailed geotechnical report, including additional boreholes, after demolition of the existing building, which has been included.	Yes
6.8 Design Excellence		
	Council's Design Excellence Advisory Panel have reviewed the proposal and consider that it achieves design excellence.	Yes

Table 8: Assessment of the proposal against HLEP 2013

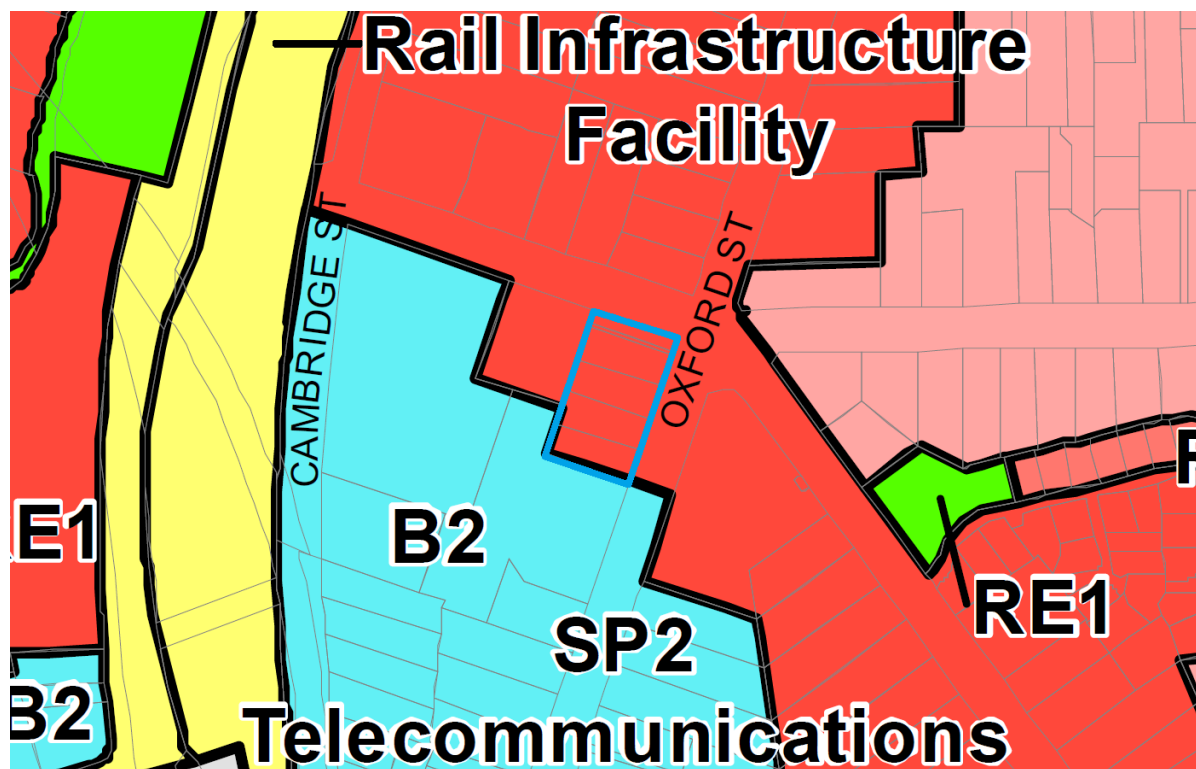


Figure 7. HLEP 2013 Zoning map (subject site outlined in blue). The site is zoned R4 – High Density Residential.

