

Report to Sydney Central City Planning Panel

SCCPP reference	PPSSCC-491
DA No.	DA/573/2023
Date of receipt	25 September 2023
Proposal	Demolition of existing structures on site and construction and use of two warehouse or distribution centres to operate 24 hours a day 7 days a week. The development includes associated earthworks, construction of an ancillary office space, at grade car parking for 85 vehicles, private access road, loading bays, landscaping, café and two drainage basins. This is integrated development under Section 91(2) of the Water Management Act 2000. This development will be determined by the Sydney Central City Planning Panel.
Street address	1 Grand Avenue, Camellia
Property Description	Lot 1 DP 579735, Lot 2 DP 579735 and Lot 2 DP 1248549
Applicant	The Trustee for Grand Avenue Trust
Owner	Billbergia Group Pty Ltd
Submissions	Nil
Recommendation	Deferral until 5 December 2024
Regional Development Criteria	Pursuant to Part 3 of Schedule 2 of the Environmental Planning and Assessment Act 1979, the development has a capital investment value of more than \$30 million
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act and Regulations • SEPP (Resilience and Hazards) 2021 • SEPP (Biodiversity and Conservation) 2021 • SEPP (Planning Systems) 2021 • SEPP (Transport and Infrastructure) 2021 • Parramatta Local Environmental Plan 2023 • Parramatta Development Control Plan 2023
List all documents submitted with this report for the Panel's consideration	Attachment 1 – Architectural Plans Attachment 2 – Landscape Plans Attachment 3 – Remediation Action Plan Attachment 4 – Clause 4.6 Request
Report prepared by	Paul Sartor, Senior Development Assessment Officer
Report Date	1 October 2024

Summary of Sec 4.15 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?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **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 (Sec 7.24)? **No**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **N/A**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

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1. Executive Summary

The subject development application was lodged on the 25 September 2023 for the construction and use of two warehouse / distribution centres and associated works at 1 Grand Ave, Camellia.

The site, located along the Parramatta River in the Camellia/Rosehill Industrial Area, is highly constrained. Between 1917 and the 1960s the site was used by James Hardie & Company Pty Ltd for industrial uses such as asbestos slate and sheet manufacturing. Much of the asbestos and industrial waste was buried on site and remains onsite under a concrete cap, so much so that a 5m retaining wall has been built on the foreshore to retain it. As such, the site is heavily contaminated. The site is subject to both overland flow and river flooding. A Council stormwater pipe also traverses the site.

The development application has also been submitted with a clause 4.6 variation request to the maximum height control. The development is seeking a variation of up to 4.7m and 1.7m to the part 9m and part 12m height controls respectively that apply to this site. This height breach has been considered in the emerging context of the area and the 'Area of Height Sensitivity' that applies through this site and is considered to be supportable.

However, the application fails to resolve key conflicts between proposed flood management, remediation and landscaping across the site. The applicant has not demonstrated that the proposed introduction of additional fill and large buildings on the site will not result in displacement of flood waters onto adjoining sites. The amount of fill necessary to provide for the proposed riparian planting, while avoiding the remnant contamination, is also not clear, which could lead to more flood water displacement. It is likely that the proposed flood basins would need to be significantly deeper than proposed to ensure flood waters are not displaced, which would then potentially include disturbance of capped contamination. Additional filling in the foreshore also further impacts potential future access to the foreshore and may result in sedimentation of the river. Council officers are of the view that it is likely necessary to remove a significant quantum of contaminated fill from the site to achieve the objectives of the controls. Further work is required to resolve these conflicts.

The proposal also includes building over a Council stormwater pipeline, which would hinder Council's ability to service the pipe. An overland flow path will also be required to provide for any potential blockages of said pipe.

Therefore, it is recommended that a decision on the application be deferred to provide the applicant a last change to resolve all outstanding matters. It is recommended that the applicant provide their response no later than 21 October 2024 so that a final assessment report can be provided to the Panel by 5 December 2024.

2. Key Issues

Contamination	The site is heavily contaminated. The application has been submitted with a Remediation Action Plan (Reditus, dated 28 May 2024). The proposed new contamination capping strategy fails to address how intrusions will be made into the cap for the purposes of providing the proposed landscaping and flood basins.
Flooding/ Stormwater	The site is identified as flood affected from both the river and overland flow from Grand Ave. The application has not adequately demonstrated that the development would not displace flood waters onto surrounding properties due to the large footprints from the warehouses and fill, nor does it demonstrate adequate flood protection for the occupants of the warehouses. Further, it proposes building over a Council pipe and does not propose an appropriate overland flow path in the event the pipe is blocked in a storm event.
Vegetation Riparian Zone (VRZ)	The proposed landscaping in the VRZ appears to be located on fill above the existing ground level which is already up to 5m above the riverbed atop a retaining wall on the foreshore. Such fill could pose a sedimentation risk to the waterway if not appropriately secured. It would also further disconnect the foreshore from adjoining sites which would make it difficult to provide public foreshore access if the precinct is rezoned for residential land uses in the future.

3. Site Context

3.1 The Site

The site is located on the western end of Grand Avenue in Camellia, which is part of the wider Rosehill/Camellia Industrial area. The development is proposed on Lot 1 DP 579735, Lot 2 DP 579735 and Lot 2 DP 1248549, which is ~71,800sq.m in size.

The site is bound by the Parramatta River to the north, the Parramatta Light Rail tracks to the west and south of the site (with the Rosehill Gardens Light Rail Station directly adjacent to the west) and industrial development to the east. The site has no direct street frontage; however, an existing signalised site access is available on the southwestern portion of the site across the light rail tracks.

The site includes a retaining wall along the river up to 5m in height.

There is a Council stormwater pipe bisecting the site from south to north. No easement exists for this pipe. An indicative location for the pipe is shown in figure 1 below.

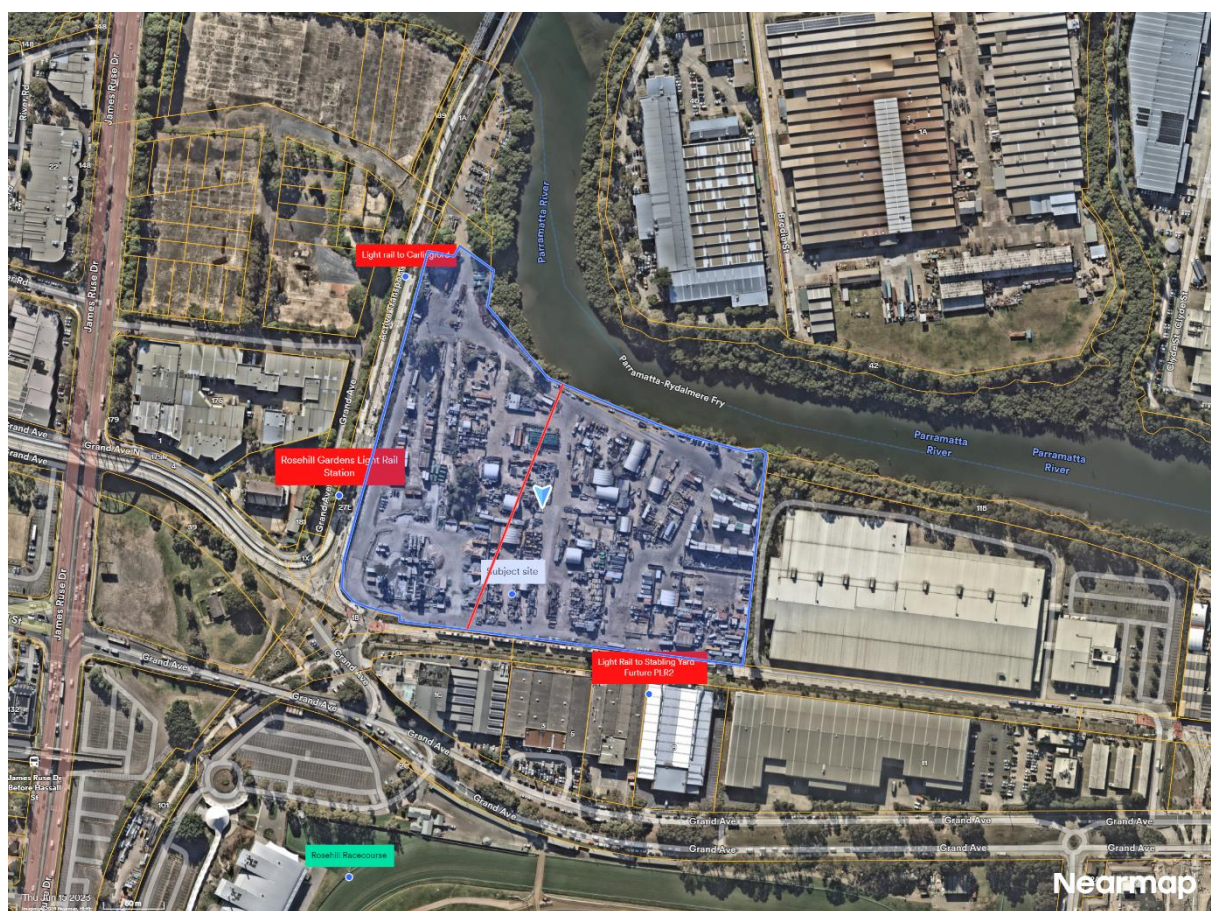


Figure 1 - Aerial map, subject site highlighted in blue. Existing Council stormwater pipe shown as red line (Source: Neatmap, 2024)

The following heritage items are identified in proximity to the development site:

- I7 – Grave of Eliner Magee and child – 10m north of the subject site (This item's curtilage is identified as affecting the subject site)
- I11 – Wetlands – adjacent to northern/north-eastern boundary
- I9 – Sewage Pumping Station 67 – 40m west of the subject Site
- I6 – Tram Alignment – 35m south of the subject Site

The site is also identified as having moderate archaeological potential by the Parramatta Archaeological Management Unit (AMU). The NSW Heritage Database describes this as follows:

"The river flats between Clay Cliff Creek and Duck River, part of Macarthur's Elizabeth Farm, were leased to Silas Sheather, one of the Macarthur gardeners, in 1852. Sheather established 'Camellia Grove', a successful plant nursery from which the area takes its present name. The area was developed as an industrial precinct from the late nineteenth century.

The physical archaeological evidence within this area may include built landforms, structural features, intact subfloor deposits, open deposits and scatters, ecological samples and individual artefacts which have potential to yield information relating to major historic themes including Agriculture, Industry, Environment, Land Tenure, Townships, Labour and Transport.

Archaeological evidence at this site is likely to be subject to minor disturbance.”



