

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSCC- 687
DA Number	397/2020/A PAN-524135
LGA	City of Parramatta Council
Proposed Development	Section 4.56 modification of DA/397/2020 for demolition of existing structures, site preparation works, excavation, tree removal, construction of five 5-8 storey residential flat buildings over basement car parking. The application was Integrated Development under the Roads Act 1993 and the Water Management Act 2000. The modification is seeking to operate as Build-to-Rent housing, provide an additional 66 units, make changes to the building envelope and façade, reduce the basement extent, and add additional communal amenities and facilities. The modifications also seek to modify the consent to allow the staged construction of the development. The modification application is to be determined by the Sydney Central City Planning Panel.
Street Address	2 – 6 Epping Road and 2 – 4 Forest Grove EPPING
Property Description	Lot 10 DP 1204058 CP SP 16921 Lot 4 DP 1204059 Lot 7 and Lot 8 DP 1204060 Lot 11 and Lot 12 DP 1204061 Lot 15 DP 1204062 Lot 10, 11 and 12 DP 10385
Applicant Owner	Novus Investco Pty Ltd Austino Epping 2 Pty Ltd
Date of Lodgement	11 April 2025
Number of Submissions	7 unique submissions (with 1 submission in support of the modification application)
Recommendation	Approval, subject to modified conditions of consent.
Regional Development Criteria	The modifications seek approval for a variation to Clause 4.3 – Height of PLEP 2023 of more than 10%. Pursuant to Section 2.16 (and confirmed by SCCPP Record of Delegation dated 26 March 2024) of the EP&A Act 1979 the Panel resolved to delegate to the City of Parramatta Council the power to make a determination as consent authority on applications made under Section 4.56 of the EP&A Act except where the application meets the criteria set out in the <i>Functions Exercisable by Council on Behalf of Sydney District or Regional Planning Panels – Application to Modify Development Consent</i>.

List of All Relevant s4.15 Matters	• Environmental Planning and Assessment (EP&A) Act 1979 • EP&A Regulations 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy (Housing) 2021 • State Environmental Planning Policy (Sustainable Buildings) 2022 • Parramatta Local Environmental Plan 2023 (LEP 2023) • Parramatta Development Control Plan 2023 (DCP 2023)
Attachments	• Attachment A – Assessment Report • Attachment B – Proposed modifications to consent conditions • Attachment C – Modified Conditions of Consent • Attachment D – LEC orders annexing conditions
Report Prepared By	Denise Fernandez, Senior Development Assessment Officer
Report Date	30 April 2026

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?
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? **N/A**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not Applicable**
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? **Yes**

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

EXECUTIVE SUMMARY

1. Summary

This report considers a Section 4.56 modification application to an approved demolition, site preparation works, excavation and tree removal; construction of a 5 x 5 – 8 storey residential flat building comprising 321 apartments, 2 x 2 – 3 level basement car park, storage and plant rooms, construction of a internal road, a public pedestrian through site link, associated landscaping works and delivery / augmentation of services.

The modifications seek to operate as Build-to-Rent housing, provision of an additional 66 units and residential communal facilities, changes to the building envelope and façade and a reduction of the extent of the basement. The modifications also include changes to several conditions of consent due to changes to the development and to allow the staging of the development and delivery.

An assessment has been undertaken against the provisions of Section 4.56 of the Environmental Planning and Assessment Act 1979 and it is considered that the development proposal, as modified, is substantially the same development as originally approved.

Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments has not identified any fundamental issues of concerns. The application is therefore satisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979.

This report recommends that the Panel:

- Modify the development consent (DA/397/2020), subject to the recommended conditions.

2. Background and Site Context

2.1 Site location and description

The site is located on the southern side of Epping Road between the intersections with Blaxland Road and Forest Grove. The site is an irregular shape with three street frontages, with the exception of the northwest corner where it excludes a single allotment at No. 18 Epping Road. Accordingly, the site contains eleven (11) allotments, legally described as:

- 2 Epping Road - Lot 10 in DP 1204058;
- 4 Epping Road – CP SP 16921;
- 6 Epping Road - Lot 4 in DP 1204059;
- 8 Epping Road - Lot 7 DP in 1204060;
- 10 Epping Road - Lot 8 in DP1204060;
- 12 Epping Road - Lot 11 in DP 1204061;
- 14 Epping Road - Lot 12 in DP 1204061;

- 16 Epping Road - Lot 15 in DP 1204062;
- 2 Forest Grove - Lot 10 in DP 10385;
- 4 Forest Grove - Lot 11 in DP10385; and
- 4 Forest Grove - Lot 12 in DP10385.

The total area of the site is 11,450.2m². An aerial photograph of the site and immediate surrounds is included in Figure 1 & 2 with the site marked with blue pins.



Figure 1: The site denoted by blue dots.

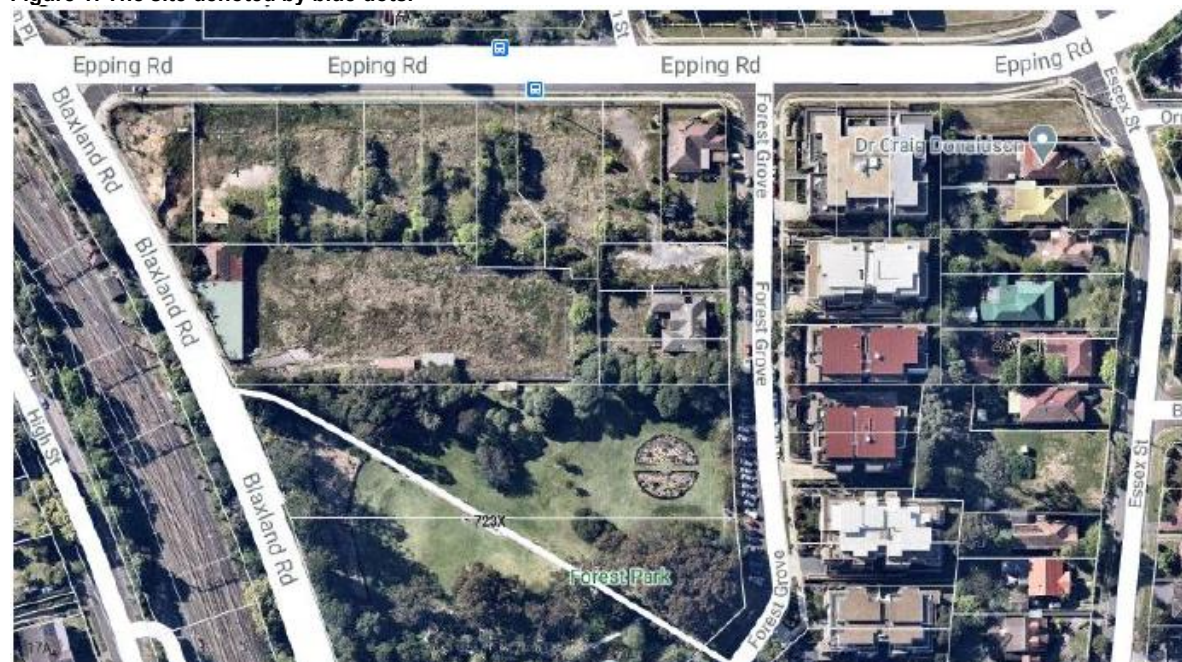


Figure 2: Aerial photo of site and surrounds. Source: Nearmaps.

The site is relatively undulating, with its highest point (approximately RL 99.43) being a raised bank in the northwest corner. The site generally falls away from Epping and Blaxland Roads. Levels fall moderately by approximately 4m to the east (to the northeast corner on No. 16 Epping Road) along the Epping Road frontage and by approximately 8m to the southeast corner of No. 6 Forest Grove (approximately RL 91.87). There is a steep fall of approximately 4m from the bank on the western side of the site to the southwestern side of No. 4 Epping Road (approximately RL 91.77). The land also falls further to the former bowling club site to the south.

There is vegetation and trees located throughout the site, with 69 trees located on or adjacent to the subject site.

The site does not contain any heritage items and is not located in a heritage conservation area. Forest Park, adjoining the site to the south at No. 723X Blaxland Road is listed as a local heritage item (Item No. 359) under PLEP 2023 and is crown land. Forest Park however is managed by Council.

All the allotments, except for No. 4 Forest Grove are currently vacant. No. 4 Forest Grove contains a single storey detached dwelling house with vehicular access provided via Forest Grove.

Sites in the precinct are zoned R4 High Density Residential and have generally undergoing transition from low density dwellings to residential flat buildings up to 5 storeys in height.

The Epping town centre is located northwest of the site, across Epping Road, with Epping Metro and Railway Station located approximately 200m walking distance from the site.

Both Blaxland and Epping Roads are classified roads. Accordingly, they are maintained and operated by Transport for NSW. The Metro Northwest line and T9 Northern railway line are located on the western side of Blaxland Road.

Adjoining the site in the northeast corner is No. 18 Epping Road, which contains a single storey detached brick dwelling house with vehicular access from Forest Grove to an attached garage on its eastern side.

2.1.2 Status of 725 Blaxland Road and Epping Bridge Project

Adjoining the site to the south, is No. 725 Blaxland Road, the vacant former Epping Bowling Club, which is also under the same ownership as that of the subject site. The vacant bowling club site contains a single storey brick and weatherboard clubhouse on the western side, accessed from Blaxland Road and two single storey structures on its southern side, with the former bowling green taking up much of the rest of the site. The site is zoned RE1 – Public Recreation.