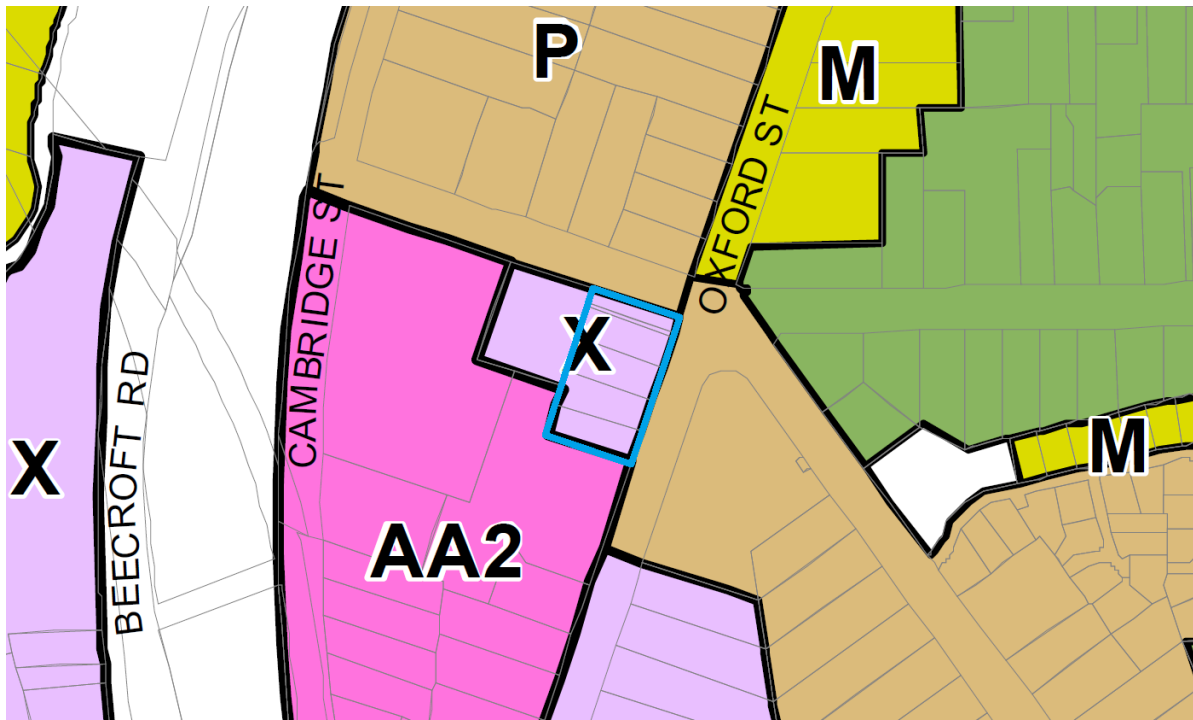


Figure 8. HLEP 2013 map (subject site outlined in blue). The site is classified X – 48m height limit.

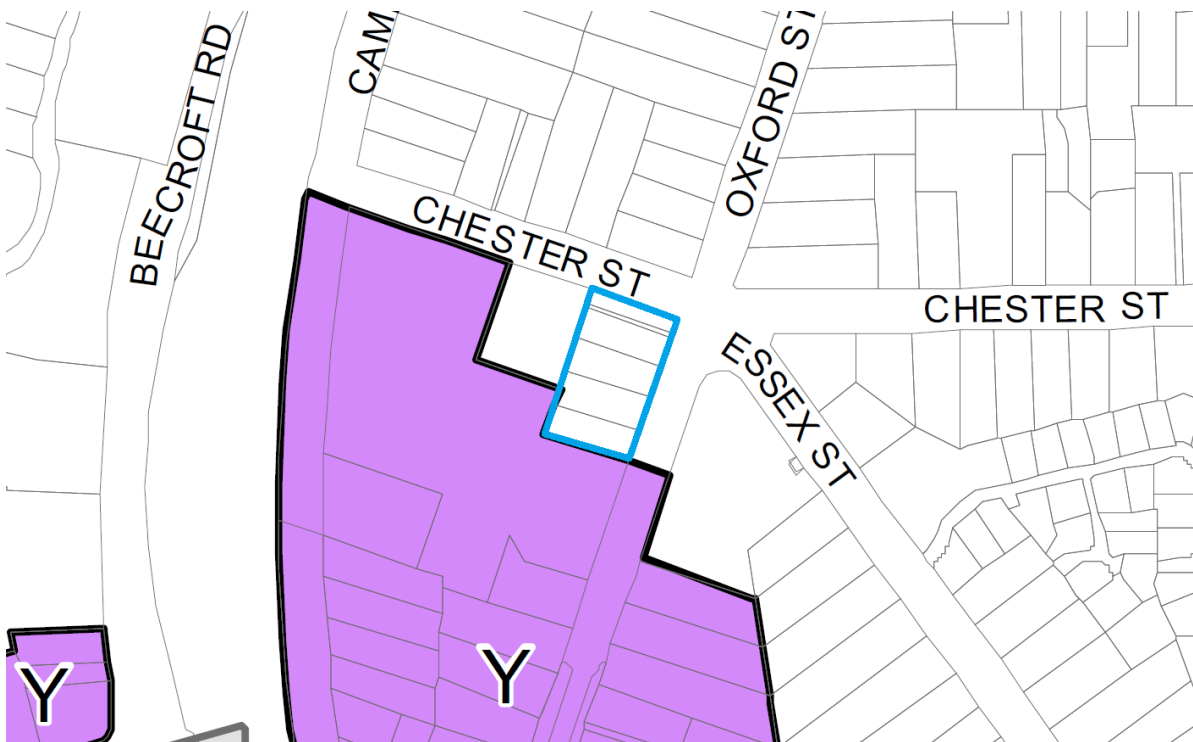


Figure 9. HLEP 2013 Floor Space Ratio map (subject site outlined in blue). The site does not have an FSR classification.