Figure 2 - Locality Map, subject site highlighted in yellow

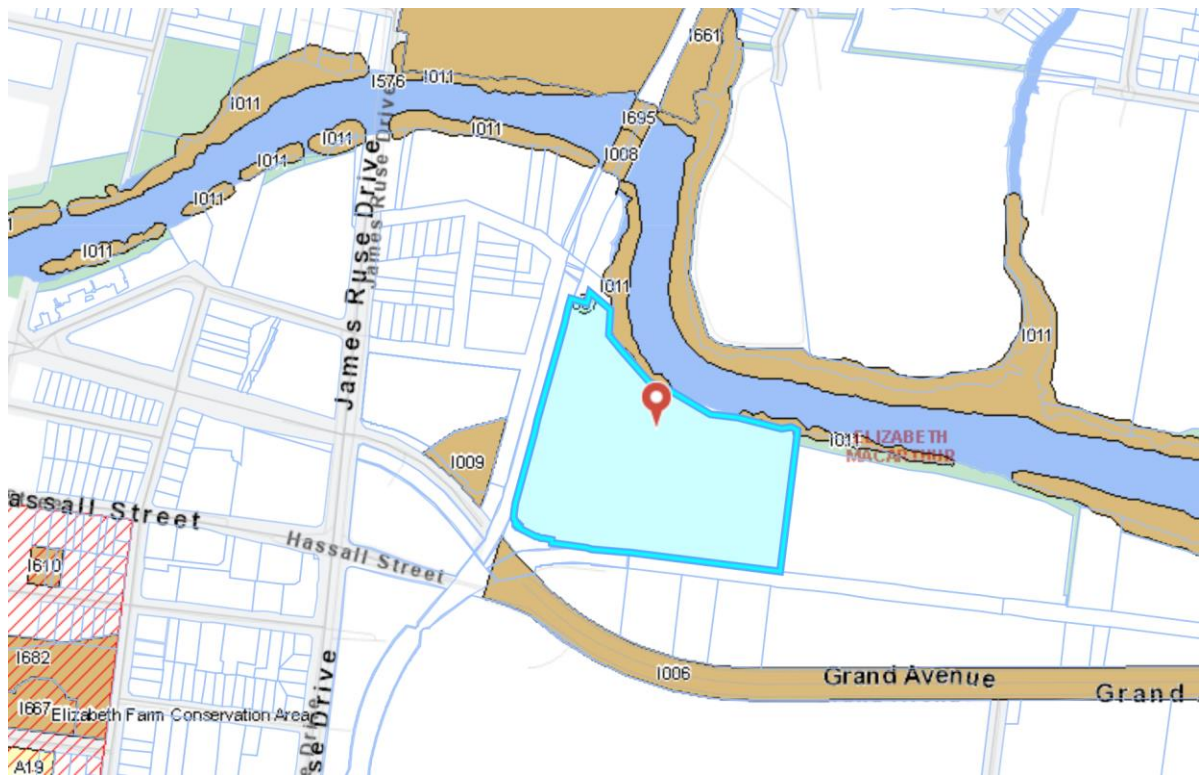


Figure 3 - Heritage map



Figure 4 - Subject site entry (October 2023)



Figure 5 - Site photo, looking east towards light rail



Figure 6 - Future Rosehill Gardens Light Rail Station west to the subject site



Figure 7 - Oblique aerial view showing existing seawall treatment of subject site to Parramatta River (Source: Nearmap, 2024)

3.2 Site History

The subject site has a varied history as a heavy industrial site. The following is an excerpt from the Remediation Action Plan (Reditus, page 4).

The site was acquired by James Hardie and Company in 1917 and development of the site is believed to have commenced at or around that time. Based on information available on the Parramatta Council website it is believed that prior to 1917 the main use of the area of the site was for agricultural or residential purposes.

Filling of the western portion of the site is believed to have commenced from the earliest occupation by James Hardie with that part of the site being progressively filled and developed between 1917 and the mid-1960s. The fill comprised mainly asbestos wastes but also included a significant volume of boiler ash. The asbestos waste comprised friable pulp waste from the manufacturing process as well as, presumably, out of specification and excess bonded asbestos products. Some of the products may have been coated with bitumen, zinc silicate and other paints. No records were found which mentioned imported fill being used on the site.

Other chemicals, mainly hydrocarbon-based (e.g., diesel, hydraulic oil and petrol) were extensively used and stored on the site and are believed potentially to have been disposed on site.

James Hardie continued production of fibrous cement products until 1993 when production ceased, and the site was decommissioned. Between 1995 and 2001 the buildings were demolished to slab levels and building rubble was used to level some areas of the site where there were steps in the slabs. The site was acquired by the Sydney Water Corporation (Sydney Water) in 1996 but did not occupy the site.

In 1999 Sydney Water formally notified NSW EPA under section 60 of the Contaminated Land Management Act 1997 that the site was contaminated and may have posed a Significant Risk of Harm. In 2000 Sydney Water entered into a Voluntary Remediation Agreement (VRA) with NSW EPA to clean up surface asbestos contamination at the site and to improve surface seals (concrete and bituminous concrete pavements) to ensure that buried asbestos waste was isolated so that exposure pathways to humans and the environment were not present.

The VRA also contained a Contamination Management Plan to ensure that remedial measures implemented were effective and maintained into the future. On 14 May 2003 the EPA gave notice that the terms of the VRA had been satisfactorily completed.

Billbergia acquired the site in 2007. The original intent was to subdivide the site into three lots and lease these lots to commercial industrial operations including a Remondis waste recycling facility and warehousing. However, the development proposal by Remondis was rejected.

Above ground structures had been demolished to the pavement and ground floor level and the site cleared. Approximately 95 percent of the site was sealed with either concrete or bituminous concrete pavements with the remaining unsealed areas comprising landscaped areas, and embankments.

3.3 Recent Remediation History

A number of areas were covered with crushed demolition rubble, mainly comprising concrete and brick fragments. Based on information in a report prepared by Australian Water Technologies (AWT 2001) some of these areas are underlain by concrete slabs. It is noted that the AWT investigation of the rubble covered areas was not comprehensive and it is possible that some of these areas may not be underlain with concrete slabs.

Most of the area of the site is underlain by fill impacted with asbestos to varying degrees, ranging from deep fill (approximately 5 metres Below Ground Level (m bgl)) containing abundant asbestos contamination in the western part, to relatively shallow fill (approximately 0.2 m bgl) in the eastern part of the site. Previous assessment for the presence of asbestos was mainly by visual observation. Consequently, the impact of asbestos contamination on fill comprising natural materials (e.g., clay, silt etc) and natural soil underlying the site is not fully understood.

Previous investigations highlighted an area in the central northern part of the site of petroleum hydrocarbon contamination, believed to have resulted from the former operation of an “oil press”. Groundwater sampled from wells located in and adjacent to the oil press area were contaminated with hydrocarbons. This area was excavated by CES in 2008 and the groundwater within the excavation underwent in-situ chemical oxidation. Monitoring wells surrounding the excavation were sampled on three occasions in 2009 following remediation. The groundwater in these monitoring wells reported concentrations of total recoverable hydrocarbons TRH C10-C36 below the 10,000ug/L threshold set by CES. Reditus notes, however, that these

concentrations of TRH C10-C36 may still present a vapour intrusion to the proposed commercial/industrial development.

Groundwater samples previously collected from wells across the site were contaminated with heavy metals (copper, lead and zinc) (AWT 2001). However, given the distribution of the heavy metal impacts in groundwater samples across the site, it was considered by CES and the Auditor that they represented a regional characteristic of the groundwater. Reditus generally agree with this statement.

A number of Underground Storage Tanks (USTs), previously used to store diesel oil and petrol, were reported to have been decommissioned and to remain on the site but it was not clear whether they had been appropriately abandoned in accordance with Workcover requirements and Australian Institute of Petroleum guidelines. Further, the precise location of the USTs was not provided in previous reports.

3.4 Development Approvals

The site does not benefit from any recent planning approvals. The most recent approval being in 2016 for the current concrete batching plant. The applicant has also submitted two planning proposals for the redevelopment of the site as part of planning for a future Camellia Town Centre, both of which have been withdrawn. A detailed planning approval history is provided below:

Development Application No.	Description	Status
MP 10_0028 (State Significant Development)	Part 3A Approval for Remondis Integrated Recycling Park	Withdrawn on 9 January 2013
DA/619/2012	Use of the site for the storage of shipping containers.	Approved 25/07/2013
DA/120/2013	Use of part of the site for storage of plant and building equipment.	Approved 8/8/2013
DA/923/2016	Installation and operation of a 24 hour, 7 day mobile concrete batching plant with associated site preparation works and installation of prefabricated plant and equipment. The proposal is Designated Development as defined by Schedule 3 of the Environmental Planning and Assessment Regulation 2000.	Approved 21/03/2017
RZ/24/2016 (Rezoning)	Remediation of site and redevelopment of site as the Camelia Town Centre East, involving mixed use development, high density residential, new community centre with library, childcare facilities and new public space.	Withdrawn

DA/923/2016/A	<p>Section 96(1A) modification to approval for: Installation and operation of a 24 hour, 7 day mobile concrete batching plant with associated site preparation works and installation of prefabricated plant and equipment. The proposal is Designated Development as defined by Schedule 3 of the Environmental Planning and Assessment Regulation 2000.</p> <p>The proposed modifications include deletion of the wording of "PMF level of 6.5m AHD" in condition 19 which is to be replaced with "4000 year average recurrence (ARI) flood level" (refer to attachment 1);</p> <p>deletion of the wording of "the probable maximum flood" in condition 21 which is to be replaced with "flooding events over the 4000 year ARI flood level"</p>	Approved 15/11/2017
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3.5 Camellia-Rosehill Place Strategy

The subject site is also within the land covered by the Camellia-Rosehill Place Strategy (CRPS). The Place Strategy is being led by the NSW Department of Planning Housing and Infrastructure and envisages for the following:

- *A thriving town centre with an 18-hour entertainment precinct*
- *Up to 15,400 jobs*
- *10,000 new homes supported by infrastructure and new public open spaces*
- *Improved transport connections including light rail, road upgrades and cycling and pedestrian paths*
- *Opening up the Parramatta River foreshore and making it a centre of community activity*
- *Enabling a new urban services precinct and retention of heavy industrial land that will ensure Camellia-Rosehill advances in its role as an employment powerhouse for Sydney and NSW.*

The subject site is earmarked for both recreation and part of the town centre due to its proximity to the light rail station and the Parramatta River, see below masterplan map.

The CRPS was finalised in November 2022 and is being used to inform a planning proposal for the rezoning. Council and the NSW Department of Planning, Housing and Infrastructure are working together to complete a planning proposal for this site. As the planning proposal has not been publicly exhibited it is not a draft EPI to be considered under 4.15 of the Environmental Planning and Assessment Act 1979. The existing E5 Heavy Industrial zoning remains applicable to this site.

