

**SYDNEY CENTRAL CITY PLANNING PANEL (SCCPP)
COUNCIL ASSESSMENT REPORT**

Panel Reference	PPSSCC-692
DA Number	DA/273/2025
LGA	City of Parramatta Council
Proposed Development	Partial demolition of existing structural elements, the construction of a 16-storey Residential Flat Building with parking, and associated landscaping, public domain works, and infrastructure improvements.
Street Address	No. 10 James Street, Carlingford NSW 2118
Applicant & Owner	Applicant: The Trustee for Captag James Project Trust Owner: Captag James Project Pty Ltd
Date of DA lodgement	10 June 2025
Number of Submissions	Three (3)
Recommendation	Refusal
Regionally Significant Development	Development with a capital investment value of more than \$30 million (\$31,580,716.00).
List of all relevant s4.15(1)(a) matters	• Environmental Planning and Assessment Act 1979 • Environmental Planning and Assessment Regulation 2021 • State Environmental Planning Policy (Housing) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy (Sustainable Buildings) 2022 • Parramatta Local Environmental Plan 2023 • Parramatta Development Control Plan 2023
List all documents submitted with this report for the Panel's consideration	• Attachment 1: Plans • Attachment 2: Design Advisory Panel Comments • Attachment 3: Clause 4.6 – Floor Space Ratio • Attachment 4: Design Report
Clause 4.6 requests	• Clause 4.6 Variation to the Floor Space Ratio (FSR) Development Standard pursuant to Parramatta Local Environmental Plan (PLEP) 2023.
Summary of key submissions	• The proposed FSR variation by 1:8:1 or 45% would adversely impact on the amenity levels of residents at the adjoining development at Nos. 2-8 James Street to the west.

	• The proposed nil setbacks are not supported for the same reasons above and does not comply with the relevant Australian Standards. • Unclear how the building would be scaffolded hard against the boundary at 2-8 James Street where no connection to that property would be permitted for construction materials. • The northeastern apartments at Nos. 2-8 James have windows that faces south over No. 10 James, and the proposal would effectively block off light. • The associated corridor at Nos. 2-8 James relies on natural light and natural ventilation where the proposal would impact on that. • The nil setback would make it impossible for boundary façade maintenance for Nos. 2-8 James. • Dust construction impacts and the smoke detectors in the corridors of Nos. 2-8 James would be impacted. • Unclear where construction pickup/drop off would occur as James and Thallon Streets are not suitable for this. • Construction traffic management unclear. • Adverse geotechnical impacts on Nos. 2-8 James from proposed works. • Traffic report not agreed with respect to peak times traffic loads and not enough car parking in particular visitor parking. • Oversupply of units in Carlingford would have a strain on services. • Property devaluations would occur.
Report prepared by	Greg Samardzic, Senior Development Assessment Officer
Report date	11 November 2025

Summary of s4.15 matters

Yes

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

Legislative clauses requiring consent authority satisfaction

Yes

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 summarised, in the Executive Summary of the assessment report?

Clause 4.6 Exceptions to development standards

Yes

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?

Provision of Regional Infrastructure

Yes

Does the DA require Housing and Productivity Contributions towards regional infrastructure condition (s7.24)?

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

1. EXECUTIVE SUMMARY

The proposal provides for the partial demolition of existing structural elements, the construction of a 16-storey residential flat building (RFB) with parking, and associated landscaping, public domain works, and infrastructure improvements to contain a total of 45 apartments and 64 car parking spaces (over two basement levels and three at-grade/above ground levels) located within the Carlingford Precinct. The site is also within proximity to the light rail corridor.

The subject application has been lodged to effectively replace a previous approval (DA-658/2012/HB) which had been physically commenced with the excavation of two basement levels which is to be largely retained under the subject application. The previous consent was approved for a 14-storey mixed use development comprising 38 units and basement car parking over five levels.

Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments reveals that most matters for consideration have not been satisfactorily addressed.

The proposed development does not comply with the maximum 4:1 Floor Space Ratio (FSR) Development Standard under Parramatta Local Environmental Plan (PLEP) 2023 with a proposed FSR of 5.8:1 which represents a variation by 45%.

Whilst the applicant had submitted a written Clause 4.6 justification to support the proposed FSR variation, it is considered that the proposed variation is excessive, and the proposed concept is not an improvement to the previous concept approved on the subject site. There are not sufficient environmental planning grounds to support variation in this instance as the proposed bulk and scale was not envisaged for this site as part of built controls under Parramatta Development Control Plan (PDCP) 2023.

The applicant had failed to demonstrate that a better planning outcome would be achieved to accept such a large variation to FSR, and the only justification was to increase the development potential or yield on the development site.

The applicant has also failed to properly assess the relevant Building Height Development Standard of PLEP 2023 where it had not factored in the new natural ground levels of the recently excavated basement level. As a result, the proposed compliance with the building height taken from the original ground levels is now not compliant and there is no lodged Clause 4.6 written submission to justify the jurisdictional non-compliance.

The development was subject to review from Council's Design Advisory Panel (PDAP), and they had also raised concerns that the proposed concept did not represent an improvement and that it did not exhibit design excellence in terms of how it related to adjoining approved developments and with streetscape presentation.

The applicant has not addressed the concerns raised by the panel as they did not attend the panel meeting and had lodged a Class 1 deemed refusal with the Land and Environment Court. The application does not satisfy majority of design principles nominated in the State Environmental Planning Policy (Housing) 2021 – Chapter 4 Design Quality of Residential Apartment Development and the Apartment Design Guideline (ADG) including the lack of integration with the public domain and landscape.