Clause 4.6 Variation Assessment

Clause 4.6 of HLEP 2013 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.

The proposal does not comply with the Clause 4.3 ‘Height of Buildings’ development standard, as outlined in the table above and figure below, and as such the applicant has submitted a request to vary the height standard under Clause 4.6 of the HLEP 2013.

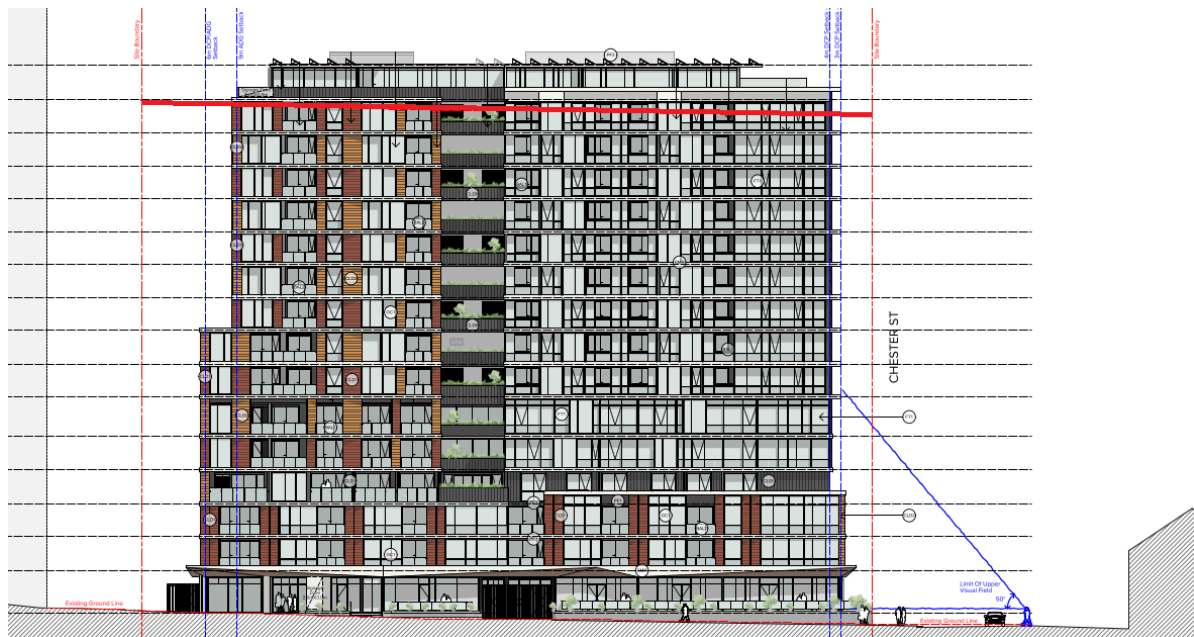


Figure 10. Proposed breach of height limit in context of approved/existing development in the vicinity (red line represents height standard).

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 Appendix 1.

- *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case because the proposed development remains consistent with the stated height objectives in that it remains appropriate for the site constraints, development potential and infrastructure capacity of the locality, and*
- *That there are sufficient environmental planning grounds to justify contravening the development standard as the proposed height variation maintains a suitable height transition, acts as a gateway building for the town centre, does not generate any unacceptable overshadowing or traffic generation impacts; and*
- *The proposal will provide a significant amount of seniors housing within the town centre, a form of accommodation which is in high demand.*
- *The proposed additional height is as a result of the combination of the following design constraints:*

- *Compliance with the ADG floor to ceiling heights;*
- *The natural slope of the land and a need to increase the ground floor level height in order to achieve universal access into the main entrance of the building from the public domain; and*
- *The need to provide rooftop amenities such that a variety of spaces which achieve varying levels of solar access are provided.*

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 that determine 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.*

Height of Buildings Objectives

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

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

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

While the proposal exceeds the height storey control, the additional storey relates purely to communal space and as such does not increase the residential density on the site.

Similarly, while the top storey of residential accommodation also exceeds the height limit (in metres), this is as a result of providing complying floor to ceiling heights and a raised ground floor level and as such does not increase the residential density on the site.

The proposal generally complies with the required setback controls.

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

2. *The underlying objective or purpose 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*

The applicant contends that the objective would be thwarted if compliance were required as only a 14-storey building would be achievable, providing less than the anticipated density, exacerbating a projected under provision of seniors housing in the locality. For the

reasons outlined under point 1 above, this justification is considered to be acceptable.