Figure 2: Overview Camellia–Rosehill Master Plan

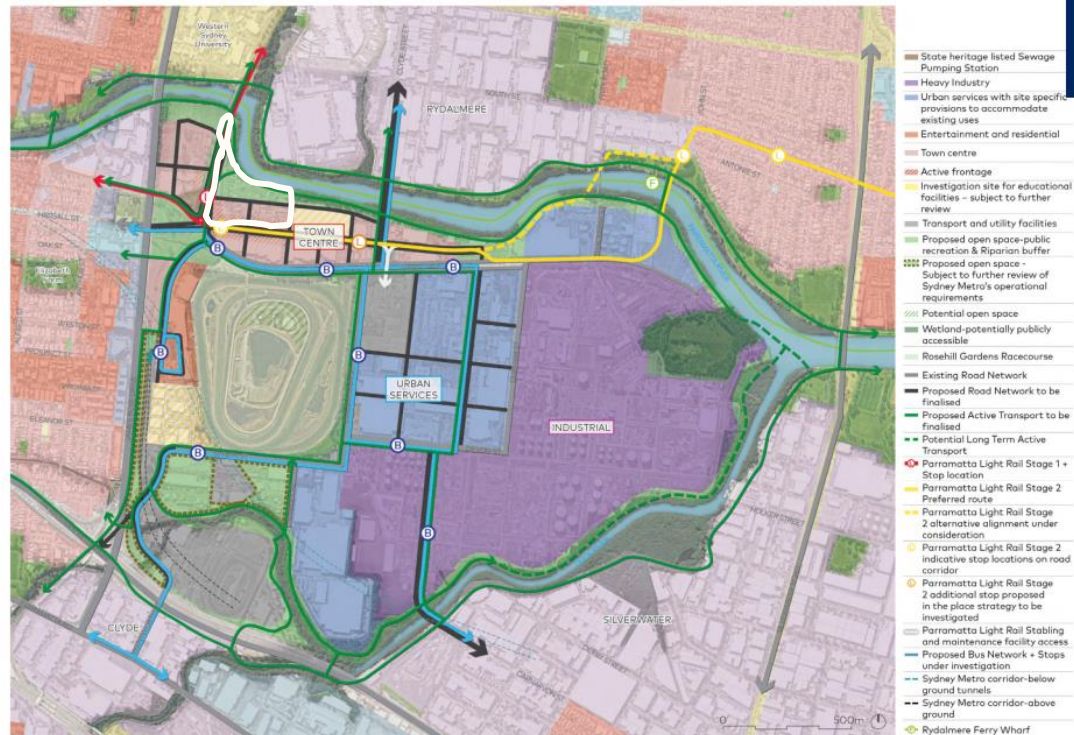


Figure 8 - Camellia Rosehill Masterplan Map, subject site circled in white (Source; NSW Government, 2022)



Figure 9 - Artist's impression of an aerial view of the future Camellia Rosehill Town centre (Source: NSW Government, 2022)

3.6 Rosehill Racecourse

An unsolicited proposal was submitted to the NSW Government by the Australian Turf Club for the redevelopment of the nearby Rosehill Gardens Racecourse. This proposal sought the redevelopment of the Rosehill Gardens into a mixed-use development with 25,000 dwellings. Further, the proposal requested the establishment of a Metro Station at Rosehill Gardens and the support to identify a suitable location for a new racetrack.

The proposal proceeded to stage 2 of the Unsolicited Proposal process on the 7 June 2024. This means that the proposal is *“of sufficient interest to warrant further development and progression to a more defined project. The NSW Government has not agreed to the proposal.”*

While not directly relevant to this application, this illustrates the intention for an emerging character of the Camellia Rosehill precinct from the current heavy industry to high density residential.

4. The Proposal

The following works are proposed under this application:

- Demolition of existing buildings
- Removal of 25 trees;
- Remediation works comprising retention and repair of existing capping and placement of new compacted clay capping layer above followed by aggregate/hardstand layer;
- Earthworks (fill up to ~4.5m);
- Construction of 2 x 1-2 storey warehouse buildings for warehouse and distribution centre uses and ancillary office spaces, providing a total of 16,256sq.m of gross floor area (GFA). These warehouses are proposed to operate 24 hours a day;
- Private access road;
- Tree planning and landscaping;
- At grade carpark for 85 vehicles;
- Construction of a single storey café kiosk for takeaway food and drinks (southwest corner of site); and
- Two at-grade stormwater basins along the southern side of the site.

The warehouses are referred to as ‘Warehouse 1’ on the western side of the site, and ‘Warehouse 4’ on the eastern side of the site.

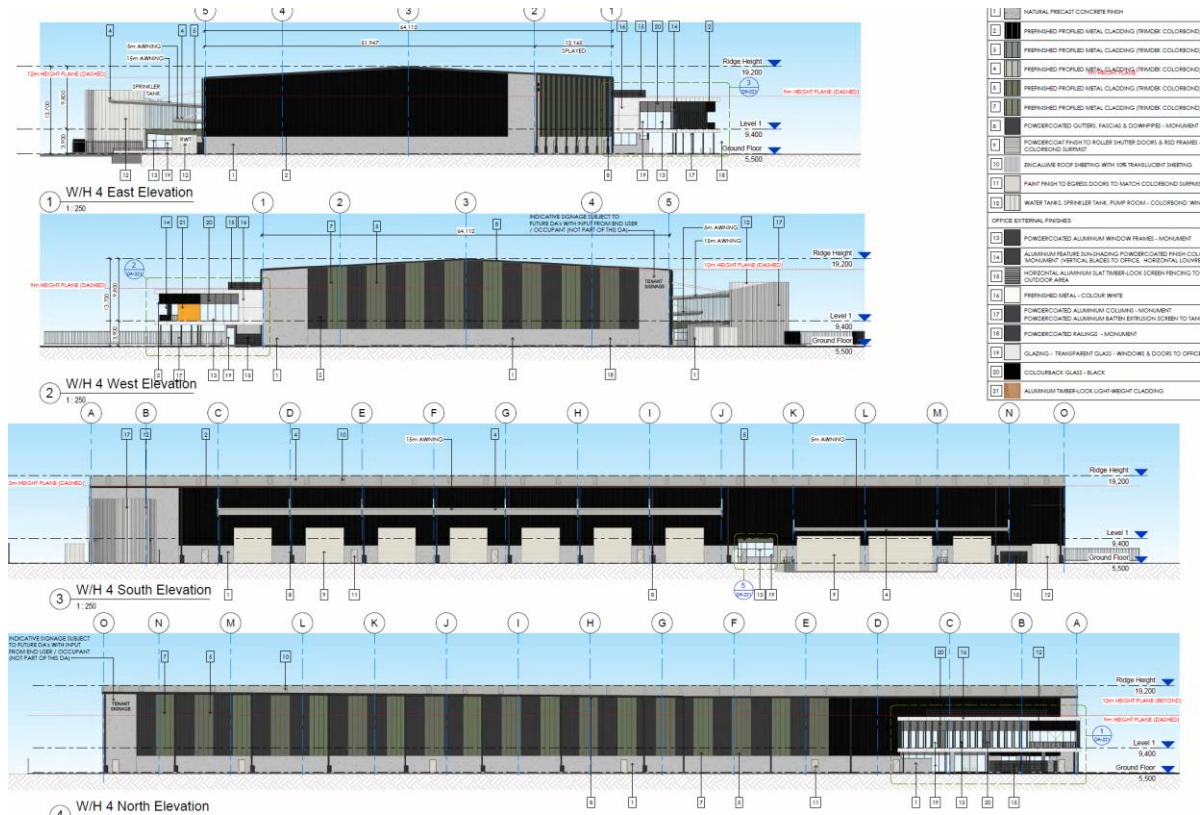
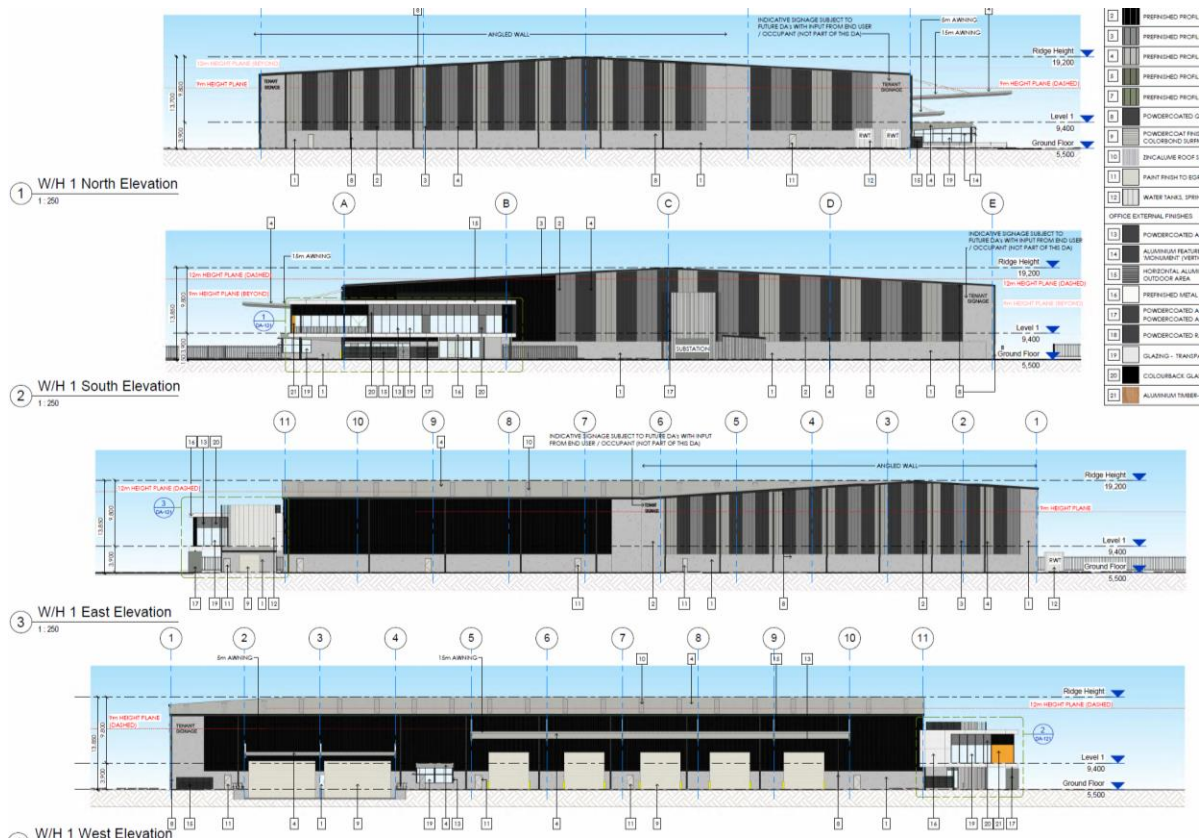
The development has the following characteristics:

	Warehouse 1	Warehouse 4	Cafe
GFA			
• Warehouse	7,671sq.m	7,555sq.m	-
• Offices	526sq.m	464sq.m	-
• Cafe	-	-	42sq.m
Building Height	13.85m	13.7m	4.6m
Car Parking	38 spaces	37 spaces	10 spaces
Loading Docks	10	11	-

In April 2024, amended plans were received by Council that included the following design changes:

- Provision of a 40m Vegetated Riparian Zone (VRZ) and relocation of the warehouses further south and wholly outside of the VRZ;
- Relocation of the takeaway food and drink premises to the entry of the industrial estate;
- Reduction in car parking by 160 spaces;
- Significant reduction in impervious surfaces as a result of the revised car parking provisions;
- Removal of the shared pedestrian boardwalk along the Parramatta River;
- Removal of signage zones on warehouses; and
- Removal of OSD tank in VRZ





5. Permissibility

The site is zoned E5 Heavy Industrial zoning under the provisions of Parramatta LEP 2023. The proposed development is defined as the following uses which are permissible with consent in the zone:

- Warehouse or distribution centre
- Take away food and drink premises
- Business identification signage

Office premises (commercial development) is prohibited in the zone as a standalone land use. As the proposed offices occupies 5% of the total GFA they are considered to be a subservient ancillary use to the dominant warehouse and distribution centre use.