In July 2018, the NSW Government announced the widening of Epping Bridge part of a series of road projects in Epping Town Centre to support the growth of Epping and

town centre development. The Epping Bridge project will replace the existing five lane bridge with a new, wider safer and more efficient seven lane bridge.

As part of the Epping Bridge Project, Transport for NSW (TfNSW) has advised Council and the applicant that pedestrian levels along Epping Road will be altered to facilitate the delivery of these works. In the most affected sections of Epping Road, pedestrian levels are anticipated to increase by up to approximately 1.5 metres.

TfNSW is in negotiations with the owners of 725 Blaxland Road to use this site as the compound site for the Epping Bridge Project.

2.2 Related Applications

8 November 2021	DA/397/2020 was approved via Deferred Commencement by the LEC for the demolition of existing structures, site preparation works, excavation, tree removal and construction of five 5-8 storey residential flat buildings over basement car parking. The Deferred Commencement relate to the creation of an easement to drain water over the downstream properties and the submission to Council of an updated Stormwater Plan that reflects the system discharging via the easement. It is noted that the consent holder has 60 months from the date of the Notice of Determination is uploaded to the NSW Planning Portal to comply with Schedule 1 of the consent.
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3. The Proposal

Since the approval of the parent application, the applicant now seeks to deliver the development as a Build-to-Rent (BTR) scheme rather than a Build-to-Sell (BTS) development, consistent with the provisions of Part 4 of Chapter 3 of SEPP (Housing) 2021. Accordingly, a number of modifications are proposed to ensure compliance with the specific planning requirements applicable to BTR developments.

Communal Facilities

The proposal introduces resident amenity spaces at the Ground Floor level (previously the Mezzanine Floor) within Buildings A, B, C and D as part of the adopted Build-to-Rent (BTR) development model. This includes a gym, yoga/pilates area, swimming pool, communal kitchen and dining area and a workspace area.

The communal amenity areas have increased in size and are now interconnected via a continuous corridor extending from Buildings A through to D at Ground Floor level. Each building core is provided with lift and communal stair access linking this corridor to the respective entrance lobbies at Level 01. The east–west pedestrian link has been widened and activated through the integration of the communal facilities.

Residential Planning

Apartment layouts have been revised to align with BTR requirements. The ground-floor apartments (previously approved at the Mezzanine Floor level) have been removed and replaced with resident amenity spaces. The apartment mix has been diversified through the inclusion of additional studio apartment options and the introduction of dual-key apartments. The revised unit mix are as follows:

- 71 x Studio units (23%)
- 77 x 1B units (25%)
- 124 x 2B units (40%)
- 38 x 3B units (12%)

Note: Of the 38 x 3B units provided, 10 units are designed as Dual Key units.

Residential Lobby

The principal residential lobby for the development is now accessed from the east-west pedestrian link between Buildings C and D. Parcel and mail rooms are provided within the main lobby area. Individual building entries are also provided with mailboxes located at ground level, accessed from Epping Road.

Communal Open Space

The Lower Ground Level design has been revised to better integrate internal communal amenity spaces with external areas and to provide an expanded range of amenities for residents. Rooftop communal open space has been introduced to Building A and enhanced on Building D. As a result, the total provision of communal open space across the site has increased.

Lift Overruns

Lift car sizes have been increased, resulting in corresponding increases to lift overrun structures and overall height of the development.

Floor-to-Floor Heights

Floor-to-floor heights across all buildings have increased in response to updated technical design requirements and contemporary construction standards.

Acoustic, Ventilation and Amenity

The previously approved ventilation silencer design has been removed and replaced with an alternative natural ventilation strategy. Enhanced acoustic performance standards have been incorporated to improve resident amenity. Operable louvres to balconies facing Epping Road have been introduced to mitigate traffic noise.

Basement Design

The previously approved Basement Plan has been removed. The Lower Ground Level (formerly Ground Floor) and Ground Floor (formerly Mezzanine Floor) have been generally reconfigured. The total number of car parking spaces has been reduced as part of this redesign.

Deep Soil Zones

Deep soil zones have been adjusted to accommodate the modified landscape layout.

Gross Floor Area

Gross Floor Area calculations have been updated to reflect the amended planning and design outcomes. Overall, the GFA of the development has been reduced from the original development.

Proposed Setbacks

All buildings incorporate a recessed uppermost storey from the level below. Building-to-building setbacks generally comply with the Apartment Design Guide, with increased setbacks also provided to the Epping Road site boundary.

External Materials and Finishes

External finishes have been varied across the buildings to create visual articulation and differentiation. A high-quality masonry materiality to the entire podium is provided.

Façade and Building Form

The number of curved façade elements has been reduced, resulting in a more simplified built form expression. The entry to Building E from Forest Grove has been relocated, and one ground-level apartment has been removed to facilitate a wider and more legible east–west entry from Forest Grove.

Waste Management

The waste management strategy has been amended, replacing the previously approved bulk waste rooms with garbage and recycling chute systems and the provision of recycling bins to each core. Garbage rooms have been relocated from the Lower Ground Level (previously Ground Floor) to the Ground Floor (previously Mezzanine Floor). Car parking within Building E has been removed as part of this reconfiguration.

Conditions

The modification application also seeks to modify conditions of consent to facilitate a stated Construction Certificate strategy.

See Attachment B for further details of changes to conditions of consent.

The applicant seeks to amend the deferred commencement condition relating to the delivery and registration of the required easement. Specifically, it is proposed that

Condition 1 of Schedule 1 be revised to remove the requirement for registration of the easement prior to the release of the operative consent, with registration instead deferred until prior to the issue of a construction certificate for the works. The applicant advises that this request arises from delays encountered in obtaining approvals, compounded by broader macro-economic factors, including geopolitical instability and ongoing pressures within the construction sector. Further, the applicant notes the following in support of the modifications.

1. Crown Lands formally confirmed on 30 April 2026 that it does not object to Council utilising its powers as Crown land manager to grant the easement over Forest Park (Lot 365 DP752028) under section 3.21 or 3.17 of the Crown Land Management Act 2016, without the need for Minister's consent. A copy is attached.
2. Council's Land and Property team and Austino have agreed a terms letter regarding the easement.

Following detailed discussions with Council's Land and Property team, Council is satisfied as to the certainty of the delivery of the easement. Accordingly, the modification to amend the Deferred Commencement conditions (i.e. Schedule 1, Conditions 1 and 3) to require satisfaction prior to the issue of a Construction Certificate is supported. As no Deferred Commencement conditions remain, an Operative Consent can be issued.

3.1 Application History

11 April 2025	DA/397/2020/A is lodged
23 April 2025 to 15 May 2025	Advertising period.
12 May 2025	WaterNSW issues Council and the applicant correspondence requesting additional information.
19 May 2025	Request for additional information sent to applicant containing issues raised by Council's Open Space, Landscaping Officer and Planning.
2 June 2025	Request for additional information sent to applicant containing issues raised by Council's Urban Designer, Public Domain, Universal Access
7 August 2025	Applicant requests an extension to submit additional information. Council agrees to the extension until 19 September 2025.
22 September 2025	Additional information received.
8 October 2025	Request for information sent to applicant regarding concerns with the submitted Landscape Plan.
23 October 2025	Request for information sent to applicant regarding issues raised by Council's Urban Designer and Public Domain Officer.
12 December 2025	Additional Information received.

While the land use of the developments remains unchanged under PLEP 2023, the current modification application seeks to modify the housing model of the development from a built-to-sell to a build-to-rent.

5. Public Notification

Notification Period:	23 April 2025 to 15 May 2025
Submissions received:	7 submissions (1 submission is in support for the development).
Issues raised in submissions:	Notification, description of the modifications, status of 725 Blaxland Road, requirement for affordable housing, height, traffic, parking, pedestrian safety, tree retention, landscaping design, waste management, overshadowing, green travel plan, insufficient infrastructure, neighbourhood character, visual and amenity impacts, stormwater management, overdevelopment, bulk and scale and incompatibility with streetscape.

These submissions are discussed in further detail in **Attachment A**.

6. Referrals

Any matters arising from internal/external referrals not dealt with by conditions. A detailed assessment is provided at Attachment A .	Yes
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7. Environmental Planning and Assessment Act 1979

Does Section 1.7 (Significant effect on threatened species) apply?	No
Does Section 4.10 (Designated Development) apply?	No
Does Section 4.46 (Integrated Development) apply?	Yes
Are submission requirements within the Regulations satisfied?	Yes

8. Consideration of SEPPs

Key issues arising from evaluation against SEPPs	Yes - A detailed assessment is provided at Attachment A .
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9. Parramatta Local Environmental Plan 2023

LEP Section	Comment or Non-Compliances
Part 1 – Preliminary	Consistent
Part 2 – Permitted or Prohibited Development	- Permissible in the zone - Consistent with zone objectives

Part 3 – Exempt & Complying Development	• Not Applicable
Part 4 – Principal Development Standards	• Compliant
Part 5 – Miscellaneous Provisions	• Provisions satisfied
Part 6 – Additional Local Provisions	• Compliant

10. Parramatta Development Control Plan 2023

The following table is a summary assessment against this DCP. A detailed evaluation is provided at **Attachment A**.