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 challenge that the development standard is abandoned. However, they note the significant variation approved at adjoining and nearby sites to the south.

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.

The applicant puts forth the following 3 site specific grounds:

- Compliance with the ADG floor to ceiling heights - The LEP sets a 48m height limit while the DCP sets a 15 storey height limit. This equates to 3.2m/floor. While this is already tight given the need to accommodate the recommended 2.7m floor-to-ceiling heights for a residential tower (+0.3m slab thicknesses), the pseudo-commercial nature of the ground floor (i.e. ancillary retail and residential administration) are best served by a 4m floor to ceiling height, as recommended by the ADG.
- Natural slope of the land - The site slopes down to the north. The primary entrance is on the southern side of the site to provide the most direct access possible to the Epping town centre shops and transportation. In order to provide step-free access, desirable given the building is for seniors living, the ground level is set at the existing southern level. This exacerbates the non-compliance with the height control on the northern side of the site. If the ground level were set at the northern ground level, the building would be approximately 2m lower but it would be less accessible for seniors.
- Need to provide rooftop amenities to ensure solar access compliant communal open space - The building is located in the north-east corner of the site to provide the required setbacks to the adjoining properties, to protect the existing tree in the south-west corner of the site and to address the street. Given the height and proximity of the adjoining building to the west, the western and southern ground floor setback areas will receive minimal solar access. As such, the applicant proposes a rooftop communal area which will receive solar access throughout the day, all year around. Lift access to this space, and the associated overrun exacerbate the height non-compliance.

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".

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

"The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out".

The proposal is consistent with the objectives of the zone and height standard as set out in the tables below:

R4 Zone Objective	Proposal
<i>To provide for the housing needs of the community within a high density residential environment.</i>	The proposal provides a variety of seniors housing typologies in a variety of sizes in a high density environment and as such is considered to satisfy these objectives.
<i>To provide a variety of housing types within a high density residential environment.</i>	
<i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	The proposal provides retail uses at ground level which will serve the occupants and the wider community.

Table 9: Assessment of the proposal against the R4 – High Density Residential zone objectives

Clause 4.3 Objective	Proposal
<i>To permit a height of building that is appropriate for the site constraints, development potential and infrastructure capacity of the locality.</i>	As outlined above, the proposal is considered to satisfy the objectives of the height standard.

Table 10: Assessment of the proposal against the Clause 4.3 – Height of Buildings objectives

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 (See Attachment 6). There is no limit to the level of non-compliance for which concurrence can be assumed for regional planning panels.

Conclusion

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 Hornsby LEP 2013 can be supported as the proposal achieves the objectives of the height development standard and zone, there are sufficient site specific reasons for the breach, and the proposal is in the public interest. In reaching this conclusion, regard has been given to the relevant Judgements of the LEC.

9. Draft Environmental Planning Instruments

There are no draft environmental planning instruments relevant to the subject application.

10. Development Control Plan

a. Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within HDCP 2013.

Where there is conflict between HDCP 2013 and the SEPPs listed above the SEPP controls prevail to the extent of the inconsistency and as such are not included below.

The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

Control	Requirement	Proposal	Compliance
<i>1C – General Controls</i>			
<i>Biodiversity</i>	Avoid impacts on biodiversity and environmental features	The proposal requires the removal of 5 trees (3 medium and 2 high significance) from the site. The proposal retains a tree of high significance to the south-west corner of the site. The landscape plan outlines the planting of 36 trees. The proposal would result in a net increase in planting on the site and as such is considered to be acceptable. Conditions are included to ensure sufficient soil depth for trees. The proposal also provides for replacement of the 5 existing street trees with 8 new street trees.	Yes
<i>Stormwater Management</i>	Erosion and Sediment Control, OSD, WSUD	Erosion and Sediment Control Plan, OSD, and WSUD measures have been reviewed by Council's Engineers and are considered to be acceptable.	Yes
<i>Earthworks and Slope</i>	Protect the stability of land.	The applicant has submitted a geotechnical report which identifies a number of potential vibration and ground movement impacts. However, the report outlines ways to minimise such impacts. A condition is included requiring a more detailed geotechnical report and that all recommendations in the report be implemented.	Yes