5.1 Planning Objectives

The following objectives apply for the E5 Heavy Industry zone:

- To provide areas for industries that need to be separated from other land uses.
- To ensure the efficient and viable use of land for industrial uses.
- To minimise any adverse effect of industry on other land uses.
- To encourage employment opportunities.
- To allow a wide range of industrial uses serving the Six Cities Region.
- To preserve opportunities to create future foreshore access on contaminated land not suitable for public access.

The proposal is not considered to minimise the adverse impact of industry on other land uses due to, a) the diversion flood waters onto adjoining industrial sites and transport corridors, and b) the potential for impacts of erosion and sediment displacement into the adjoining Parramatta River from overland flow displacing fill above capping.

The proposal to further fill the foreshore, instead of remediating it and potentially lowering it, and thus separate the land further from the river and adjoining sites, is not considered to maintain an opportunity for future public foreshore access.

6. Referrals

6.1 Internal referrals

The following internal referrals were undertaken:

Referral	Comments
Trees and Landscaping	<p>The development is not supported for the following reasons:</p> <ol style="list-style-type: none"> 1. The Landscape plans show a 1.2m high raised planter for all planting areas with trees. This is either impractical, where it is proposed against the internal road edge due to obstructing the vehicle visibility, or is inadequate to support the mature growth of the proposed trees. There is also potential for the planters to conflict with the flood mitigation works and contamination capping. <ul style="list-style-type: none"> ○ The footpath should be relocated to the back of kerb of the internal road and the 1.2m high planters consolidated to ensure the soil volume will be sufficient. ○ The tree planters shown within the car parking areas are too small. Additional structural soil below the parking bays to be added to increase the soil volume and connect the soil zones. 2. The 25 trees shown to be removed are not considered minor vegetation as per the Statement of Environmental Effects (Ecological Legislation). 3 of these 25 trees are located to the periphery of the Remediation Action Plan and could be retained with some minor modification. 3. An Arboricultural Impact Assessment has not been provided. No information about the trees has been provided regarding their health, condition, species, size, are they worthy of retention. 4. The trees along the eastern boundary have also been missed from the survey plan. 5. A Tree Protection Management Plan is required to show how these trees 5, 6 and 8 as numbered on the updated survey will be protected and the location of the tree protection measures identified on a plan.
Catchment Engineer (Private)	<p>The development is not supported for the following reasons:</p> <ul style="list-style-type: none"> • The development has not considered the effects of Council's current flood modelling. There is a significant dissimilarity between Council's and the applicant's 1% AEP (1 in 100 year) flood extent for existing conditions. The modelling has not considered a calibration increase of rainfall intensities by 8% and a 20% increase in rainfall intensity to account for the effects of climate change. • The model has not considered 100% pipe blockage. The critical storm and duration should be established, and flow hydrographs should be included in the submitted reports. • The flood modelling is inconsistent with the approach to flooding required in section 5.1.1 of the Parramatta DCP 2023. • The flood planning level (1% AEP flood level + 500mm freeboard) must be set considering the calibration factor and climate change impact. The flood risk and impact assessment report must include the updated flood planning level.

	<ul style="list-style-type: none"> • The takeaway food and drink premises, proposed internal roads, hardstands, and raised planter beds are not considered in the post-development flood modelling. • It is not demonstrated that there is no significant afflux in a 1% AEP flood event or that the development does not create any new areas of high hazard flooding. • Evacuation and flood emergency response plans above the probable maximum flood (PMF) level have not been prepared • The building has not demonstrated that it has been designed to withstand flooding, including the impacts of water-borne debris, scour, and flotation forces. • The application has not demonstrated that the flooding and the proposed filled landscape beds are compatible, especially along the VRZ. A gradual fall to the river is preferred. <p>Stormwater and WSUD</p> <ul style="list-style-type: none"> • The development stormwater quantity and quality is not modelled using MUSIC or an equivalent tool to demonstrate the achievement of pollution reduction targets set out in PDCP 2023. • Rainwater capture and on-site use has not been demonstrated as part of Water Sensitive Urban Design and as a sustainability measure. It is not clear whether it is feasible to use this water internally. Council will require a reduction in the net outflow of rain/stormwater from the site by 10% compared to undeveloped (natural site) levels. • The stormwater has not shown all stormwater management assets, including stormwater pipes, pits, and legal discharge points, along with associated RLs and ILs. • The stormwater management report and plan are not in accordance with the updated architectural plan.
Catchment Management (Public)	<p>The development is proposed to be constructed over an existing Council Stormwater pipe that traverses the site. This is not supported as it restricts maintenance access. The building either needs to be redesigned to avoid the pipe or the pipe diverted.</p> <p>The application has failed to demonstrate that an appropriate overland flow path can be provided when this pipe is blocked.</p>
Heritage Advisor	Council's Heritage Advisor has reviewed the provided Heritage Impact Statement and considers that the development can be supported on heritage grounds. Conditions of consent are recommended for an Archaeological Assessment, if approval was recommended.
Traffic and Transport	Council's Traffic and Transport Engineer supports the proposal and has recommended conditions, should approval be recommended.
Environmental Health – Waste	Council Environmental Health officers are satisfied that the Remediation Action Plan has adequately addressed the requirements in regard to waste management and disposal during construction.

	Standard conditions of consent are recommended to ensure the correct storage, transportation and disposal of any contaminated construction waste which would be applied, if approval was recommended.
Environmental Health – Contamination	<p>The provided Remediation Action Plan (Reditus, 28 May 2024) and overall approach to remediate this heavily contaminated site is not supported for the following reasons:</p> <ul style="list-style-type: none"> • There is uncontrolled fill with various contaminants still present at depths between 0.2 and beyond 5.0 metres deep on site across various locations – this could be impacted by the excavation that is required to occur. The depth and volume of excavation required is currently not known, especially for the proposed water basins at the southern edge of the property. • In addition to the above, the total amount of contaminated fill that will be disturbed or excavated and subsequently to be disposed of appropriately is also not known. • There are heavy metal concentrations in exceedance of adopted criteria to be representative of urban ambient conditions – No reference was provided for the urban ambient condition criteria. • The results of the groundwater monitoring completed by Reditus (2024) determined the <i>“need for a soil vapour assessment to determine whether there exists an unacceptable vapour intrusion risk to potential human health receptors (both commercial occupants and maintenance workers in a trench) from primary (USTs) and secondary contamination source based on the proposed development”</i> (page 18). This has not occurred. • The report does not address how potential impacts to human health/environmental receptors will be monitored. • The RAP does not propose replacement of the existing capping, however, the following contaminates which have potential for impact of human health have been identified: <ul style="list-style-type: none"> ○ There is still <i>“Spills, leaks, and deposition of contamination from historical land use both on and surrounding the site”</i> (page 16). This has not been addressed. ○ There is the potential of <i>“Leaching of contamination from uncontrolled fill to the underlying groundwater”</i> (page 16). This has not been addressed. ○ There is potential Acid Sulfate Soils present on site due to a <i>“sulfur trail exceeding criteria in one location”</i> and has <i>“the potential to become true if the potential acid sulfate soil is oxidized”</i> (page 34). This has not been addressed. • <i>“Elevated Total Recoverable Hydrocarbons (TRH) exceeding the management limits for petroleum hydrocarbon criteria were detected in soil in the northern central portion of the site which was historically subject to hydrocarbon remediation by CES 2008.” It appears that residual contamination and impact to the soil and groundwater in this area of the site remains, however, concentrations in groundwater are significantly reduced compared to historical data. The management</i>

	<p><i>limits exceedance at BH419_1.2 is > 250% of the adopted criteria, and exceedance of this threshold generally deems it to be a “hotspot”.</i>” (Page 21)</p> <ul style="list-style-type: none"> • Reditus note that the risks posed to current site users from the elevated TRH concentrations are considered low due to the presence of a continuous layer of concrete hardstand at the site. However, elevated concentrations of TRH and Polycyclical Aromatic Hydrocarbons (PAH) were detected in groundwater. • There is no definitive answer provided for the question “<i>was imported clay or shale suitable for use as capping material at the site?</i>” – the Report states “<i>if required, statistical analyses of the data will be undertaken in accordance with relevant guideline documents to facilitate the decisions.</i>” (page 25). Given that this is the proposed materials for capping, it should be certain that this material is suitable. • It is unclear how the landscaping proposed in the 40m VRZ will work in the existing capping without considerable topsoil fill. • Notice of completion of remediation work notice in accordance with the State Environmental Planning Policy (Resilience and Hazards) 2021 has not been provided. • A copy of the site audit reports reference in the RAP (reports GN268-1 and GN268-1B) has not been provided to confirm suitability of the land for the proposed use. • A copy of the letter from the NSW EPA with the notice that terms of the Voluntary Remediation Agreement had been satisfactorily completed has not been provided.
Environmental Health – Acoustic	<p>The Acoustic Report assesses and discusses noise impacts on surrounding receivers generated by vehicle movements (day, evening and night periods covered), warehouse activities from general operation, noise impacts of additional traffic on surrounding local roads, noise emissions from mechanical plant and equipment. The receivers assessed include three commercial receivers and one residential receiver. It appears that there will be noise associated with trucks 24/7 and forklifts to operate 24/7 contributing to ‘external warehouse operation’ noise. Some project noise trigger levels significantly exceed background + 5dB however the project amenity noise level for industrial allows for exceptions to this criteria, according to the Noise Policy for Industry. The project noise trigger level is determined by the Report to be compliant with amenity noise levels at both the residential and commercial receivers. The Report concluded that the noise generating activities associated with the operation of the proposed development complies with all relevant criteria (section 5 of the Report). However, Environmental Health notes that there is a children’s play centre and a childcare centre surrounding the proposed site – Lollipops Playland and Café (174 James Ruse Drive, Camellia) and Explore & Develop Early Learning Centre (1C Grand Avenue Rosehill). This along with the nearby residential receiver may have the potential to be impacted by the operational noise of the proposed development. It is recommended that that the proposed 24/7 operation is trialled for a period of 12 months and</p>

	another development assessment accompanied with an acoustic assessment is provided to Council – this would form the ‘Special Condition’ of consent.
City Strategy	Council’s City Strategy team raised concerns with the proposal’s potential impact on delivery of the Camellia-Rosehill Place Strategy 2022. As outlined in this report, that Strategy is not yet sufficiently progressed to be a relevant matter for consideration in the assessment of the subject application.
Public Art	<p>The application has not adequately provided a location for Public Art as required under the Parramatta DCP 2023.</p> <p>While an installation and implementation plan can be conditioned under a consent an indicative location should be provided on the DA plans.</p>
Open Space (Parklands)	<p>Advice was provided that an uninterrupted 40m Vegetated Riparian Zone is required.</p> <p>Advised that the ‘foreshore area’ and ‘Riparian Land and Waterways’ should comprise the minimum VRZ, which is to exclude carparking and OSD. This has been removed under the latest set of plans.</p>
Natural Spaces	<p>The proposed VRZ is not supported in the current form, preference is for this area to be naturalised and remediation works to occur with a lower sea wall to better facilitate regrowth in this area and better alignment with PLEP controls.</p> <p>They have advised that a Biodiversity Offset Scheme is not required as the vegetation removal trigger is not met.</p>
Environmental Sustainability	Advised that a 40m wide riparian corridor is to be provided. A civil engineering report is required to determine the condition and life expectancy of any river seawalls and if they are in a deteriorating state with less than 10 years of service life, then re-naturalisation of the river bank is the preferred design solution rather than reconstruction of a seawall.
Internal Assets (Roads)	No objection to the proposal.
Urban Design (Public Domain)	<p>There is no street frontage Public Domain as the site is bound by the two Light Rail tracks and the river.</p> <p>No further relevant advice.</p>
Community Crime Prevention	Advice was provided on the previous public boardwalk. This has now been removed from the development.
Strategic Transport	Advice was provided on the previous public boardwalk. This has now been removed from the development.
Independent Quantity Surveyor	The cost of works has been verified, the amount came back slightly over \$50m (SSD trigger), however, was within Council’s tolerance for cost of works estimates. Council has accepted the applicant’s estimated cost of works of \$49,331,167 (excl GST).