DCP Section	Comment or Non-Compliances
Part 2 – Design in Context	• Consistent
Part 3 – Residential Development	• Consistent
Part 5 – Environmental Management	• Consistent
Part 7 – Heritage and Archaeology	• Consistent
Part 8 – Centres, Precincts, Special Character Areas and Site Specific Sites	• Consistent

11. Conclusion

On balance the amended development has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework.

The application is recommended for approval for the reasons contained within Attachment A.

12. Recommendation

That the Sydney Central City Planning Panel approve the modifications application DA/397/2020/A for reasons contained within the Assessment Report.

ATTACHMENT A - PLANNING ASSESSMENT

SCCPP Reference:	PPSSCC- 687
DA No:	DA/397/2020/A PAN-524135
Address:	2 – 6 Epping Road and 2 – 4 Forest Grove EPPING 2121

1. Overview

This Attachment assesses the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, as noted in the table below:

1.1 Matters for consideration

Provision	Comment
Section 4.15 (1)(a)(i) - Environmental planning instruments	Refer to Section 3 below
Section 4.15 (1)(a)(ii) - Draft planning instruments	Not applicable
Section 4.15 (1)(a)(iii) - Development control plans	Refer to Section 4 below
Section 4.15 (1)(a)(iia) - Planning agreements	Refer to Section 5 below
Section 4.15 (1)(a)(iv) - The regulations	Refer to Section 6 below
Section 4.15 (1)(a)(v) - <i>Repealed</i>	Not applicable
Section 4.15 (1)(b) - Likely impacts	Refer to Sections 3, 4 and 7 below
Section 4.15 (1)(c) - Site suitability	Refer to Section 8 below
Section 4.15 (1)(d) - Submissions	Refer to Section 9 below
Section 4.15 (1)(e) - The public interest	Refer to Section 10 below

1.2 Referrals

The following external and internal referrals were undertaken:

External Referrals	
WaterNSW	The amended proposal was referred to WaterNSW pursuant to Section 90(2) of the Water Management Act 2000 due to the design changes of the basement levels. Upon confirmation from the applicant that the amendments did not modify the approved tanked basement design, WaterNSW raised no further concerns and issued their GTAs.
Transport for NSW (TfNSW)	The application was referred to TfNSW as the site is located on 2 x classified roads, being Epping Road and Blaxland Road. TfNSW raised no objections to the proposed modifications.
Sydney Metro	The application was referred to Sydney Metro as the Northwest rail corridor is located within proximity to the site. Upon review of the modifications, Sydney Metro noted that no concurrence role is triggered with respect to the Northwest rail corridor.
Ausgrid	The application was referred to Ausgrid. In response, Ausgrid raised no objections to the proposed modifications.

Internal Referrals	
Social Outcomes	Generally, no objections however, Council's Social Outcomes raised concerns regarding the proposed changes to the unit mix of the development. In response, a Dwelling Mix Report was submitted providing a thorough justification for the modified unit mix. The report notes that it is designed to align with the local housing demand and the intended BTR resident profile. The report drew from ABS data and local context which identified a significant undersupply of studio and 1 bedroom dwelling in Epping relative to the high proportion of lone-person households and couples without children, driven by proximity to major transport, education and health employment hubs. In response, the development proposes a mix of approximately 23% studios, 25% one-bedroom, 40% two-bedroom and 12% three-bedroom apartments, with capacity to adapt unit layouts to increase three-bedroom supply should demand arise. The report concludes that the proposed mix is balanced, improves housing diversity, addresses affordability and demand for smaller households, and is appropriate to the Build-to-Rent housing typology, which is supported by shared on-site amenities and flexible apartment configurations. On this basis, the concerns raised by Council's Social Outcomes is addressed and no further concerns are raised.
Public Domain	No objections, subject to amended conditions of consent.
Engineering	No objections, subject to amended conditions of consent.
Traffic Engineer	No objections, subject to amended conditions of consent.
Landscape Officer	No objections, subject to amended conditions of consent.
Environmental Health (Acoustic)	No objections, subject to amended conditions of consent.
Environmental Health (Contamination)	No objections, subject to amended conditions of consent.
Public Infrastructure (Contributions)	No objections, subject to amended conditions of consent.
Urban Design	No objections, subject to conditions of consent
Heritage	No objections.
Environmental Health (Waste)	No objections
Universal Access Officer	No objections
Open Space	No objections

Land and Property

The proposed easement benefitting the site, approved under the parent application, burdens Forest Park. As outlined elsewhere in this report, Forest Park is Crown land for which Council is the Crown Land Manager. In accordance with sections 3.21 and

3.17 of the Crown Land Management Act 2016, and sections 46 and 47 of the Local Government Act 1996, Council, in its capacity as Crown Land Manager, may grant the easement without Ministerial consent.

Notwithstanding the above, Council also notified Crown Lands that the developer had submitted documentation in support of the easement, and invited comment within 14 days.

Crown Lands subsequently advised that the Department does not object to Council exercising its powers as Crown Land Manager to grant the easement.

Council's Land and Property issued the applicant its Terms and Conditions Letter on 1 June 2026.

2. Environmental Planning & Assessment Act 1979 (EPA Act)

2.1 Integrated Development

The parent application was an integrated development under the *Water Management Act 2000*. As the modification application proposes changes to the basement design, the application was referred to WaterNSW for review. WaterNSW raised no objections and issued amended General Terms of Approval (S4551163800), which will be incorporated into the modified consent.

2.2 Assessment Under Section 4.56

SECTION 4.56	Yes
(a) it is satisfied that the development to which the consent as modified relates is the same or substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and	The consent, as modified, would result in a development that is substantially the same as the original development. See further assessment below.
(b) it has notified the application in accordance with— (i) the regulations, if the regulations so require, and (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and	The modifications were notified in accordance with the relevant development control plan.
(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of	Previous objectors / submitters were notified of the modification application.

the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and	
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	Seven (7) submissions were received during the notification period. However, 1 submission was in support of the application. The issues raised in the objections are addressed elsewhere in this report.
In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.	An assessment against the relevant matters contained within s4.15 are addressed further in this report.
ASSESSMENT OF WHETHER THE PROPOSAL IS SUBSTANTIALLY THE SAME	
In considering whether the development is substantially the same, the applicant bears the onus of satisfying the consent authority that the modified development is substantially the same as the original development (<i>Vacik Pty Ltd v Penrith City Council</i>, unreported, 24 February 1992). In this judgement, Stein J states that it is not appropriate to simply say that the nature of the development, in this case the use of the site as a residential flat building, as amended would be the same use and therefore substantially the same development. Stein J goes on to say that it is necessary to consider whether the proposed modified development would be essentially or materially or having the same essence as that which had been originally approved. These comments are reiterated in Trinvass Pty Ltd v The Council of the City of Sydney [2018] NSWLEC 77. Bignold J in his decision in <i>Moto Projects No 2 Pty Limited v North Sydney Council</i> [1999] 106 LGERA 298, states that: <i>“The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is “essentially or materially” the same as the (currently) approved development.</i> <i>The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the</i>	

developments being compared in their proper contexts (including the circumstances in which the development consent was granted)."

As such, an assessment of the proposed modified development to determine if substantially the same as the original development requires an assessment of the quantitative and qualitative impacts of the modified proposal.

Quantitative Assessment

The amended development proposes internal and external changes that also amend the approved building envelopes. Notwithstanding, the changes to the development standards compliance in this instance are considered acceptable on merit to reflect the requirements with the BTR model and to improve community amenity.

Qualitative Assessment

The proposed changes, despite amendments to the development standards are acceptable on merit as it improves user functionality, provide additional community amenity whilst maintaining satisfactory neighbour amenity. It is also noted that Council's external and internal specialists reviewed the proposed changes to the landscape design, engineering and urban design and raised no objections to the amended proposal subject to amended conditions.

Conclusion

Based on the above assessment, the modified development is substantially the same as the original approved development as the development is materially the same in terms of use, intensity, and environmental impacts.

3. Environmental Planning Instruments

3.1 SEPP (PLANNING SYSTEMS) 2021

Clause 2.19 Declaration of regionally significant development

The modifications seek approval for a variation to Clause 4.3 – Height of PLEP 2023 of more than 10%.

Pursuant to Section 2.16 (and confirmed by SCCPP Record of Delegation dated 26 March 2024) of the EP&A Act 1979 the Panel resolved to delegate to the City of Parramatta Council the power to make a determination as consent authority on applications made under Section 4.56 of the EP&A Act except where the application meets the criteria set out in the *Functions Exercisable by Council on Behalf of Sydney District or Regional Planning Panels – Application to Modify Development Consent*.

The abovementioned instruction however notes that Council is not to determine a modification application if it meets the criteria relating to a departure from the development standards as set out in Schedule 1 of the instructions.

Accordingly, given the departure of the amended development from the maximum height, the subject modification application is referred to the Panel for determination.

3.2 SEPP (RESILLIENCE AND HAZARDS) 2021 – CHAPTER 4 REMEDIATION OF LAND

The provisions of Chapter 4 were considered in the assessment of the original application. Any contamination issues raised as part of the original application was addressed under the Section 34 Agreement, including the preparation of a Remedial Action Plan (RAP) and the requirement of a Site Audit Statement.