<i>Transport and Parking</i>			
<i>Car Parking</i>	1 space (as over 50 units)	1	Yes
<i>Car Share</i>			
<i>Retail Parking</i>	< 1 space / 30sqm (1)	1	Yes
<i>Travel Plan</i>	To promote sustainable travel.	Green Travel Plan provided (See discussion below)	Yes
<i>Bicycle Parking</i>			
<i>Residential</i>	1/ dwelling (130) 1/10 dwelling visitors (13) Total: 143	Occupants : 0 Visitors: 15 Total: 15	Part below) (see below)
	End of trip facilities	Provided	Yes
<i>Loading</i>	Room for delivery cars/motorcycles, removalists	2 servicing bays at street level	Yes
<i>Motorcycles</i>	4	5 (scooter parking)	Yes
<i>Accessible Design</i>	Unobstructed step-free access	Level, step-free access is provided to the main entrance.	Yes
<i>Waste Management</i>	Waste Management Plan	Waste Management Plans provided.	Yes
	On-Site Collection	On site (some overlap of footpath but acceptable to Council's traffic team)	Part (minor)
	Garbage Chute System	Dual chute for garbage and recycling. Recyclables store on each floor.	Yes
	Council Collection	Private collection	No (See below)
<i>Air Quality</i>	Air Quality Report	The site is not located in the vicinity of any major roads or rail infrastructure and as such an air quality report is not considered to be necessary. The proposal does not include any activities which will be materially detrimental to air quality.	Yes
<i>Crime Prevention</i>	Crime Prevention Through Environmental Design (CPTED) Report	CPTED report included as part of Statement of Environmental Effects. The proposal is considered to adequately provide sightlines, casual surveillance and secure access	Yes
<i>Avoiding Isolated Site</i>	Demonstrate adjoining sites can be developed.	All adjoining sites either meet the minimum site frontage requirements or are already developed to their full potential.	Yes

3.5 – Residential Flat Buildings (6 or more Storeys)				
<i>Desired Future Character</i>	See DCP	See discussion below.		Yes
<i>Site Width</i>	>40m	40.235m Chester Street 69.035m Oxford Street		Yes
<i>Height</i>	15 storeys	16 storeys		No (see below)
	A transition in building height should be provided at sensitive interface areas adjacent to...conservation areas and residential areas outside the precinct.	The adjoining site to the south has approval for a building up to 30 storeys in height. The adjoining land to the north and east is zoned for 5 storeys. As such the proposal, at 16 storeys, steps between the two.		Yes
	Top most storeys, including those with mezzanine levels, should be visually recessive with a setback from the storeys below and lightweight in design.	The top amenity levels is recessed above the primary facade and as such will not be readily visible from street level.		Yes
<i>Podium Height</i>	2-3 Storeys	2-3 storeys		Yes
<i>Roof Design</i>	Flat, without parapet	Flat, without parapet		Yes
<u>Front Setbacks</u> Basement Podium Tower	3m 3m 6m (down to 4m for 33%)	<u>Oxford Street</u> 2.8m 3m 4m (34.5%) – 6m (65.5%)	<u>Chester Street</u> 3m 2.9m – 3m 3m-3.7m (49.4%) – 5.5m (50.6%), uppermost encroach	Part (Minor) Part (Minor) Part (see below)
<i>Top Storey</i>	3m from walls (top two storeys)	4.2m (top storey only)	6.5m (top storey only)	Part (see below)
<u>Side Setbacks</u> Basement Podium Tower Top Storey	6m 6m Refer to ADG 3m from walls	<u>West</u> 6m (rear) 0m ¹ N/A 1.5m (top storey only)	<u>South</u> 6m 5.5-6m N/A 3.5m (top storey only)	Yes No (minor) N/A Part (see below)
<i>Podium Floorplates</i>	Minimal gaps	<u>West</u> No gap	<u>South</u> 6m gap (mirrored on adjoining site)	Yes

¹ Hornsby DCP 2013 also refers to a continuous podium along Chester Street. The proposal provides for this continuous podium by matching that of the adjoining property and as such this non-compliance is considered to be acceptable.