6.2 External Referrals

Referral	Comments
Transport for NSW	TfNSW has provided concurrence under section 138 of the Roads Act 1993 and comment in accordance with section 2.98(2) and 2.122 of the SEPP (Transport and Infrastructure). They have provided their support, subject to conditions being applied to any consent.
Sydney Water	Sydney Water support the proposal and advised that a section 73 and building plan approval condition is to be applied on any consent.
Endeavour Energy	Supported proposal subject to conditions.
NSW EPA	<p>The site is subject to a Site Management Plan implemented by the site owner, primarily due to the legacy asbestos contamination. The Site Management Plan is enforced through a positive covenant on the site with the EPA as the prescribed authority.</p> <p>NSW EPA did not object to the proposal, but would require the following to be considered for any application:</p> <ul style="list-style-type: none"> • The Site Management Statement would need to be updated should the site be redeveloped. • Any remediation and redevelopment work must be overseen by an EPA accredited site auditor. The Site auditor should be engaged early in the process to ensure that investigations and remedial planning are adequate for the purpose of ensuring the site is usable for the proposed land use. <p>These matters can be conditioned, should approval be recommended.</p> <p>NSW EPA also recommended engaging with NSW DPE given the Camellia Rosehill Place Strategy (see below).</p>
NSW Fisheries	NSW Fisheries have confirmed that the development is no longer considered integrated development under Fisheries Management Act s205 due to the removal of the boardwalk in the amended plans and the associated impacts on the exiting mangroves.
DPE (Water)	DPE (Water) has supplied general terms of approval for the development for part of the development requiring a controlled activity approval under the Water Management Act 2000.
AMPOL	<p>AMPOL operates the AMPOL Sydney-Newcastle Pipeline (SNP) carrying refined petroleum products (gasoline and diesel) along the western boundary of the site. As per section 2.77 of the Transport and Infrastructure SEPP Council has notified the pipeline operator in writing of the application.</p> <p>AMPOL has reviewed the provided Hazard and Risk Assessment and has advised that a Safety Management Statement is to be conducted once construction plans are available and has no objections to the development.</p>
Jemena	Jemena operates a high-pressure gas line along the western boundary of the site. They have advised that they have no objection to the development application, and it is noted that the nature of the works will not impact Jemena's assets.

7. Environmental Planning and Assessment Act

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

7.1 Section 1.7 - Application of Part 7 of Biodiversity Conservation Act 2016

Part of the northern boundary is mapped on the Biodiversity Values Map, see figure 13 below. The development does not propose any impact on the existing mangroves along this mapped area directly, therefore a Biodiversity Development Assessment report is not required under 7.13 of the Biodiversity Conservation Act 2016.

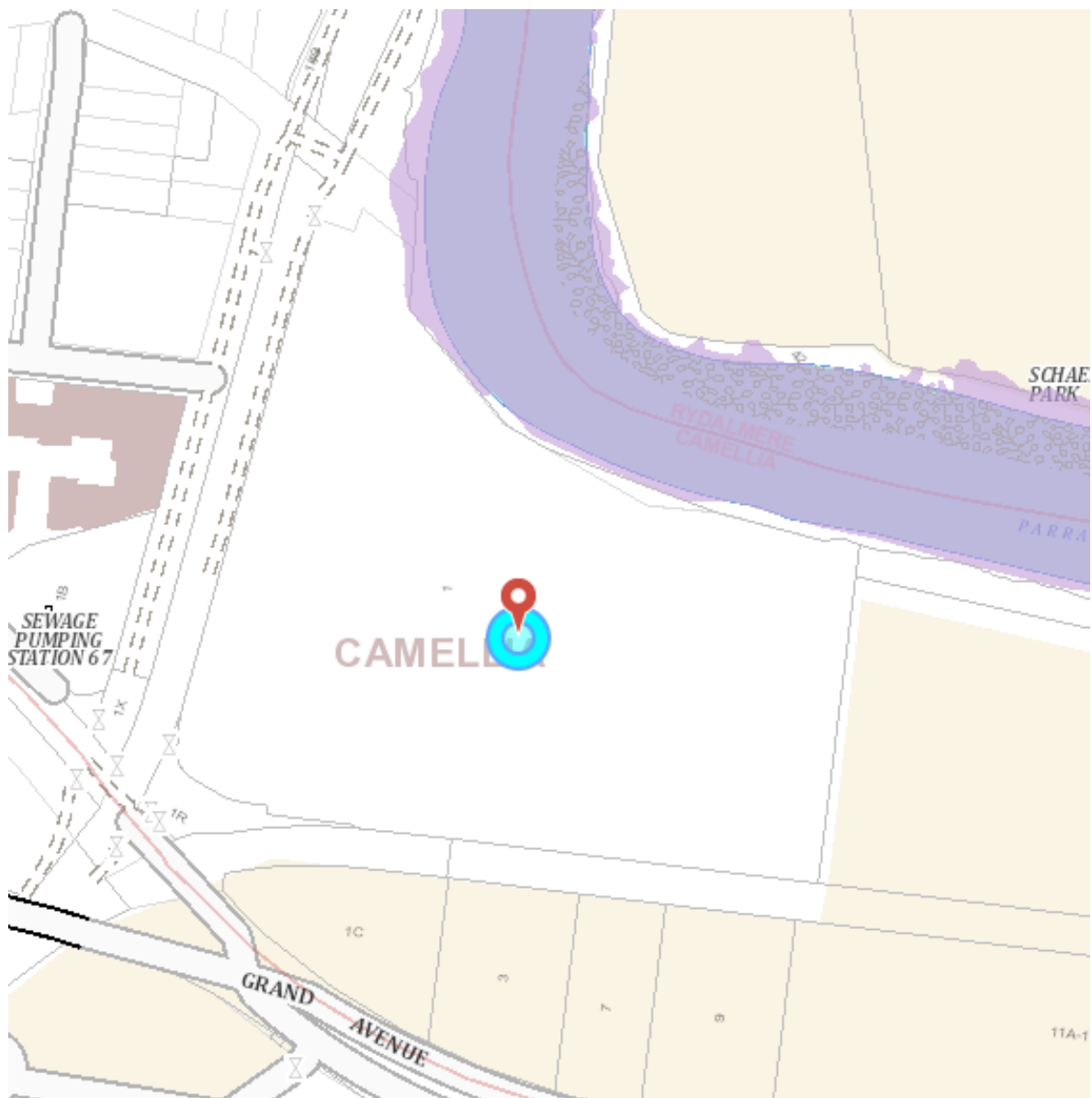


Figure 13 - Excerpt of Biodiversity Values Map

The proposed development will clear approximately 0.17 ha of native vegetation, which is below the clearing threshold trigger of 0.25 ha. Further, the vegetation being cleared for the proposal is not from a BV mapped area. Therefore, the Biodiversity Offset Scheme has not been triggered.

7.2 Section 2.15 - Function of Sydney District and Regional Planning Panels

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

It is noted that Council's Independent Quantity Surveyor has completed a review of the cost of works and their estimate has come up at more than \$50 million, which would make this application a State Significant Development. However, given that the calculation is within Council's adopted tolerance for estimated cost of works the applicant's cost of works of \$49,331,167 (excl GST) has been relied upon.

7.3 Section 4.46 - Integrated Development

The application is Integrated Development as a controlled activity approval is required under Section 91(2) of the Water Management Act 2000. Department of Planning and Environment (Water) has provided their General Terms of Approval for this application.

This application was previously listed as being nominated integrated under section 205 of the Fisheries Management Act. However, as the proposal is no longer seeking removal of mangroves due to the removal of the public boardwalk the development no longer triggers this requirement.

7.4 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:

7.5 Matters for consideration

Provision	Comment
Section 4.15 (1)(a)(i) - Environmental planning instruments	Refer to Section 8
Section 4.15 (1)(a)(ii) - Draft planning instruments	None applicable
Section 4.15 (1)(a)(iii) - Development control plans	Refer to Section 9
Section 4.15 (1)(a)(iiia) - Planning agreements	None applicable
Section 4.15 (1)(a)(iv) - The regulations	Refer to Section 10
Section 4.15 (1)(b) - Likely impacts	Refer to Section 11
Section 4.15 (1)(c) - Site suitability	Refer to Section 12
Section 4.15 (1)(d) - Submissions	Refer to Section 14
Section 4.15 (1)(e) - The public interest	Refer to Section 15

8. Environmental planning instruments

8.1 Overview

The instruments applicable to this application comprise:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- Parramatta Local Environmental Plan 2023

Compliance with these instruments is addressed below.

8.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in non-rural areas

Chapter 2 applies to the Parramatta LGA.

A Vegetation Management Plan has been provided to Council, which proposes the removal of 25 trees. However, the tree removal proposed in the VMP is not supported by an Arboricultural Impact Assessment and Tree Protection Plan that demonstrates that the existing trees are unable to be retained without being impacted by the development, nor has detail about the been provided e.g. health, condition, species, size, are they worthy of retention.

The VMP states that the development will clear approximately 0.17 ha of native vegetation, which is below the clearing threshold trigger of 0.25 ha. The vegetation being cleared for the proposal is not from a BV mapped area. Therefore, the Biodiversity Offset Scheme has not been triggered.

Chapter 6 – Foreshores and Waterways Area

The site is mapped within the Sydney Harbour Catchment and as such Chapter 6 of the SEPP applies. The site is within the 'Foreshores and Waterways Map', and partially within the 'Rocky Foreshores and Significant Seagrasses Map'. Therefore, the relevant matters of Chapter 6, including part 6.28 and 6.32 are applicable.

6.28 of the SEPP requires the consent authority to consider if the development will lead to an unacceptable impact on the Sydney Harbour and the foreshore in regard to water quality and associated risk. There remains a risk that the overland flow flooding may cause long term displacement of the unsecured soil fill and landscaping to the river. Further, the applicant has not demonstrated that stormwater flowing from the site will be appropriately treated.

6.32 “Rocky Foreshores and significant seagrasses” is relevant per the map below. The clause requires that development, “...increase the connectivity of ... natural landforms”. As outlined in this report, the further filling of the foreshore, and the further disconnect to adjoining more natural landforms, is not considered to achieve this aim.



Figure 14 - Foreshores and Waterways Map' (red line), and the 'Rocky Foreshores and Significant Seagrasses Map' area (green).