It is noted that the modification application does not change the conditions which relate to the contamination issues of the site. Accordingly, no further assessment of the modifications under this Chapter is required.

3.3 SEPP (BIODIVERSITY AND CONSERVATION) 2021 – CHAPTER 2 VEGETATION IN NON-RURAL AREAS

The provisions of Chapter 2 were considered in the assessment of the original application. This proposal does not change the assessment. The application continues to propose landscaping embellishment works that will improve and enhance the site beyond its existing condition. The proposed landscaping will positively contribute to the visual cohesion and streetscape character of the area, while providing relief from the built form and softening the overall visual impact of the development. Further, Council's Landscape Officer raised no objections to the amended landscaping works, subject to amended conditions of consent.

3.4 SEPP (BIODIVERSITY AND CONSERVATION) 2021 – CHAPTER 6 WATER CATCHMENTS

The provisions of Chapter 6 were considered in the assessment of the original application. This proposal does not change the assessment.

3.5 SEPP (TRANSPORT AND INFRASTRUCTURE) 2021 – CHAPTER 2 INFRASTRUCTURE

The modifications were referred to Sydney Trains (as rail authority) in response to the provisions under Section 2.99(4) of the SEPP. Upon review, Sydney Trains raised no objections to the modifications.

The modifications were also referred to Transport for NSW (TfNSW) in response to the provisions under Section 2.122 relating to traffic generating development. In response to their review, TfNSW raised no objections to the modifications.

In response to Section 2.119 of the Chapter which relates to development considerations with a frontage to a classified road, the following is noted:

- No change is proposed to the approved vehicle entry via Forest Grove Road (non-classified road).

- As noted elsewhere in this report, TfNSW reviewed the modifications and raised no concerns with regards to the safety, efficiency and ongoing operations of the classified road given the acceptable design of the vehicular access to the land and the volume or frequency of vehicles using the classified road to access the land.

Due to the internal reconfiguration of the development to accommodate a build-to-rent scheme, the modification application was lodged with an amended Acoustic Report. Upon review of the Acoustic Report, Council's Environmental Health Officer raised no objections to the modifications, subject to conditions of consent. Accordingly, the proposal as amended complies with the provisions of the SEPP.

3.6 SEPP (SUSTAINABLE BUILDINGS) 2022

The proposed modifications were submitted with an amended BASIX Certificate.

The submitted BASIX Certificate demonstrates compliance with the provisions of the SEPP by confirming that the development as amended satisfies the mandatory water, energy and thermal performance standards for residential accommodation.

The certificate provides evidence that the development exceeds the minimum BASIX targets for water and energy efficiency and achieves the required thermal comfort performance through the incorporation of water-efficient fixtures, energy-efficient appliances, centralised high-efficiency heat pump hot water systems, on-site photovoltaic generation and enhanced passive design measures.

Accordingly, the amended proposal is considered to be consistent with the objectives of the Sustainability SEPP to reduce potable water consumption, minimise energy demand and greenhouse gas emissions, and improve the environmental performance of residential buildings. The BASIX Certificate will be incorporated in the amended consent.

3.7 SEPP (HOUSING) 2021

The parent application was approved for a residential flat building under the (former) Hornsby LEP 2013. However, since its approval, SEPP (Housing) 2021 formally introduced various forms of diverse housing which included build-to-rent as a new housing product.

An assessment has been carried out below as it relates to the modifications.

STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021 – CHAPTER 3, Part 4 – Build to Rent housing
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CLAUSE

Cl. 72 Development for the purposes of Build-to-Rent (BTR) housing permitted with Consent	As noted elsewhere in this report, the site is zoned R4 under PLEP 2023 which permits residential flat buildings. As such, a BTR scheme is permitted with consent. The proposed BTR development will result in a total of 310 dwellings. Further, the development is contained within the same lot of land.
Cl. 73 Conditions of BTR housing to apply for at least 15 years.	The consent will be amended to ensure the following: • BTR to apply for a minimum of 15 years. • The tenanted component of the building will not be subdivided into separate strata lots • The tenant component of the building will be owned and controlled by 1 person • The tenant component of the building will be operated by 1 managing agent who provides on-site management.
Cl. 74 Non-discretionary development standards—the Act, s 4.15. The following are non-discretionary development standards in relation to the carrying out of the development to which this Part applies—	Height (pursuant to PLEP 2023) – The site is subject to two height provisions. These being: • Max. 17.5m along Forest Grove • Max. 26.5m for remainder of the site. The amended proposal maintains a maximum building height of 17.5 metres along the Forest Grove frontage. For the remainder of the site, the proposal increases the maximum height to 30.76 metres, representing a 4.26 metre (approximately 16%) departure from the 26.5 metre height limit. The increase in height arises from increased floor-to-floor heights to achieve compliance with the National Construction Code, together with the introduction of rooftop communal open space (within Building A) and associated lift overruns. It is noted that no habitable floor space is located above the maximum permitted height. Elements extending above the height plane are setback from the building edge, articulated and designed to be visually recessive. The height increase does not result in any material increase in bulk or scale, nor does it result in adverse amenity or visual impacts. Accordingly, no objection is raised to the proposed increase in the overall height of the development. FSR (pursuant to PLEP 2023) – The maximum FSR for the site is 2:1. However, the parent application was Court approved with a variation to the maximum FSR at 2.25:1. The amended proposal reduces the GFA of the site from 25,847m² to 25,465m² (ie a reduced FSR of 2.22:1) or a

	reduction of 382m2 from the Court approved development. The development maintains a departure to the maximum FSR of approximately 10%. While the modified development continues to exceed the LEP's standard FSR control, the proposal represents an improvement on the approved scheme in terms of design, user functionality, amenity and increased provision of community facilities. Similarly, no objections are raised to the proposed change to the FSR of the development as amended. Parking Spaces (pursuant to PDCP 2023) – It is noted that SEPP (Housing) requires a minimum provision of 0.2 car parking spaces per dwelling; however, the SEPP is silent regarding the specific allocation of visitor parking. In this context, the SEPP allows for the application of DCP parking rates where they result in a lower overall provision. Accordingly, the rates contained within Table 8.1.1.2.12.2 have been applied to the residential component of the development. Required - SEPP (Housing) 2021 – 62 vehicle spaces PDCP 2023 – Max. 192 residential spaces and a minimum of 45 visitors spaces. Provided – 124 residential spaces including 10 accessible and 13 visitor spaces (including 1 accessible). While the provision of 13 visitor spaces does not comply with the minimum requirements under the DCP, it is noted that the site is located within proximity to public transport and local services. In this context, the proposed development achieves compliance with the non-discretionary parking standards prescribed under the SEPP.
Cl. 75 Design Requirements	See Section 3.7.1 ADG of this report for assessment. The proposed modifications comply with the objectives of Part 4 of the ADG's and has considered that the amenities provided to tenants include improved common spaces, shared facilities and services. The various configuration,

	dwelling mix and layouts provide adequate choice to prospective tenants in terms of size and functionality. The development as modified has also considered tenant mobility within the building, enabling residents to relocate to alternative dwellings that better accommodate their changing housing needs over time.
Cl. 76 Active uses on ground floor or BTR housing in business zones.	The site is zoned R4 High Density Residential. As such, this clause does not apply.
STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021 – CHAPTER 4	
CLAUSE	
Cl. 142 Aims of the Chapter	Notwithstanding the changes to the approved development, the built form achieves the aims of Chapter 4 of the SEPP as it continues to achieve good urban design in terms of building aesthetics, streetscape and public spaces whilst maximising amenity and resident safety and security.
Cl. 146 Referral to Design Review Panel for modification applications.	The modification application was accompanied with a Design Verification statement prepared by PTW Architects. The modification subject of the application was also reviewed by Council's Urban Design who raised no objections to the amended proposal, subject to conditions of consent.
Cl. 147 Determination of modification applications for residential apartment development.	The considerations pursuant to this clause is addressed throughout this report.
Cl. 148 Non-discretionary development standards for residential apartment development	The development as modified maintains compliance with the relevant car parking provisions pursuant to Clause 74 of the SEPP, apartment size and ceiling heights pursuant to the ADGs.

SCHEDULE 9 DESIGN PRINCIPLES FOR RESIDENTIAL DEVELOPMENT

Context and Neighbourhood character	The design of the modified development continues to respond to the qualities and identity of the area with respect to its relationship to adjoining sites, streetscape, and neighbourhood.
Built form and scale	The proposed modifications revise the built form to improve overall cohesiveness and to better accommodate the build-to-rent model, which places an emphasis on shared and common facilities. The changes also refine the street presentation of the development to achieve improved urban design outcomes. Notwithstanding this, the modifications do not result in any increase to the overall scale of the development, which was found by Council's Urban Designer to be satisfactory, subject to conditions of consent.
Density	Due to the change to the change to a built-to-rent model, the proposed modifications revised the apartment layouts resulting in changes to the apartment mix and yield. Despite this, there is no increase to the approved floor space.
Sustainability	The proposed modification delivers improved sustainability outcomes, including compliance with the SEPP (Sustainable Buildings) 2022 through an updated BASIX Certificate, enhanced landscaping and deep soil provision and use of natural cross ventilation.
Landscape	The landscaping for the modified development was reviewed by Council's Landscape Officer who raised no objections to the modifications. The modification to the landscaping reflects the changes to the development as well as supporting the provision of pedestrian link and the interface with the adjoining Forest Park.
Amenity	The modified proposal maintains satisfactory amenity, within the development and external to the site.
Safety	The modified proposal maintains safety throughout the development for occupiers and users of the building.
Housing diversity and social interaction	The apartment mix is considered acceptable and provides a variety apartment configuration to suit the needs of the community.
Aesthetics	The amended development proposes a high-quality masonry materiality to the entire podium and is acceptable in this regard and supported by Council's Urban Designer. Further, the modified built form is appropriate with regards to the composition of building elements, reflecting the use, internal design, and structure of the building.