<i>Articulation</i>	Distinctive base, middle and top	The proposal has a distinctive base (podium), middle (tower) and top (recessed roof level)	Yes
	Asymmetric floorplans	The proposed floorplate is split asymmetrically to provide the appearance of two different built forms.	Yes
	Lobbies visually prominent	The lobby is marked by a feature awning, sign and a recessed façade and as such will be sufficiently prominent.	Yes
	Balconies should provide articulation	The proposal includes varied balconies and balcony screens which will add visual interest and articulation.	
<i>Landscaping</i>	Setback from significant trees	The basement and building are setback from the tree protection zone of the large tree to be retained.	Yes
	Minimum depths for on-structure planting	Provided.	Yes
	Min 4m landscaped strip to boundaries with 10-12m trees.	>4m landscape strips to side boundaries with trees 15–20m.	Yes
<i>Communal Open Space</i>	See ADG	N/A	N/A
<i>Privacy and Security</i>	RAC: Screen terraces and balconies.	Screens not provided. To be conditioned.	Yes (subject to condition)
	ILUs: See SEPP Seniors and ADG assessment above.	N/A	N/A
<i>Materials</i>	Variety of materials	Varied materials	Yes
	Variety of window openings	Varied window openings	Yes
	Glazed penthouse	Glazed penthouse level	Yes
	Sunshades and screens	Variety of screens	Yes
<i>Housing Choice</i>	1br – >10% 2br – >10% 3br – >10%	1 bed – 44 (34%) 2 bed – 73 (56%) 3 bed – 13 (10%)	Yes Yes Yes
<i>Vehicle Access and Parking</i>	>2m from boundary	0m from boundary	No (See below)
<i>Public Domain and Traffic Management Works</i>	Improve public domain	Public domain drawings reviewed by Public Domain team and found to be acceptable.	Yes

<i>Key Development Principles</i>	Retain significant trees or replace	1 of 3 retained. 36 replacement trees.	Yes
	Continuous podium of 3 storeys to Chester/Oxford	Continuous 3 storey to Oxford (not to boundary to match adjoining). Continuous 2 storey to Chester to match adjoining.	Yes
4.6 – Epping Town Centre (Built Form Controls do not apply to development in the R4 zones)			
<i>Podium Use</i>	<i>Commercial</i>	<i>Residential Aged Care</i>	<i>No (See discussion below)</i>
<i>Wind Effects</i>	Wind Effects Report (inc. wind tunnel testing)	Wind Report with wind tunnel testing.	Yes
<i>Solar Reflectivity and Glare</i>	<20% reflection	The applicant has submitted a Solar Light Reflectivity study which outlines the required glazing requirements to minimise reflectivity.	Yes (Condition requiring compliance)
<i>Adaptable Units</i>	10%	100% (All ILUs are adaptable)	Yes
<i>Public Art</i>	Buildings should include ... public art to enhance the public domain.	The applicant has submitted a draft public art plan which explores themes and opportunities.	A condition is included requiring refinement of the public art plan.
9 - Heritage			
<i>Development in the Vicinity of Heritage Items and Heritage Conservation Areas</i>	New work that is sympathetic to the heritage significance of nearby heritage items, or adjoining heritage conservation area, and their settings.	For the reasons outlined in Section 7.10 above, the proposal is considered to have an acceptable impact on the adjoining heritage conservation area and heritage items.	Yes

Table 11: Assessment of the proposal against HDCP 2013.

Desired Future Character (Residential Flat Buildings – 6 or more storeys)

The proposal is considered to be in keeping with the desired future character for 6+ storey residential flat buildings for the following reasons:

- The proposal satisfactorily maintains the existing tree canopy (retention of significant tree to the rear of the site) and includes significant new planting (36 new trees).
- The façade width is limited by provision of a wide vertical break in the middle of the eastern façade.
- The building is well articulated.
- The main entrance is well connected to the public domain.

Desired Future Character (Epping Town Centre)

The proposal is considered to be in keeping with the desired future character of the Epping Town Centre – East Precinct for the following reasons:

- The proposal provides a mix of residential typologies in close proximity to Epping station.
- The proposed building is of high architectural quality.
- The proposal provides ancillary retail uses on the ground floor level which would serve the needs of the occupants and the local population.

Waste

The applicant has proposed private waste collection. However, as per the Local Government Act, Council must be capable of servicing the building in the future should the operator change waste management policies. The only change necessary to allow Council to service the development is bins of a different size - the applicant has proposed 1100L bins and Council prefers 660L bins. As such a condition is included requiring the bins be 660L in size. Other standard conditions relating to waste servicing are included in the draft consent, including right of way for Council to access the waste room, standards for cleanliness, maintenance, etc.

Height

The number of storeys non-compliance relates directly to the height of the building. Discussion on the height non-compliance is provided in Section 7.9 above.

Podium Use (Commercial Floor Space)

The DCP recommends that podiums be commercial floor space. The proposed podium is occupied by Care/Assisted Living Apartments. While the proposal as a whole is not classified as commercial floor space it does constitute an 'employment generating use' on the site. The RAC alone will have up to 39 staff members on site while the hairdressers, retail, and care/assisted living units will also generate staff. Further, the site is located in the R4 zone and as such is primarily a residential zone. As such the amount of employment is considered to be appropriate.