8.3 State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 – Infrastructure

Section 2.77 of the SEPP requires consent authorities to be satisfied that development near pipeline corridors is safe. This application is located near the Jemena high pressure gas line to the west of the site and the AMPOL fuel line to the south and west of the site. Council has given written notice to both these pipeline operators who have confirmed that the development will be able to safely operate next to these pipelines.

This application was referred to Transport for NSW for the relevant sections of the Transport and Infrastructure SEPP:

- Section 2.98(2) – Development adjacent to rail corridors
- Section 2.122 – Traffic Generating Development

Transport for NSW has confirmed that they are satisfied with the development and have provided their support under sections 2.98(2) and 2.122.

Separately, they have supplied their concurrence under section 138 of the Roads Act 1993.

8.4 State Environmental Planning Policy (Planning Systems) 2021

As this proposal has a Capital Investment Value of more than \$30 million (but less than \$50 million), Part 2.4 of this Policy provides that the Sydney Central City Planning Panel is the consent authority for this application.

8.5 State Environmental Planning Policy (Resilience and Hazards) 2021


Chapter 4 – Remediation of land

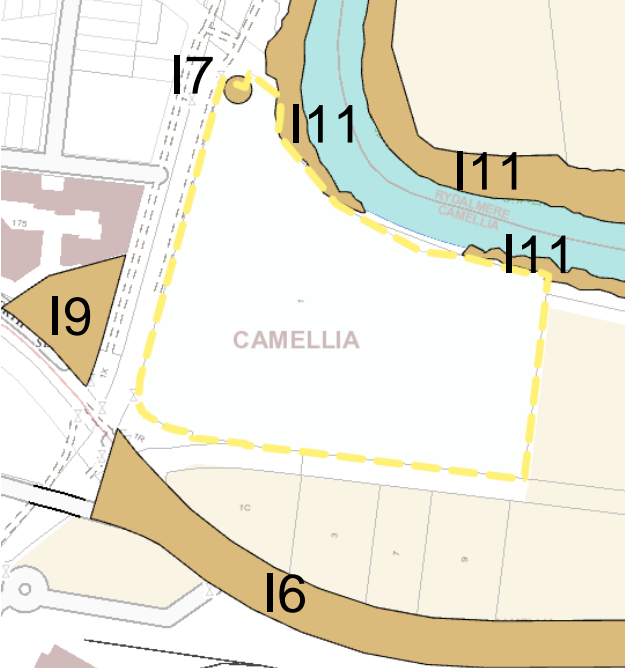
The application has been submitted with a Remediation Action Plan (Reditus, 24 May 2024). It is considered that the RAP does not satisfy CH4 of the SEPP as the proposed remediation strategy does not demonstrate that the land will be suitable for the proposed use.

A detailed list of concerns raised by Council's Environmental Health team is outlined in their referral above. The main concern being that RAP has not considered how the warehouses will be constructed over the existing capping with intrusions for the footings, landscaping and open flood detention basins proposed. It is unclear how this excavation will interact with the capping and contaminants below. It also hasn't been considered in conjunction with the proposed planting in the Vegetation Riparian Zone, and how vegetation in this area will be able to establish itself without excessive filling above the existing capping at ground level.

8.6 Parramatta Local Environmental Plan 2023

The relevant objectives and requirements of the Parramatta Local Environmental Plan 2023 have been considered in the assessment of the development application and are contained within the following table.

Clause	Comment	Complies
2.7 - Demolition	Demolition is not proposed under this DA. The existing concrete batching plant would be demolished under a separate application.	N/A
4.3 – Building height	<p>The site is affected by a part 9m, part 12m, height limit, see below map.</p>  <p>Figure 15 - Height of buildings map, subject site in yellow</p> <p>The proposal is seeking buildings with a height of 13.7m, this exceeds the 12m control by 1.7m and the 9m control by 4.7m.</p> <p>A clause 4.6 request has been submitted for this breach, which is addressed below.</p>	No
4.4 - FSR	<p>The site has a mapped FSR limit of 1:1.</p> <p>The subject DA proposes a total FSR of 0.23:1(16,256sq.m)</p>	Yes
4.6 – Exceptions to development standards	The height breach is addressed further in section 8.8 of this report	Yes

<p>5.10 - Heritage</p>	<p>The subject site is affected by the following heritage items to the north of the site:</p> <ul style="list-style-type: none"> • I7 – Grave of Eliner Magee and child • I11 – Wetlands <p>The following heritage items are located within a close proximity to the subject site:</p> <ul style="list-style-type: none"> • I6 – Tram Alignment (to the south of the site) • I9 – Sewage Pumping Station  <p>Figure 16 - Heritage overlay map</p> <p>The proposal has been submitted with a Heritage Impact Statement and it is considered that the proposal will not have any significant impacts on the heritage items.</p> <p>However, it is noted that it would be possible to improve the heritage curtilage of the Wetlands were the existing retaining wall along the river to be reduced in scale.</p> <p>As the site is of moderate archaeological importance, which is likely to be relatively undisturbed, a condition would be included on any consent requiring an archaeological assessment prior to any works.</p>	<p>Yes</p>
<p>5.21 Flood Planning</p>	<p>The applicant has not assessed the proposal against the flood planning levels in the 2024 Parramatta River</p>	<p>No</p>

	<p>Flood Study which identifies the site as being affected by both Riverine flooding from the Parramatta River to the north and overland flow flooding from Grand Ave to the south.</p> <p>The development has not considered the correct flood information to inform the development building envelopes or levels. As detailed in the Catchment Engineer referral above, the flood modelling provided has not considered many key factors.</p> <p>Further the overland flow flood modelling has not considered the fill required for the landscaping and VRZ and the potential that this fill has on displacing flood waters to adjoining sites.</p> <p>Further, the proposal does not consider an overland flow path for the existing Council pipeline.</p> <p>As a result, it is not considered that this clause is satisfactorily met. The development:</p> <ul style="list-style-type: none"> • Is not compatible with the flood function and behaviour on the land; • has the potential to adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties; • has the potential to adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood • does not incorporate appropriate measures to manage risk to life in the event of a flood, and • has the potential to adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses. 	
5.23 Public Bushland	The development does not propose any disturbance to the mangroves along the northern boundary.	Yes
6.1 Acid sulfate soils	Mapped as Acid Sulfate Soil level 4.	No

	<p>Despite this mapping, the submitted RAP mentions that <i>“there is potential Acid Sulfate Soils present on site due to a “sulfur trail exceeding criteria in one location” and has “the potential to become true if the potential acid sulfate soil is oxidized”</i> (page 34).</p> <p>The RAP further states that <i>“acid sulfate soils should be considered when choosing a suitable piling method and any spoil generated should be classified in accordance with NSW EPA Waste classification guidelines”</i>.</p> <p>However, despite this finding an Acid Sulfate Soils Management Plan has not been prepared in accordance with the Acid Sulfate Soils manual and provided to the consent authority as required by this clause.</p>	
6.2 Earthworks	<p>The site is already significantly filled relative to its natural state by the significant remnant industrial waste on the site.</p> <p>As outlined in this report, the applicant has not demonstrated that the proposed additional fill will have an acceptable impact on flooding.</p> <p>Further filling in the foreshore - the extent of which is not clear from the proposal - would potentially be unstable (subject to flood inundation) which would impact the river and would hinder future foreshore access in the location (likely to be desirable as part of any future rezoning of the area), due to further disconnect to adjoining sites.</p>	No
6.3 Biodiversity	The site is not affected by the biodiversity layer on the Natural Resources Map.	N/A
6.4 Riparian land and waterways	<p>This site is affected by a 30m wide riparian land and waterways layer in the Natural Resources Map.</p> <p>It is not considered that the proposed landscaping and associated fill required in the Vegetation Riparian Zone, at the existing ground level which is up to 5m</p>	No

	<p>above the riverbed, will meet the requirements of this clause. Specifically, this proposal has the potential to impact:</p> <ul style="list-style-type: none"> • the water quality and flows in the waterway, • the quality, flows and capacity of groundwater systems, <p>And does not consider improving the:</p> <ul style="list-style-type: none"> • aquatic and riparian species, habitats and ecosystems of the waterway, • the stability of the bed and banks of the waterway, • the free passage of fish and other aquatic organisms in or along the waterway and; • future rehabilitation of the waterways and riparian areas, and <p>The preferred outcome along the VRZ would involve battering down to the river, to re-naturalise the area. Some excavation along the riverbank and remediation of land would be required. This will allow for a VRZ that better aligns with the controls and objectives of this clause.</p> <p>Further, the development has not demonstrated that the VRZ is designed, and will be sited and managed, to avoid significant adverse environmental impact due to the required fill's potential impact on overland flow flooding. The development has not demonstrated that this is the most minimal impact design.</p>	
6.5 Stormwater Management	<p>The development has not been designed to adequately minimise the impacts of urban stormwater on properties, native vegetation and receiving waters as required by the clause.</p> <p>The development has not demonstrated the following:</p> <ul style="list-style-type: none"> • The development stormwater quantity and quality is not modelled using MUSIC or an equivalent tool to demonstrate the achievement of pollution reduction targets set out in the PDCP 2023. • Rainwater capture and on-site use has not been demonstrated as part of Water Sensitive Urban 	No

	<p>Design and as a sustainability measure. It is not clear whether it is feasible to use this water internally. Council will require a reduction in the net outflow of rain/stormwater from the site by 10% compared to undeveloped (natural site) levels.</p> <ul style="list-style-type: none"> • The stormwater drawings do not show all stormwater management assets, including stormwater pipes, pits, and legal discharge points, along with associated RLs and ILs. A Council pipe traverses the site and the proposal includes building over the pipeline. This would restrict Council's ability to fix the pipe if it breaks in the future. Council requires that buildings not be built over public pipelines on private land. It appears that Warehouse 1 could be modified to avoid building over the pipe. • The stormwater management report and plan are not in accordance with the updated architectural plan. 	
6.6 Foreshore area	The development no longer proposes a public access easement across the foreshore (given current lack of connectivity either side). Notwithstanding, the further fill above the already significantly raised foreshore will further reduce the ability to provide public access in the future.	No
6.7 Essential Services	Adequate water, electricity, sewage, stormwater and road access is provided to the site	Yes

8.7 Variation to height of buildings

The proposal does not comply with the part 9m and part 12m building height development standard detailed in Clause 4.3 of the PLEP. The proposed building height is a maximum of 13.85m for warehouse 1 and 13.7m for warehouse 4.

A non-compliance of 4.85m or 1.85 metres represents a 52% and 14% increase respectively over the PLEP 2023 development standard of 9 and 12 metres.

Clause 4.6 of PLEP 2023 allows Council to provide an appropriate degree of flexibility in applying certain development standards, where flexibility would achieve better outcomes.

See below site roof plan with height plane.



Figure 17 - site roof plan with height plane

Clause 4.6(1) – Objectives of Clause 4.6

The objectives of clause 4.6 of the PLEP 2023 are considered as follows:

- “(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.