3.7.1 APARTMENT DESIGN GUIDE (ADG)

APARTMENT DESIGN GUIDE																
SUBJECTS & CONTROLS		ORIGINAL		MODIFICATION	COMPLIANCE											
3D Communal and public open space																
Communal open space has a minimum area equal to 25% (2,862.55m ²) of the site		3964.32m2 (34.6%)	Proposed – 4215m2 (36.7%)	Yes												
Developments achieve a min. of 50% direct sunlight to the principal useable part of the COS for a min. 2 hours between 9am and 3pm, mid-winter.		More than 50% direct sunlight achieved for both areas of COS.	Min. 50% of direct sunlight to both the COS for a min. 2 hours between 9am and 3pm, midwinter.	Yes												
3E Deep Soil Zones																
7% (801.5m ²) deep soil encouraged given the size of the site and context with 6m dimensions.		3328.5m2. (29%). Not all areas calculated provide a min. dimension of 3m. However, it was considered acceptable.	Proposed – 450m2 (3.9%) with a minimum dimension of 6m. Notwithstanding, the modified development also provides deep soil areas with areas that do not meet the minimum 6m dimension which increases the overall deep soil of the development to approximately 3400m2 or 29% of the overall site.	No, but acceptable.												
3F Visual Privacy/Building Separation																
Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: <table><tr><th>Building Height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>up to 12m (4-6 storeys)</td><td>4.6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>		Building Height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4-6 storeys)	4.6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	Between Buildings – Min. 12m To boundaries – Min. 6m. To 18 Epping Road – Min. 12m and Max. 14m	Between Buildings – 11.7m To boundaries – Min. 7m To 18 Epping Road – Min. 12m and Max. 14m The 30cm non-compliance with the minimum separation between buildings within the site is minor in this instance and is unlikely to result in adverse visual and amenity impacts within the site. It is noted that where possible, the windows are off set from opposing windows to further reduce any direct overlooking. In this regard, the proposed building separation as amended is considered acceptable.	No, but acceptable.
Building Height	Habitable rooms and balconies	Non-habitable rooms														
up to 12m (4-6 storeys)	4.6m	3m														
Up to 25m (5-8 storeys)	9m	4.5m														
Over 25m (9+ storeys)	12m	6m														
3J Bicycle and Car Parking																
Parking Requirements – Pursuant to Clause 74 of Housing SEPP.		122 parking spaces.	Proposed – 124 residential spaces and 13 visitor spaces.	Yes, noting the control requires a maximum provision of car parking												
Minimum bicycle spaces: 1 space per dwelling (310 spaces) and 1 space per 10		76 bicycle spaces (based off 244 units). Note: This was considered acceptable	Proposed – 93 spaces (based off 310 units). Council's Traffic Engineer advises that, consistent with the	No, to be conditioned												

dwellings for visitor spaces pursuant to PDP 2023.	under Hornsby DCP 2013.	increase of 66 dwellings, a corresponding increase of 66 bicycle parking spaces is required. Council's Traffic Engineer further notes that the total provision of 148 bicycle spaces can be secured by way of a condition of consent and that any storage cage allocated to a dwelling which is of sufficient size to accommodate a bicycle may be credited towards this requirement.									
4A Solar and daylight access											
Living rooms and private open space of at least 70% of apartments in a building receive a min. 2 hours of direct sunlight between 9am and 3pm on 21 June A max. of 15% of apartments in the building receive no sunlight between 9am and 3pm at mid-winter	70.5% of units comply	Proposed: 216 (70%) apartments receive more than 2 hours of solar access. 57 (18%) apartments receive less than 2 hours of solar access. 37 (12%) apartments receive no direct sunlight.	Yes								
4B Natural Ventilation											
Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	62.7% of all units are cross ventilated.	Required – Min. 186 units Proposed – 191 units comply or 62% of the development.	Yes								
4C Ceiling Heights											
Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table><tr><th colspan="2">Minimum Ceiling Height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>If located in mixed use areas</td><td>3.3m ground & first floor</td></tr></table> These minimums do not preclude higher ceilings if desired.	Minimum Ceiling Height		Habitable rooms	2.7m	Non-habitable	2.4m	If located in mixed use areas	3.3m ground & first floor	3.05m floor to floor with slab thickness no greater than 300mm are provided throughout the development.	Proposed: Increased floor to floor height of 3.3m to comply with updated standards.	Yes
Minimum Ceiling Height											
Habitable rooms	2.7m										
Non-habitable	2.4m										
If located in mixed use areas	3.3m ground & first floor										
4D Apartment size and layout											
Minimum unit sizes: Studio – 35m ² 1 bed – 50m ² 2 bed – 70m ² 3 bed – 90m ² Additional bathrooms increase the minimum internal area by 5m ² each	Studio – None 1 bedroom - 50m ² (min.) 2 bedroom - 70m ² (min.) 3 bedroom - 90m ² (min.)	Proposed – 1 bedroom - 50m ² (min.) 2 bedroom - 70m ² (min.) 3 bedroom - 90m ² (min.)	Yes								
Living rooms or combined living/dining rooms have a minimum width of: - 3.6m for studio and 1 bedroom apartments. - 4m for 2 and 3 bedroom apartments.	The living/dining areas within the development are of adequate size.	The living/dining areas within the development are of adequate size.	Yes								
4E Private open space and balconies											

All apartments are to have primary balconies as follows: <table><tr><th>Dwelling type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio</td><td>4 m²</td><td>-</td></tr><tr><td>1 Bedroom</td><td>8 m²</td><td>2m</td></tr><tr><td>2 Bedroom</td><td>10 m²</td><td>2m</td></tr><tr><td>3 Bedroom</td><td>12 m²</td><td>2.4m</td></tr></table> The minimum balcony depth to be counted as contributing to the balcony area is 1m.	Dwelling type	Minimum Area	Minimum Depth	Studio	4 m ²	-	1 Bedroom	8 m ²	2m	2 Bedroom	10 m ²	2m	3 Bedroom	12 m ²	2.4m	Approved development complied.	A number of the two-bedroom apartments do not achieve the minimum POS requirement of 8 m ² . Notwithstanding this, for build-to-rent developments the Apartment Design Guide criteria may be applied with flexibility. In this instance, the development proposes an increased provision of communal areas, which is considered a desirable outcome for build-to-rent housing.	Yes
Dwelling type	Minimum Area	Minimum Depth																
Studio	4 m ²	-																
1 Bedroom	8 m ²	2m																
2 Bedroom	10 m ²	2m																
3 Bedroom	12 m ²	2.4m																
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15 m2 and a minimum depth of 3m.	Complied.	Complies.	Yes															
4F Common circulation and spaces																		
Max. number of apartments off a circulation core on a single level is 8.	Max. 10 units are provided off a lift core. Each building has 2 lifts.	Proposed – Max 12 units are provided off a single circulation core. 2 lifts are provided. It is noted that circulation areas are generally shallow in nature and incorporate windows and fenestration, which contributes to improved amenity within these spaces.	Yes															
4G Storage																		
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is required: <table><tr><th>Apartment type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4 m³</td></tr><tr><td>1 bedroom</td><td>6 m³</td></tr><tr><td>2 bedroom</td><td>8 m³</td></tr><tr><td>3 bedroom</td><td>10 m³</td></tr></table>	Apartment type	Storage size volume	Studio	4 m ³	1 bedroom	6 m ³	2 bedroom	8 m ³	3 bedroom	10 m ³	Adequate storage areas are provided.	Proposed – Additional storage areas located within basement level.	Yes					
Apartment type	Storage size volume																	
Studio	4 m ³																	
1 bedroom	6 m ³																	
2 bedroom	8 m ³																	
3 bedroom	10 m ³																	
At least 50% of the required storage is to be located within the apartment.	All storage located within the rooms.	Proposed – storage areas located within units and within new basement level.	Yes															
4K Apartment Mix																		
Flexible apartment configurations are provided to support diverse household types and stages of life including single person households, families, multi-generational families and group households.	69 x 1B units (28%) 129 x 2B units (53%) 46 x 3B units (19%)	71 x Studio units (23%) 77 x 1B units (25%) 124 x 2B units (40%) 38 x 3B units (12%) Note: Of the 38 x 3B units provided, 10 units are designed as Dual Key units.	Generally acceptable.															

3.8 PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2023

The relevant requirements and objectives of this LEP as it relates to the subject

modification application have been considered in the following assessment table.

All other provisions are as per the original assessment as it has not been impacted by the proposed changes to the development.

PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2023		
Standards and Provisions	Original	Modification
Cl. 4.3 Height of buildings • Max. 17.5m along Forest Grove • Max. 26.5m for remainder of the site.	Complied Forest Grove – 17.5m Remainder of Site – 26.5m	No, but acceptable on merit Proposed: Forest Grove – 17.5m Remainder of Site – 30.76m (departure of 4.26m or a variation of approximately 16% from the standard)
Assessment of variation to Height Applications assessed under Section 4.56 of the EPA Act 1979 do not require a variation to be sought under Clause 4.6 of the Parramatta LEP 2023. Notwithstanding, a merit assessment of the variation is provided below. The applicant has provided the following commentary to support the variation to the Height: <i>In response to National Construction Code requirements, and to improve apartment amenity, the modification application increases the floor to floor heights from that approved. In addition, the modification improves the communal open space provision through the introduction of roof top communal open space to Building A, to be accessed by a lift. The cumulative impact of these improvements as that there are minor breaches to the height of building control.</i> <i>It is noted that the application is a Clause 4.56 modification application and the statutory test is that of whether the modification is “substantially the same” as that approved. The test is not against the development standard and there is no statutory trigger or requirement for a Clause 4.6 variation to the development standard.</i> <i>Notwithstanding the following relevant information and commentary is provided in relation to the height of building –</i> • <i>The most significant difference is Building A, due to the introduction of the roof top open space and the need for the lift to provide access. The section extracts below illustrates this clearly.</i> • <i>It is noted the there is no habitable apartment floor space located above the height of building line of 26.5m.</i>		

- The built form that extend above the 26.5m height are set back from the edge of the building ensuring that these areas are visually recessive and generally not visible from the public places adjoining the development site.
- The upper part of Building A has been designed with architectural features and finishes (eg decorative metal cladding) to ensure that in any instance that the upper part of the building can be seen that it is akin to an architectural roof feature.

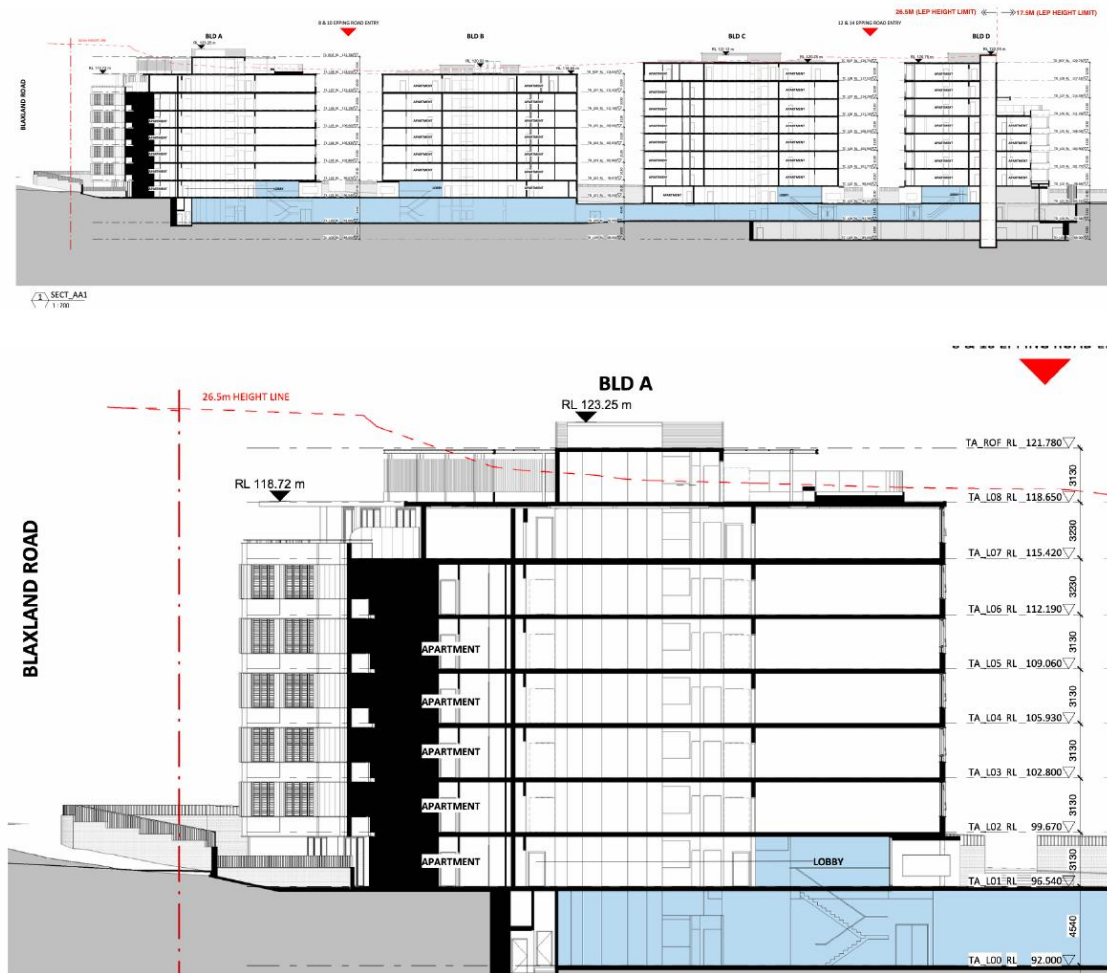


Figure 4: Extent of height departures

In review of the proposed changes to the height of the development and the proposed departure to the maximum height standard, the following is noted:

- It is acknowledged that the development has been designed to comply with the amendments to the National Construction Code with regards to floor-to-floor heights and that as a result, it has increased the overall height of the development which at parts of the modified proposal, exceeds the maximum height for the site.
- The change to the floor-to-floor heights under the NCC ensures that the units will achieve improved internal amenity.

• It is further noted and accepted that the inclusion of a roof top open space area to increase the communal amenities within the development contribute to the departure to the height due to the provision of a lift overrun. • Notwithstanding, the impacts of the additional height is negligible, this includes solar access, heritage impacts, building design and amenity. The setbacks and GFA are generally consistent with the approved development and in this instance are acceptable. • Council's Urban Designer has reviewed the proposal as amended and does not object to the variation to the maximum height. The modification in this regard is satisfactory.		
Cl. 4.4 Floor space ratio Max. 2:1	The parent application was Court approved with a variation to the maximum FSR at 2.25:1.	The modified development proposes a FSR of 2.22:1. Whilst this is a departure to the max FSR of 2:1 for the site, it is less than the court approved FSR of 2.25:1.
Cl. 5.10 Heritage conservation	The development site adjoins a heritage item at 723X Blaxland Road and is listed as a local heritage item (Item No. 359) under PLEP 2023.	The site does not contain any heritage items and is not located in a heritage conservation area. Council's Heritage Adviser reviewed the amended proposal and upon review, raised no objections to the changes to the development.
Cl. 6.2 Earthworks	Earthworks were approved as part of the parent application to accommodate the basement levels.	
Cl. 6.3 Biodiversity	This was assessed as part of the parent application. The current modification application does not change the assessment of this component of the provisions.	
Cl. 6.5 Stormwater Management	The on-site detention (OSD) system is subject to some minor changes with regards to its location and configuration. However, it remains generally consistent with that previously approved. Council's Development Engineer imposed a condition to amend the control pit configuration so that the orifice plates operate in parallel, rather than in series. All other conditions imposed by the LEC, except for the updated OSD condition, are to remain unchanged. The approved Stormwater Plans are required to be updated in the list of approved plans under the consent. As such, the proposal satisfies the applicable requirements of Council's controls with respect to stormwater management and is considered acceptable, subject to the imposition of appropriate conditions of consent.	

4. Development Control Plans

DEVELOPMENT CONTROL PLAN – PARRAMATTA DCP 2023	
Part 2 – DESIGN IN CONTEXT	
Design in Context	Notwithstanding the modifications, the development continues to respond to its context and contribute to the overall character of the area.
Context Analysis	An amended streetscape analysis was submitted with the application to illustrate the modifications when viewed from the street. The amendments upon review are considered reasonable, particularly the changes to the elevations and streetscape presentation.
Preliminary Building Envelope	As noted throughout this report, the setbacks and FSR as approved under the parent application does not change under this modification application. The overall height has increased; however, its impacts are negligible. An assessment on the departure to the maximum height for the site is located elsewhere in this report.
Building Form and Massing	The amended development continues to respond to the topography and the shape of the site. The modifications maintain proportionate built form and massing with the form and massing of existing buildings and built form patterns in the street.
Streetscape & Building Address	The external change to the approved development continues to encourage a contemporary design which integrate with the appearance of the streetscape whilst maintaining a strong building address.
Fences	No fences were approved under the parent application.
Open Space and Landscape	The modifications provide ample open space and landscape areas pursuant to the ADG's. Council's Landscape Officer reviewed the changes to the development and raised no objections subject to amended conditions.
Views and Vistas	The amended development includes changes to east-west pedestrian link and north-south corridors between the buildings to improve access, legibility and continuity. Council's Urban Designer raised no objections to these changes.
Public Domain	As a result of the works to the Epping Bridge project by TfNSW, the pedestrian level along Epping Road is expected to rise by as much as 1.5m. Given this, a condition will be imposed on the consent requiring the submission of amended public domain plans that integrate the changes to the pedestrian level in concert with the final levels as provided by TfNSW.