Driveway Location

While the DCP recommends that driveways be located at least 2m from side boundaries, the proposal is considered to be acceptable in this instance for the following reasons:

- The existing driveway is located on the boundary.
- The adjoining podium is built to the side boundary.
- The adjoining podium contains a pedestrian access way at ground level.

11. Other Planning Controls

a. Epping Town Centre Public Domain Guidelines

Hornsby Shire Council adopted public domain guidelines for Epping Town Centre on the 9th December 2015 following the amendment of HLEP 2013 by the NSW State Government in 2014 to facilitate the Epping Urban Activation Precinct.

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the Epping Town Centre Public Domain Guidelines. The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

Control	Requirement	Proposal	Compliance
Village Street (Oxford Street)	Ground Floor Retail	Ground Floor Retail and Seniors Living Communal Uses.	Yes. Given the site is located in an R4 zone the ancillary retail is considered to be an appropriate transition to the residential zones to the north.
Widened Footpath	6m (3.5m footpath + 2.5m 'inset parking zone')	6m (3.5m footpath + 2.5m parking lane)	Yes

Pedestrian Links/Laneways	Not required	N/A	N/A
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Table 12: Assessment of the proposal against Epping Town Centre Public Domain Guidelines.

b. Parramatta Public Domain Guidelines

The latest Parramatta Public Domain Guidelines (PDG), released July 2017, include updated public domain requirements for the Epping Town Centre precinct, specifying paving materials, tree planting and the like. The alignment drawings and landscape plans submitted with the application are generally in keeping with the requirements of the PDG. Conditions are included requiring detailed public domain plans be prepared prior to construction, and signed off by Council's public domain team, with Council inspections undertaken throughout construction.

12. Planning Agreements

No planning agreements relate to the site.

13. The Regulations

The recommendation of this report includes conditions to ensure the following provisions of the Regulation will be satisfied:

- Clause 92 - Demolition works are to satisfy AS 2601 - 1991; and
- Clause 98 - Building works are to satisfy the Building Code of Australia.

14. The Likely Impacts of the Development

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

15. Site Suitability

The site is ideally located within the Epping Town Centre urban activation precinct, close to public transport links, services and facilities.

Suitable investigations and documentation has been provided to demonstrate that the site can be made suitable for the proposed development and the development is consistent with the land use planning framework for the locality.

No natural hazards or site constraints exist that are likely to have an unacceptably adverse impact on the proposed development.

Subject to the conditions provided within the recommendation to this report, the site is considered to be suitable for the proposed development.

16. Submissions

The application was notified and advertised in accordance with Part 1B of Hornsby DCP 2013.

The advertisement ran for a 21-day period between 20 November and 11 December 2019. Forty-four (44) unique submissions were received during this notification.

As per Council resolution, as there were more than 7 objections a recommendation was made to the applicant to partake in a Council facilitated conciliation with the objectors. The applicant did not respond to this request.

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

Issues Raised (Number of submissions which raise issue)	Comment
Overshadowing (26)	The applicant has demonstrated that the proposal would not result in any overshadowing other than that which could reasonably have been anticipated given the planning controls. In other words, the non-complying elements do not result in additional overshadowing.
Building Setback/Separation (19)	The proposal generally complies with the relevant setback/separation controls and as such is considered to be acceptable in this regard.
Traffic (19)	The Seniors Living SEPP does not allow Council to restrict seniors parking. Notwithstanding, the application includes a Green Travel Plan which seeks to discourage use of private vehicles.
On-Street Parking (19)	The proposal has sufficient visitor car parking and as such is not considered likely to result in an unacceptable impact to on-street car parking. Notwithstanding, a condition is included restricting residents from participation in any future on-street resident parking permit scheme.
Height (17)	For the reasons outlined in Section 7.9 above the proposed height is considered to be acceptable.
Privacy (16)	The proposal provides the required separation and/or screening, subject to conditions, to adequately protect the privacy of adjoining and nearby properties.
Overdevelopment (16)	The proposal provides for 14 levels of accommodation, less than anticipated by the controls. As such, the proposal is not considered to constitute overdevelopment.
Quality of Care (15)	The vertical village seniors living format is anticipated by the Seniors Living SEPP. Operation of the facility is subject to care regulations. There is no evidence to suggest that the applicant would not provide a high quality of care to future occupants.
Lack of Infrastructure (14)	As the applicant is a registered social housing provider, they are exempt from the requirement to contribute towards the provision of local infrastructure. Notwithstanding, the planning controls for the site were defined in the context of existing and planned infrastructure.
Construction Impacts, including on those working from home during the pandemic (13)	Conditions are included requiring construction management plans, including a noise management plan, to reduce the likelihood of amenity impacts on adjoining and nearby properties.
Loss of Trees (13)	The proposal retains one of the three significant trees on site, and provide for planting of significant new trees, shrubs and ground cover. As such the proposal is considered to result in a net increase in trees on the site.
View Loss (13)	The proposal would not result in any unacceptable loss of views. All adjoining and nearby properties would maintain general district views.
Quality of communal open space (13)	The proposal provides a variety of communal open spaces at ground level, throughout the building, and on the roof. The total amount of open space is well in excess of the minimum required by the ADG. All residents will have access to at least the ground floor and roof level amenities. As such, the proposal is considered to provide good quality open space.