Clause 4.6(3) – The Applicant’s written request 4.6

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 submitted a written request justifying the variation to the height of building development standard. In the justification the applicant states:

Urban Design Outcomes

- *a strictly compliant development would result in an inferior urban design outcome which is inconsistent with the pattern of development in the Grand Avenue streetscape, as discussed in Section 5.2.2 (of the 4.6 Request)*
- *the proposed height ensures an appropriate floorplate is delivered, thereby enabling appropriate setbacks and separation distances to be provided, this includes a minimum 30 metres building foreshore setback which enables substantial enhancement of Parramatta River Foreshore through the provision of a publicly accessible pedestrian pathway and associated landscaping*
- *the bulk and scale of the development is consistent with other industrial developments within the area, including the adjoining warehouse development to the east at 11 Grand Avenue, Camellia this warehouse has a height in excess of 14 metres*
- *the development achieves the objectives of the zone and the development standard as discussed in Section 5.4 (of the 4.6 request)*

Impact on Neighbouring Properties

- *the proposed increase in height would have no material impact on the neighbouring properties to the east, west or south*
- *the increase in height would not cause any additional overshadowing impacts when compared to a height compliant development with consideration to the siting of the proposal would not obstruct the outlook or views from neighbouring or nearby properties, more than what would occur from a height compliant development*

Building Functionality

- the proposal adopts an industry standard building height to ensure the functionality of its future use for warehouse and distribution purposes
- the increased building height is essential to accommodating the most efficient use of internal systems for warehouse and distribution uses

Council Comment: An assessment against the relevant case law established in the NSW Land and Environment Court has been undertaken below by the applicant. 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

This case expands on the findings of Winten Property Group Limited v North Sydney Council (2001) case and establishes a five-part test ‘Wehbe tests’ to ascertain whether strict compliance with a development standard is unreasonable or unnecessary, as follows:

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

Applicant comment: *The proposed variation to the height of buildings development standard will be achieved notwithstanding the non-compliance with the standard.*

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

Applicant comment: *The underlying objective and purpose of the height of buildings development standard, (including transition of built form, minimise impacts, safeguard heritage, respect existing character and satisfactory sky exposure) is considered relevant to the development.*

However, it is considered that the localised increase in heights at this suitable location will facilitate the achievement of a high-quality development that is respectful of the existing urban character, have a substantially positive urban design impact and acceptable amenity impacts.

Therefore, the localised increase in heights represent a significant improvement over a compliant scheme of uniform height and therefore better achieves the objectives of the height of buildings development standard.

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

Applicant comment: *The provision of a development that strictly complied with the height of buildings development standard would result in a significantly inferior urban design outcome for the Site.*

The proposal is considered superior to a strictly compliant scheme as:

- *the proposal meets the demand for employment uses in a highly accessible location, appropriately co-located with transport options*
- *the proposal is compatible with the built form character of the area*
- *the bulk and scale of the development is consistent with other industrial developments within the area, including the adjoining warehouse development to the east at 11 Grand Avenue, Camellia*
- *the proposed height ensures an appropriate floorplate is delivered, thereby enabling appropriate setbacks and separation distances to be provided, facilitating substantial enhancement of Parramatta River Foreshore through the provision of a publicly accessible pedestrian pathway and associated landscaping*
- *there is no material impact to adjoining development which would be decreased as a result of a compliant scheme, particularly in relation to solar access*
- *the objectives of the zone and relevant development standard are met by the proposed development*

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; or

Applicant comment: *The building height development standard cannot be said to be virtually abandoned or destroyed. Notwithstanding, Council has granted a number of consents within the*

Camellia Heavy Industrial area in recent years, which demonstrate a departure to the height of buildings development standard (Figure 6). These consents include:

- DA/302/2022 at 2-8 Thackeray Street, Camellia – Construction of a food storage tank with connecting walkway and access stairway to roof within an existing licenced food biomass waste-to-energy (Composting and Electricity Generation) facility. **Height variation of 2 metres (14m v 12m).**
- DA/955/2021 at 10A Grand Avenue, Camellia – Construction of a concrete batching facility on the rear lot of an approved subdivision. The development is Designated Development as defined by Schedule 3 of the Environmental Planning and Assessment Regulation 2000. **Height variation of 9 and 3 metres respectively (21m and 15m v 12m).**
- DA/751/2019 at 8 Grand Avenue, Camellia – Construction of a 3-storey high technology industry building (data centre), access & car parking, landscaping, associated structures, fuel storage area (Stage 1) and concept approval for a Stage 2 building. This application will be determined by the Sydney Central City Planning Panel. **Height variation of 8 metres (20m v 12m).**

The above approvals establish a clear precedent for the variation of heights in the locality along Grand Avenue. In the context of the precedents set by the approvals in the immediate locality, strict compliance with the part 9m/12m height control is considered unnecessary and unreasonable.



Figure 18 - Consents in the vicinity of the Site with approved Clause 4.6 Variations for height

5. The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

Applicant comment: The land has been zoned appropriately and the controls applicable to the Site are generally acceptable, despite the proposed localised increases in height. As discussed at Section 5, the proposed development is consistent with the objectives of the zone. The

proposed height of the development, as outlined above, is entirely consistent with and reinforces the wider character of the area.

It is noted that the DP&E Guide was formulated on the basis of the findings of the Winten Property Group Limited v North Sydney Council (2001) case and the Wehbe Tests.

Comment: It is demonstrated that some sites within this area have exceeded this height control. With respect to scale, the bulk of the building has been designed sympathetically to the surrounding area accounting for the environmental constraints of the site by providing suitable setbacks to the river and light rail corridors.

It is considered that the proposed bulk and scale of the building is generally mitigated by appropriate facade modulation and materials. The bulk and scale of the proposal is commensurate and compatible with that of the nearby development along Grand Ave.

Overall, the building will not be out of character in the streetscape along the river and light rail corridors, further, it is considered that the development respects the existing character of the area and any potential adverse effects on the surrounding environment in respect to building height will be negligible.

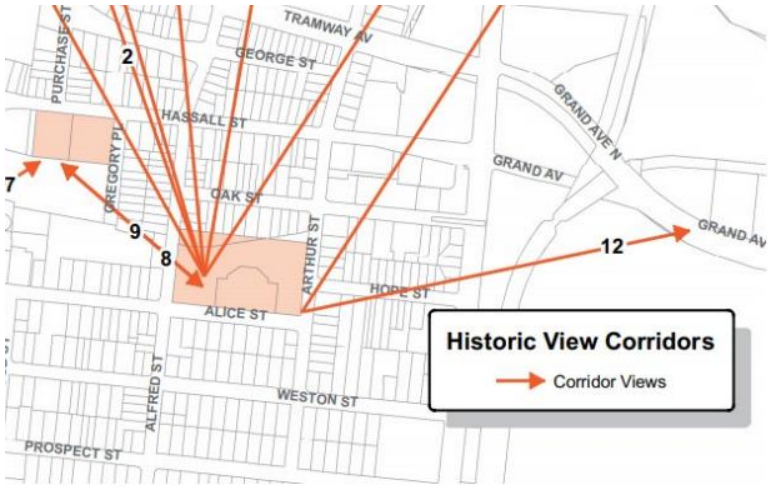
Council conclusion: It is considered that the applicant's written request has adequately addressed the matters required to be demonstrated and that the request to vary the height development standard within Parramatta LEP 2023 can be supported as the proposal achieves the objectives of the height development 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. Development control plan

The purpose of this DCP is to supplement the Parramatta LEP 2023 and provide more detailed provisions to guide development. The following parts of the DCP are relevant to this proposal:

- Part 2 – Design in context
- Part 4 – Non residential development
- Part 5 – Environmental Management
- Part 7 – Heritage and Archaeology
- Part 8 - Centres, Precincts, Special Character Areas and Specific Sites

Compliance tables are provided below:

Provision	Comment	Complies
Part 2 – Design in context		
2.6 Fences	The proposed chain wire fence surrounding the property provides adequate security to the site, however, it is not clearly demonstrated that the fence would respect flow of floodwaters and be resilient to blockage (C.11).	No
2.7 Open Space and Landscaping	<p>A landscape plan by a qualified expert has been submitted, however, deep soil zones are difficult to provide due to the existing capping on the site.</p> <p>It is proposed to provide raised planter beds for the majority of the landscaping in the site, which is not supported due to it's potential to conflict with overland flow flooding or the planter size is inadequate to support the mature growth of the proposed trees.</p> <p>25 trees are proposed to be removed which have not been addressed in its entirety in an Arboriculture Assessment Report as discussed by Council's Landscaping Officer.</p>	No
2.8 Views and Vistas	<p>The site is indirectly affected by historic view corridor 12 from Elizabeth Farm and Harris Park colonial precinct. It is considered that despite the height variation, the proposal will not impact the view corridor which has evolved since the DCP view corridors were photographed.</p>  <p>Figure 19 - Excerpt of view corridor map from DCP, subject site to the north of corridor 12.</p>	Yes

2.11 Access for people with a disability	The building work is to meet the requirements of the Disability Discrimination Act 1992 (DDA), the relevant Australian Standards and the Building Code of Australia (BCA), where applicable.	Yes
2.13 Culture and Public Art	Given the site's highly visible location fronting the Parramatta Light Rail, future Camellia Light Rail station and the Parramatta River this site is required to provide and implement an Arts Plan as part of the overall development. The plan is to include the provision of high-quality artworks within the development in a publicly accessible or visible location. Suitable conditions would be applied on any consent to ensure this.	Yes
2.14 Safety and Security	Perimeter fencing would be suitable from a security point of view.	Yes
2.15 Signage	Proposed signage zones are considered to be of a suitable size and location. No approval is granted for the installation of any signage, this will be subject to a future application. A condition is included to this effect.	Yes
Part 4 – Non-Residential Development		
4.1 General non-residential controls	<p><u>4.1.2 Noise amenity</u></p> <p>The application has been submitted with an Acoustic report which considers the operations of these warehouses 24/7.</p> <p>The report has been reviewed by Council's Environmental Health Team who have advised that the acoustic assessment is acceptable subject to a 12-month a trial of 24/7 operation.</p>	Yes
4.3 Industrial development	<p>The following controls apply to the subject site:</p> <p>Building Height – does not comply with the building height map in the Parramatta LEP 2023. This has been addressed via 4.6 of the LEP, see above.</p> <p>Floor Space Ratio – The development complies with the 1:1 Floor Space Ratio within the Parramatta LEP 2023.</p> <p>Front Setback – The site does not have a standard street frontage as it is surrounded by two light rail corridors.</p> <p>Side and rear setback – The development provides a 11m setback to the east, is located out of the 30m foreshore building line along the rear and provides a 31m side setback to the west, a 6m landscaped setback to the Light rail station has been provided.</p>	Yes