Accessibility and Connectivity	The development maintains the through site links within the site. The width of the connections has been widened to improve amenity and legibility.
Access for People with Disability	The modifications were reviewed by Council's Universal Access Officer who raised no objections to the modified proposal. As a result of the pedestrian level changes along Epping Road due to the Epping Bridge project, access for people with disabilities need to be considered. However as details of the pedestrian levels as issued by TfNSW has not been finalised, a condition will be imposed on the consent requiring that access to and from the site is to be provided and in accordance with the relevant Australian standards and NCC.
Amenities in Buildings Available to the public	No public amenities were approved as part of the parent application.
Culture and Public Art	Hornsby DCP 2013 did not require the delivery of public art as part of the development.
Safety and Security	The fenestrations, windows and balconies provide passive surveillance to the public domain. Similarly, locating communal facilities on the ground floor addressing the pedestrian link also provide additional passive surveillance to this area from within the development. Further, the proposed landscaping and fencing is designed in accordance with CPTED principles to avoid concealment and enhance natural surveillance.
Signage	No signage was approved as part of the parent application.
Part 3 – Residential Development	
Part 3.1 – Housing Diversity and Choice	
Dwelling Mix and Accessible / Adaptable Housing	See Section 3.7.1 ADG assessment for discussion on dwelling mix. The development as amended proposes 35 accessible and/or adaptable units comprising a mix of 1-, 2- and 3-bedroom dwellings, together with 10 allocated accessible car parking spaces located within the basement and ground floor levels. Council's Universal Access Officer has reviewed the proposal and, in this instance, raised no objections to the amended proposal.
Part 3.2 – General Residential Controls	
Solar Access / Cross Ventilation	See Section 3.7.1 ADG assessment for discussion on solar access and cross ventilation.

	It is acknowledged that the changes to the building envelope will result in some increase to overshadowing of adjoining properties, including Forest Park. However, these impacts are negligible and will not adversely impact on amenity or utility.
Visual and Acoustic Privacy	The development as amended utilise site planning as the primary method for achieving visual and acoustic privacy. The internal layout of buildings is to be designed to reduce the effects of noise transmission. Adequate building separation is provided. Operable louvres are provided for the balconies located along Epping Road to reduce the impacts from traffic noise.
Part 3.5 – Apartment Buildings Part 3.5.1 – Key Development Standards for Apartment Buildings	
Building Height	See Section 3.8 PLEP discussion for 'Building Height'.
Street Setback	Complies Epping Road – Min. 7m Forest Grove – 8m Blaxland Road – 7.5m
Streetscape and Building Address	Complies Max Building Length – 45m. Proposed – Max. 39.5m
Parking Design and Vehicular Access	The modifications reconfigure and refine the parking configuration. The changes were reviewed by Council's Traffic Engineer who raised no objections subject to amended conditions of consent.
Internal Amenity	As a result of the Epping Bridge project, pedestrian levels along Epping Road are anticipated to increase by approximately 1.5 metres above existing ground levels. This would result in some Level 1 and Level 2 units, primarily within Building A, being located below the revised pedestrian level. To ensure satisfactory residential amenity is maintained, Council's Urban Designer has recommended conditions of consent requiring the provision of horizontal overhangs and louvred awnings to impacted Level 1 units, vertical louvres to affected Level 2 units, and the inclusion of appropriate screen planting.
Part 5 – Environmental Management	
Water Management	The changes to the OSD were reviewed by Council's Development Engineer who raised no objections subject to amended conditions of consent.
Tree and Vegetation Preservation	See Section 3.3 SEPP (B&C) for comment.
Solar Light Reflectivity	The changes to the external façade in this instance will not result in reflected solar glare as it has considered

	mitigation measures including the retention of louvred frames, end screens and columns and limiting façade glazing to a maximum normal specular reflectance of 20%. A Solar Light Reflectivity Study was submitted with the application which supports the development.
Wind Mitigation	Due to the changes to the building design, a Wind Assessment was submitted with the application which concluded that wind conditions across most ground-level, Level 01 and elevated outdoor areas are expected to be generally suitable for their intended pedestrian and recreational use. While some locations, particularly street frontages and internal through-site links, may experience elevated winds due to corner acceleration and funnelling effects, these impacts are considered manageable through mitigation measures such as dense landscaping, planter boxes, trees, impermeable balustrades, screens, pergolas and canopies. Elevated private balconies are expected to achieve acceptable wind comfort due to their recessed design and screening elements, and elevated communal open spaces are considered suitable provided perimeter balustrades and pergolas are retained. Subject to implementation of the recommended design responses, the development is considered acceptable in terms of pedestrian wind comfort and safety.
Waste Management	The waste collection for the development has been reconfigured. The application was also submitted with an Operational Waste Management Plan. Council's Environmental Health Officer (Waste) reviewed the changes to the waste collection, and upon review, raised no objections subject to conditions of consent.
Part 6 – Traffic and Transport	
Travel Plan	Due to the changes in the number of units of the development, a modified Travel Plan was provided. This will be incorporated in the consent.
Electric Vehicle Charging Infrastructure	Plans do not indicate that the car spaces are provided with EV ready connections. A condition will be imposed on the consent to ensure that this can be facilitated.
Parking and Vehicular Access	See Section 3.7 SEPP Housing 2021 of this report for discussion with regards to car parking requirements. Vehicle access is located via Forest Grove which is consistent with the parent approval.

Bicycle Parking	See Section 3.7.1 ADG for discussion with regards to bicycle parking requirements.
Part 7 – Heritage and Archaeology	
Forest Park, adjoining the site to the south at No. 723 Blaxland Road is listed as a local heritage item (Item No. 359).	
It is acknowledged that the proposed increase in building height will result in some additional overshadowing of Forest Park. However, the established building setbacks remain unchanged and the resulting overshadowing impacts are minor and considered negligible. In this regard, no objection has been raised by Council's Open Space Planner or Heritage Adviser, both of whom accept that the modification will not result in any unreasonable amenity impacts on Forest Park.	
Part 8: Centres, Precincts, Special Character Areas, and Specific Sites	
Part 8.1.1.3 – Epping Areas Residential Development	
Pedestrian thoroughfares should be provided in accordance with the Key Development Principles Diagrams and Town Centre Linkage diagrams.	Whilst the east-west pedestrian link is retained, it has been refined to increase its width from a min. 6m to min. 7m. The link has also been redesigned to ensure linearity and legibility with accessible levels. Further, the north-south pedestrian link is also retained and refined to allow improved connectivity throughout the site and to Epping Road.
8.1.1.3.3 Epping Road / Forrest Grove, Epping Precinct	
Redevelopment should be predominantly residential flat buildings of varying heights.	The amended development provides a RFB with varying heights.
Provide broad setbacks along street frontages and locate communal open spaces to retain existing trees that are prominent streetscape features	The amended development provides ample street setbacks for landscaping and the retention of existing trees.
Surround and screen new buildings with canopy trees and shrubs	The revised planting scheme and landscape design in this instance provides screen planting, canopy trees and shrubs which is supported by Council's Landscape Officer.
Future widening of the pedestrian link to 3 metres, to allow for public domain improvements	The amended application retains the pedestrian link.

including seating and planting.	
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5. Planning Agreements

The proposed development is not subject to a planning agreement entered into under section 7.4.

6. Environmental Planning and Assessment Regulation 2021

This application satisfies relevant clauses of the Regulation as follows:

Clause 27 BASIX Development	An amended BASIX Certificate was lodged with the application and is deemed satisfactory.
Clause 29 Residential Apartment Development	The nominated documentation is provided being: ○ A design verification statement; An explanation of the design in terms of the principles contained within SEPP (Housing) 2021.
Clause 61 Additional matters for consideration	All building work will be carried out in accordance with the provisions of the Building Code of Australia. This matter could be conditioned.

7. Likely Impacts

As outlined in this report, the applicant has demonstrated that the impact of the modified proposal is acceptable.

8. Site Suitability

Notwithstanding the modifications to the original development, the residential flat building development continues to be satisfactory when assessed against the relevant controls and provisions applicable to the site, as noted throughout this report. As such, the application as amended has satisfactorily demonstrated that the modified development remains suitable for the site.

9. Submissions

In accordance with the Parramatta Council's Consolidated Notification Requirements Appendix 1, the application was notified on one (1) occasion between 23 April 2025 to 15 May 2025. As a result of the notification period, seven (7) submissions (including 1 submission in support of the modification application) were received. The issues raised in the submissions received are addressed below.

Issue	Comment
Overdevelopment The increase of units in an	Notwithstanding the increase in the number of dwellings, the overall gross floor area of the development is reduced when compared to the originally approved scheme. The

overdevelopment of the site	number of on-site parking spaces has also been reduced. While an increase in the approved building height is proposed, this does not result in additional habitable floor space and the development does not exceed the previously approved maximum height of eight storeys. Accordingly, the amended development does not represent an overdevelopment of the site and is considered consistent with, and supportive of, the objectives of the R4 High Density Residential zone.
Traffic and Parking Reduction of on-site parking is unacceptable and that the available on-site parking will be charged at a fee which will result in increased demand for on-street parking Increased traffic load on local and surrounding streets Lack of EV charging facilities A single ride share vehicle is insufficient	The amended number of parking spaces complies with the requirements contained within PDGP 2023 which is a maximum provision to encourage the use of public transport. The application was submitted with a Travel Plan to support the development and reduce private vehicle use (and demand for on-street parking). The travel plan recommends measures such as restricted eligibility for residential parking permits, separate allocation of car parking spaces, provision of car share facilities, incentives such as pre-loaded Opal cards, walking and cycling programs, comprehensive travel information via a Travel Access Guide, and appointment of a Travel Plan Coordinator. The Travel Plan will be incorporated in the amended consent. The application as amended was reviewed by Council's Traffic Engineer who noted that as there is a reduction in the number of parking spaces, the modified development will not significantly increase traffic generation to local and surrounding streets. As noted elsewhere in this report, a condition will be included in the consent requiring that the development be provided with EV ready connections. Council's Traffic Engineer has reviewed the amended proposal and did not object to the number of ride share space provided. Notwithstanding, and as stated elsewhere in this report, a Travel Plan has been submitted to reduce private vehicle dependence and will be incorporated in the consent.
Bowling Club Site The use of the old bowling club site has not been addressed	The only part of the development that is located on the adjoining bowling club site is an easement from the subject site and traverses the rear of the bowling club site. This aspect of the development does not change under the subject modification application.