Fire Evacuation (13)	The application includes a draft emergency management and evacuation plan. The BCA sets requirements for fire safety. A more detailed plan, and implementation of the plan are required by condition.
Bulk (12)	The bulk of the building is considered to be acceptable for the reasons outlined in Section 7.8 (Design Quality Principle 2) section above.
Acoustic Privacy (9)	The application includes an acoustic report which demonstrates that the proposal would have an acceptable impact on the acoustic amenity of adjoining/nearby properties. Conditions are also included requiring compliance with noise criteria.
Wind (8)	The application includes a wind report which demonstrates that the proposal would have an acceptable impact on the wind environment.
Lack of Architectural Merit (6)	The proposal has been reviewed by Council's Design Excellence Advisory Panel and found to be of appropriate architectural merit.
Conservation Area Impact (4)	For the reasons outlined in Section 7.9 above, the proposal is considered to have an acceptable impact on the adjoining heritage conservation area and heritage items. A condition is included restricting lighting of signage to minimise the impact.
Structural Impact on Adjoining (3)	The application includes a geotechnical report which outlines how adjoining structures will be protected. Conditions are included requiring a more detailed geotechnical report and dilapidation reports of adjoining properties.
Ventilation Impact (2)	The proposal is considered to be sufficiently separated so as not to result in unacceptable loss of ventilation to adjoining or nearby properties.
Character of Area (2)	For the reasons outlined in Section 9.1 the proposal is considered to be consistent with the desired future character of the area.
Poor Public Art (2)	The public art plan has been reviewed by Council's Public Art team and found to be acceptable. A more detailed plan is required by condition.
Community Benefit (1)	The proposal is exempt from developer contributions (see Section 18 below). However, the proposal provides publicly accessible front setback areas which add to the amenity of the public domain.
Lack of Deep Soil (1)	The proposal complies with, and substantially exceeds, the relevant deep soil control.
Lack of Awning to Oxford Street (1)	The DCP does not require an awning to this site.
Impact on Wildlife (1)	The proposal would result in a net increase to planting on site and as such is considered to have a positive impact to wildlife in the long term.
Solar Panel Glare (1)	The solar reflectivity report notes the reflectivity of the solar panels will be within acceptable limits (i.e. <20% of visible light).

Table 13: Summary of public submissions to the proposal.

17. 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.

18. 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.

19. Development Contributions

The proposal is exempt from the payment of developer contributions as the applicant is a registered community housing provider and units will not be sold on the private market. See Attachment 6.

20. Summary and Conclusion

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

The proposed development is appropriately located within a locality earmarked for high-rise residential redevelopment, however some variations (as detailed above) in relation to SEPP 65, SEPP (Seniors) and Hornsby LEP 2013 are sought.

The request to vary the height standard is considered to be well founded for reasons including, but not limited to, the constraints imposed by the site and the desirability of providing varying forms of seniors housing in the area.

Having regard to the assessment of the proposal from a merit perspective, Council officers are satisfied that the development has been appropriately designed and will provide acceptable levels of amenity for future residents. It is considered that the proposal sufficiently minimises adverse impacts on the amenity of neighbouring properties. Hence the development, irrespective of the departures noted above, is consistent with the intentions of the relevant planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land.

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

21. Recommendation

- A. **That** the Sydney Central City Planning Panel approve the variation to the building height standard in Clause 4.3 of HLEP 2013, as they should be 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; and
- B. **That** the Sydney Central City Planning Panel, as the consent authority, approve Development Application No. DA/646/2019 for construction of a 16 storey mixed use seniors living tower comprising 14 assisted living apartments, 20 care apartments, 60-bed residential aged care facility, 96 independent seniors living units and ancillary offices/retail; 155 car parking spaces in 4 basement levels; signage zones; landscaping; site amalgamation; public domain works; demolition of existing buildings and tree removal at 43 - 53 Oxford Street, EPPING NSW 2121 (Lots 1-3 & 5 DP18447, Lots A & B DP357452).