	<p>Parking – Refer to part 6 traffic and parking assessment below</p> <p>Landscaping – 15% of the site is being maintained as landscaped area with the minimum dimension of 2.5m x 2.5m.</p> <p>Canopy trees are provided per every 10 parking spaces, this can be conditioned if approval was recommended.</p> <p>Communal Open Space – A communal open space for the employees is provided for each warehouse.</p> <p>Building Design – The proposal may be capable of complying with relevant noise and light requirements under the Australian Standard. Concern is raised however, that the noise impacts to the nearby residential receiver in the late evening/early morning has not been considered in the provided acoustic report. The 24-hour operation could be conditioned as a trial for the first 12 months with further acoustic testing to be conducted on the potential acoustic impacts to this residential property.</p>	
Part 5 – Environmental Management		
5.1 Water Management	<p><u>5.1.1 Flooding</u></p> <p>The development does not demonstrate compliance with the relevant flood planning level (1% AEP) as per the City of Parramatta's 2024 Flood Levels and has not demonstrated that the proposal would not result in flooding afflux on adjoining sites. A Flood Emergency Response Plan has not been provided.</p> <p><u>5.1.2 Water Sensitive Urban Design</u></p> <p>The development stormwater quantity and quality are not modelled using MUSIC or an equivalent tool to demonstrate the achievement of pollution reduction targets set out in this section of the DCP.</p> <p>Rainwater capture and on-site use has not been demonstrated as part of Water Sensitive Urban Design and as a sustainability measure. It is not clear whether it is feasible to use this water internally.</p> <p><u>5.1.3 Stormwater Management</u></p> <p>The DCP requires a reduction in the net outflow of rain/stormwater from the site by 10% compared to</p>	No

	<p>undeveloped (natural site) levels. The applicant has not demonstrated this will be achieved.</p> <p>The stormwater drawings do not show all stormwater management assets, including stormwater pipes, pits, and legal discharge points, along with associated RLs and ILs. Further, Council does not support the building footprint over an existing Council stormwater pipe.</p> <p><u>5.1.4 On Site Detention Management</u></p> <p>No on-site detention basin is proposed.</p> <p><u>5.1.5 Groundwater</u></p> <p>The development does not propose any discharge of groundwater into Council's stormwater infrastructure. The groundwater in this site is heavily contaminated. A Construction Environmental Management Plan would be conditioned, if approval was being recommended.</p>	
5.2 Hazard and Pollution Management	<p><u>5.2.1 Control of soil erosion and sedimentation</u></p> <p>The development does not follow the natural topography of the land and would require substantial fill to allow for the landscaping to be planted above the existing capping.</p> <p>The development also does not demonstrate that there will not be any soil or sediment disturbance to the river from the new soil and landscaping in the VRZ which may be affected by overland flow flooding.</p> <p><u>5.2.2 Acid Sulfate Soils</u></p> <p>Refer to PLEP assessment above</p> <p><u>5.2.5 Land Contamination</u></p> <p>Assessment against clause 4.6 of the Resilience and Hazards SEPP is made above.</p> <p><u>5.2.6 Air Quality</u></p> <p>The development is not considered to impact the existing air quality.</p>	No
5.3 Protection of the Natural Environment	<p><u>5.3.1 Biodiversity</u></p> <p>Given the existing significant retaining wall along the northern boundary of the site, the site has minimal existing natural environment to protect as such. Council is of the view that more could be done to improve the relationship of the site to Parramatta River, as covered elsewhere in this</p>	No

	<p>report. The proposal would introduce significant additional landscaping to the site, though concern is raised that the viability of this planting has not yet been demonstrated.</p> <p><u>5.3.2 Waterways and Riparian Zone</u> A 40m Vegetation Riparian Zone is proposed however, is proposed at the existing RL, this is up to 5m from the riverbed, which would not meet the controls or objectives of this section which requires a naturalised landscape that softens the landscape between the urban environment and the natural.</p> <p><u>5.3.4 Tree and Vegetation Preservation</u> The development proposes to remove 25 trees. An Arboricultural Impact Assessment has not been provided. No information about the trees has been provided regarding their health, condition, species, size, are they worthy of retention. Therefore, the controls have not been addressed.</p>	
5.4 Environmental Performance	<p><u>5.4.1 Energy Efficiency</u> The development is required to have a 5 star green star rating or equivalent. This could be conditioned, if approval was being recommended. Non-residential development with a GFA of 5,000m² or more (including alterations and additions of 5,000m² or more), or with a roof area of 1,000m² or more, requires the installation of a solar PV system covering a minimum of 50% of the roof space. This could be conditioned to be provided, if approval was recommended.</p> <p><u>5.4.2 Water efficiency</u> 5 star green star rating required for water. This could be conditioned to be provided, if approval was being recommended.</p> <p><u>5.4.3 Urban Cooling</u> N/A – the GFA does not exceed 20,000sq.m</p> <p><u>5.4.5 Natural Refrigerants in air conditioning</u> This could be conditioned to be provided, if approval was being recommended.</p> <p><u>5.4.8 Waste Management</u> Waste Management is to be conducted by a private provider. A waste management could be conditioned.</p>	Yes

Part 6 – Traffic and Transport		
6.1 Sustainable Transport	<p><u>6.1.2 Travel Plans</u></p> <p>A Green Travel Plan is to be provided as the development has a GFA over 5000sq.m and more than 50 employees. This could be conditioned to be provided, if approval was being recommended.</p> <p><u>6.1.3 Electric Vehicle Charging Infrastructure</u></p> <p>1 shared EV connection is required for every 10 commercial car spaces distributed through the carpark. As 85 parking spaces are proposed, this requires 9 shared electric vehicle connections to be shared through the carpark. This could be conditioned to be provided, if approval was being recommended.</p>	Yes
6.2 Parking and Vehicular access	<p>The DCP requires the following minimum parking rates for industrial development:</p> <p>Warehouses: 1 space per 300m2 GFA (50 spaces required) Ancillary office: 1 space per 40m2 GFA (22 spaces required) Café: 1 space per 30m2 of GFA (for the first 100m2 of floor space), plus 15 spaces per 100m2 or 1 space per 3 seats (whichever is the greater) for additional GFA over the first 100m2 (1 space required)</p> <p>86 spaces are proposed which meets the DCP requirements</p>	Yes
6.3 Bicycle Parking	<p>1 bicycle space per 1,000m2 of gross floor area for employees required (17 spaces required)</p> <p>18 bike spaces proposed distributed between both warehouses. This could be conditioned to be provided, if approval was being recommended.</p>	Yes
6.4 Loading and Servicing	<p>An adequate number of loading docks are provided for each warehouse and are independent of other parking areas. This could be conditioned to be provided, if approval was being recommended.</p>	Yes
Part 7 – Heritage and Archaeology		
7.4 General provisions	<p>This application does not propose any works on or near the heritage items (Wetlands and Grave of Eliner Magee and child). These items are proposed to be retained and preserved. The proposal complies with section 5.10 of the PLEP 2023 regarding Heritage Preservation.</p>	Yes
7.5 Development in the vicinity of heritage	<p>The development is not considered to detract from the heritage significance of the nearby heritage items, though it could be doing more to improve the curtilage of the Wetland as outlined above.</p>	Yes

Part 8 – Centres, Precincts, Special Character Areas, and Specific Sites		
8.2 Local Centres		
8.2.4 Camellia and Rydalmere	<u>8.2.4.2 Height of Buildings</u> The development does not have an adverse impact on significant or historic views from any heritage items despite being located within the Area of Height Sensitivity.	Yes
	When assessed against the relevant view corridors from the Elizabeth Farm Precinct the development would not be visible as previously envisioned by the DCP due to the changing nature of the view corridor since the DCP view corridor was photographed.	No
	<u>8.2.4.3 Landscaping</u> The development does not improve the foreshore landscape so that locally native vegetation and natural geomorphology are preserved, restored and extended and in accordance with Government-adopted catchment strategies.	
	<u>8.2.4.4 Travel Plans and Travel Information Guides</u> Development that contains 5,000m ² of gross floor space or 50 or more employees must prepare a Travel Plan. A Travel Plan is a package of measures designed to reduce car trips and encourage the use of sustainable transport. Where a Travel Plan is required as a condition of development, it must be submitted to Council prior to the release of the Occupation Certificate. If the future occupant(s) is known then the Travel Plan must be prepared in co-operation with them. The condition of consent remains for the life of the development. This could be conditioned to be provided, if approval was being recommended.	Yes
	<u>8.2.4.5 Building Design</u> The buildings design, materials and setbacks are considered to be consistent with the transition and general massing of other industrial developments in the local area.	Yes

10. The Regulations

Applicable Regulation considerations including demolition, fire safety, fire upgrades, compliance with the Building Code of Australia, PCA appointment, notice of commencement of

works, sign on work sites, critical stage inspections and records of inspection could be conditioned to be provided, if approval was being recommended.

11. The likely impacts of the development

As outlined in this report, the applicant has not demonstrated that the proposal would have acceptable impacts.

The development as proposed may have unacceptable impacts on human health (contamination), flood behaviour, the connectivity and potential future accessibility of the foreshore, Council's ability to maintain its infrastructure (i.e. pipes).

12. Site suitability

As outlined in this report, the applicant has not demonstrated that the site is suitable. In particular, it appears that removal of additional contaminated fill will be required to achieve the relevant objectives of the controls.

13. SCCPP Briefing Minutes

The application was considered at a SCCPP Briefing Meeting held on 19 October 2023. Members of the panel in attendance were Abigail Goldberg (Chair), David Ryan, Steve Murray, Sameer Pandey, and Georgina Valjak.

The key issues discussed at the Panel Briefing Meeting are as follows:

Panel issue	Council Response
The panel queried if vehicle movements were forward in and out of the site to which the applicant confirmed that all movements in and out of the site can be made in a forward direction.	The amended development maintains the ability for all vehicles to enter and exit the site in a forward direction.
The panel queried the proposed building heights and their appropriateness for industrial development.	The proposed building heights are considered to be satisfactory despite the DCP "Area of Height Sensitivity". This is addressed further in the DCP assessment and clause 4.6 assessment above.
The panel targets determination of RSDAs within 250 days. The chair recommends that the applicant focus their efforts on facilitating amendments or providing additional information required by Council to allow them to complete their assessment.	This time frame has not been met. A deferral is recommended with set re-referral dates to the SCCPP, these will ensure that the application is determined by the end of the year.

14. Public Notification

The application was notified and advertised in accordance with the City of Parramatta Consolidated Notification Procedures and legislative requirements for a 28-day period from the 5th October 2023 to the 7th November 2023. In response no submissions were received. The revised drawings were not notified as they were not considered to be significantly different.

15. Public interest

Despite the lack of submissions, given the potential environmental impacts outlined above, this proposal would not be in the public interest.

16. Development contributions

16.1 Council contributions

As per the Outside CBD Contribution Plan (Amendment 1) the development would need to pay development contributions due to its increase in the number of workers from the current development on the site. This could be conditioned if approval was recommended.

16.2 Housing and Productivity Contribution

The NSW Government Housing and Productivity Contribution is not applicable to this application as it was formally lodged before the 1 October commencement date of the policy.

17. 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 not demonstrated a satisfactory response to the objectives and controls of the applicable planning framework and cannot be approved in its current form. With appropriate amendments to the application to address outstanding matters, the application could be made acceptable. As the applicant has expressed a desire to resolve outstanding matters in a timely fashion, it is recommended that the panel defer their determination to December to allow for the submission of an amended proposal.

18. Recommendation

- A. **That** the Sydney Central City Planning Panel, as the determining authority, defer the determination of Development Application No. DA/573/2023 until the 5th December 2024.
- B. **That** the Sydney Central City Planning Panel direct the applicant to submit an amended package of information resolving outstanding issues by the 21st October 2024 to allow Council sufficient time to finalise their assessment report.