Bowling Club site to be overshadowed by the development.	The submitted shadow diagrams indicate that the overshadowing to the bowling club site will increase however, the amount is negligible as a result of the changes to the proposed building envelope.
Solar Access The plans do not illustrate any changes to overshadowing impacts to the Bowling Club site and 725 Blaxland Road.	Drawing No. DA-93-0200 – Shadow Diagrams illustrate the changes to the overshadowing impacts on neighbouring properties because of the modifications. As the changes are minor and that the overall bulk of the development is to be maintained, any additional overshadowing impacts on the Bowling Club site and on Forest Park is negligible.
Privacy Concern with loss of privacy	It is noted that the development as amended maintains suitable and generally compliant building separation to existing developments in accordance with the requirements under the ADG's and therefore, privacy is maintained and overlooking from within the development is minimised.
Pedestrian Safety Concern raised for pedestrians crossing Forest Grove. Pedestrian safety concerns along Epping Road.	The proposed modifications do not in this instance change the efficiency or location of any existing pedestrian links and access including Bukbuk Walk which traverses Forest Park, crosses Forest Grove and then through to Essex Street. Accordingly, the safety of pedestrians is maintained. It is noted that the Epping Bridge Project will improve pedestrian access along Epping Road as part of the works. This is likely to further ensure the safety of pedestrian that use Epping Road.
Affordable Housing A portion of the development should be affordable housing	The proposal seeks to amend the housing delivery model from build-to-sell to build-to-rent. While this model does not constitute affordable housing, it is acknowledged that build-to-rent housing can improve access to rental accommodation within a well-serviced and accessible location, thereby contributing to broader housing choice and diversity.
Waste Management WMP indicate that a part of the waste management will be relocated to 18 Epping Road and that this will result in	This detail appears to be concept in nature. The application does not seek approval for these works. Accordingly, any annotation that indicate works to 18 Epping Road is not included in this modification application and will not be an approved element.

additional adverse impacts.	
Landscaping Further detail is required on landscaping that affects pedestrian experience along Epping Road. Exotic species are proposed. Landscaping details should also reference the site's history as a nursery. Unnecessary tree removal	The amended proposal was submitted with a detailed Landscape Plan and planting schedule that provides landscaping details along Epping Road. This information was reviewed by Council's Landscape Officer whom upon review of the amended works, and changes to the development, raised no objections subject to modified conditions of consent. The amended Landscape Plan with a planting schedule which was reviewed by Council's Landscape Officer and deemed to be acceptable, subject to modified conditions of consent. Both Council's Landscape Officer and Heritage Adviser reviewed the proposal and raised no objections to the amended development with respect to heritage references to a previous use. The modified application was submitted with an amended Arborist Report which was reviewed by Council's Landscape Officer. Upon review, Council's Landscape Officer raised no objections with the documentation and amended Landscape Plans submitted, subject to modified conditions of consent.
Built Form 8 storeys are out of character with the local streetscape.	The bulk and form including the number of storeys was approved under the parent consent and was considered appropriate for the streetscape. The maximum number of storeys does not change in this current modification application.
Views Height will impact on views from private residences and public spaces.	The proposed increase to the overall height of the development is unlikely to impact on any appreciable views to public spaces given that the development has been designed to ensure minimal impacts on bulk, scale and any views.
Heritage Opportunity for applicant to record the site's history with a memorial etc.	Council's Heritage Adviser has reviewed the proposed modifications in relation to heritage impacts. Upon review, Council's Heritage Adviser raised no objections to the proposed modifications and its impacts on the heritage value of nearby heritage items. It is noted that the site is not heritage listed.

Local Infrastructure Increase demand and lack of local services and infrastructure such as schools and local shopping amenities Increased demand on stormwater infrastructure	The site is located within an established urban area that is already serviced by existing schools, local centres and higher-order retail precincts. The provision, timing and delivery of education infrastructure is managed by relevant State agencies and is not a matter that can be addressed through a development application of this nature. Furthermore, the proposal is consistent with the zoning and strategic planning framework for the site, which anticipates additional residential development and population growth in locations with access to existing services and public transport. Council's Development Engineer has reviewed the proposed modifications and raised no objection. No concerns were identified in relation to the amended proposal or its potential impacts on Council's infrastructure capacity and the ability of the existing infrastructure to support the development as amended.
Noise / Residential Acoustic Impact of construction noise on existing developments Increase in residential acoustics because of the development.	Conditions of consent will regulate the construction hours to ensure that construction noise does not unreasonably disrupt the residential ambience of the locality. As assessed elsewhere in this report, the development as amended is generally compliant with the building envelopes and separation (to existing developments) to protect any unreasonable amenity impacts including acoustic impacts. Accordingly, the proposal is acceptable in this regard.
Notification No site sign placed on the site. Detail of development in the description is unclear.	A sign was placed on the site fence on the corner of Blaxland Road and Epping Road. The sign was placed on the site on 16 April 2025. Any approval will contain the correct description as modified by the current application.

Amended Plans

Yes

Summary of amendments - Submission of revised plans to address concerns raised by DEAP and other internal and external specialists.

In accordance with the requirements contained within Appendix 1 of Council's Notification Requirements the application did not require re-notification as the

amended application is substantially the same development and does not result in a greater environmental impact.

CONCILIATION CONFERENCE

On 11 December 2017, Council resolved that:

“If more than 7 unique submissions are received over the whole LGA in the form of an objection relating to a development application during a formal notification period, Council will host a conciliation conference at Council offices.”

Conciliation Conference – Not Required

The application received less than 10 unique submissions during the formal notification period and as a result a Conciliation Conference was not required to be held.

10. Public interest

As outlined in this report, the amendment to the original development is satisfactory and is therefore in the public interest.

11. 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.

12. Development Contributions and Bonds

DA/397/2020 was subject to the former hybrid City of Parramatta Section 94 / Section 94A Development Contributions Plan (Former Hornsby LGA Land and Epping Town Centre). Noting that DA/397/2020 proposed the construction of residential dwellings only, the Section 94 (now Section 7.11) contribution rates were applicable.

It is noted that the LEC approved Revision G of the Architectural Plans dated 27 October 2021 that proposed construction of 244 residential apartments (not 253 residential apartments counted in Revision F). Therefore, both Condition 23 in the LEC Orders and the Section 7.11 contributions fee loaded in Council's system (ie. Pathway) are incorrect for DA/397/2020. Additionally, there should have been 11 existing lots (not 8) credited for the Section 7.11 contributions fee.

Further, changes to the development that results in the increase to the number of units, and the unit mix will also be reflected in the changes to the development contributions.

Accordingly, Condition 23 has been amended to reflect the above.

13. Summary and Conclusion

After consideration of the development against Section 4.15 of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, the proposal is suitable for the site and is in the public interest.

14. Recommendation

- A. **That** the Sydney Central City Planning Panel, as the consent authority, approve the modification to development consent DA/397/2020 for the demolition of existing structures, site preparation works, excavation, tree removal, and the construction of five 5–8 storey residential flat buildings over basement car parking, to facilitate its operation as Build-to-Rent housing. The modification also provides for an additional 66 units, amendments to the building envelope and façade, a reduction in the extent of the basement, and the inclusion of additional communal amenities and facilities at 2–16 Epping Road and 2–4 Forest Grove, Epping, for the following reasons:
- a. The modified development is permissible in the R4 High Density Residential zone pursuant to the Parramatta Local Environmental 2023 and satisfies the requirements of all applicable planning standards controls.
 - b. The modified development will deliver additional housing to the local area.
 - c. The modified development will continue to protect the heritage values of nearby heritage sites
 - d. The modified development will protect the natural environment.
 - e. The modified development will not adversely impact on the visual character of the area.
 - f. For the reasons given above, approval of the modified application is in the public interest.
- B. That Sydney Central City Planning Panel, as the consent authority, modify development consent to DA/397/2020 for a period of five (5) years from the date on the **original** Notice of Determination.

The reasons for the conditions imposed on this application are as follows:

- 1. To facilitate the orderly implementation of the objectives of the Environmental Planning and Assessment Act 1979 and the aims and objectives of the relevant Council Planning instrument.
- 2. To ensure that the local amenity is maintained and is not adversely affected and that adequate safeguards are incorporated into the development.
- 3. To ensure the development does not hinder the proper and orderly development of the subject land and its surrounds.
- 4. To ensure the relevant matters for consideration under Section 4.15 of Environmental Planning and Assessment Act 1979 are maintained.