The proposal involves numerous variations to the ADG and PDGP 2023 in relation to:

- Zero to minimal building separation achieved with the potential to affect privacy and amenity outcomes under the ADG.
- 22% of apartments do not receive direct sunlight in mid-winter which contravenes the 15% ADG guideline.
- Parking levels at and above ground levels which could affect relevant streetscape and passive surveillance outcomes.
- Proposed DCP variations to dwelling mix; solar access; minimum site frontage; rear setbacks; site coverage; building depth; and Block 4: 2-12 James Street key site, built form controls.
- No commercial floor space provided for the development as required by the Carlingford Precinct DCP.

The above variations are excessive and would contribute to the inappropriate nature of the development on a very constrained development site. Whilst the development would result in additional housing stock (with an additional seven units when compared to the previous approval) being close to the rail, bus services and shopping centres, it ought not be at the expense of reducing existing and future amenity levels for residents on the subject site or at adjoining properties.

The subject development site on a 916sqm allotment with a narrow 18.29m site frontage within its surrounding context is a constraint due to existing approved Residential Flat Building (RFB) development to the west (Nos. 2-8 James) and a stand-alone allotment to the east (No. 12 James Street) where zero to minimal building separation have been achieved with the potential to affect privacy and amenity outcomes under the ADG.

Whilst the subject site has the potential to accommodate a certain form of high-density development, the subject proposal has not demonstrated that it is a built form designed with acceptable amenity impacts for its future residents and adjoining developments. The current layout does not respond to its context and surrounds. It also does not provide for appropriate design solutions such as landscaping which is not well defined or integrated.

The development is not consistent with SEPP (Housing) 2021 – Chapter 4 Design Quality of Residential Apartment Development and the ADG, providing future occupants with good amenity. The application has been assessed relative to Section 4.15 of the Environmental Planning and Assessment Act (EP&A 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.

Accordingly, consent is recommended subject to refusal.

2. KEY ISSUES

PLEP 2023

- **Clause 4.3 Building Height**
Applicable Development Standard: Max. 57
Proposed: Max. 56.05m however the applicant had not assessed the maximum height against the new established natural ground levels of the recently excavated basement levels and there is no submission of a Clause 4.6 to justify the variation.
- **Clause 4.4 Floor Space Ratio**
Applicable Development Standard: Max. 4:1 FSR
Proposed: 5.8:1 FSR (1.8:1 or 45% variation).
- **Clause 6.5 Stormwater Management**
The applicant has not fully demonstrated that stormwater would be appropriately managed.

SEPP Transport and Infrastructure

- **Clause 2.100 Impact of rail noise or vibration on non-rail development** – no submission of acoustic/vibration report to address the relevant impacts.

SEPP Housing and ADG

- **Design Principles** - Majority of the design principles are not met.
- **2F: Building Separation** – the proposed privacy measures would not adequately address perceived separation with adjoining developments.
- **3B: Orientation** – the at-ground/above ground parking which contains no residential or commercial space does not promote passive surveillance to the street.
- **3C Public Domain Interface** – submitted public domain plans are not supported.
- **3D Communal and Public Open Space** – does not provide direct and equitable access from common circulation areas. The proposal has not demonstrated that it does not meet the minimum 25% area required for common open spaces.
- **3F: Visual Privacy** – does not comply with minimum separation requirements and the Proposed privacy measures would not adequately address overlooking between with developments.
- **3G: Pedestrian Access and Entries** – pedestrian access points are not satisfactory as there is no access to the rear of the site.
- **3J: Bicycle and Car Parking** - the applicant has not demonstrated that sufficient visitor spaces are provided, and an inappropriate driveway design has not been achieved for the development site.
- **4A: Solar and daylight access** - 22% of apartments do not receive direct sunlight in mid-winter due to site constraints and the built form of adjoining towers.
- **4D: Apartment Size and Layout** – the layout of the four-bedroom apartments has not been optimally designed.
- **4G: Storage** – not addressed by the applicant.
- **4K: Apartment Mix** – there is a need for consideration to reduce the number and design of the four-bedroom apartments.

- **4P: Planting on Structures** – not supported by Council’s Landscape section.
- **4U: Energy Efficiency** – not supported by PDAP.

Parramatta Development Control (PDCP) 2023

- **2.3 – Preliminary Building Envelope** – the proposed FSR variation is not supported and the proper assessment against building height had not occurred.
- **2.4 – Building Form and Massing** – not supported by PDAP.
- **2.5 – Streetscape and Building Address** - not supported by PDAP.
- **3.1.3 Accessible and Adaptable Housing** – the proposed steps to the lobby level and the associated lift platform is not supported.
- **3.5.1.5 – Parking Design and Vehicular Access** – the car parking design containing at-grade/above ground levels with poor visitor spaces and driveway entrance widths are not supported.
- **5.1.5 – Groundwater** – the applicant has not demonstrated that groundwater would be appropriately managed.
- **8.2.8.1.2 – Urban Context: Opportunities and Constraints** – proposal has not adequately addressed this contextually, where it has not improved on the already approved concept on the site and would significantly adversely impact on the amenity levels for future and existing residents.
- **8.2.8.1.4 – Site Coverage and Requirements** - the proposal has a site coverage that is above the maximum 35% site coverage requirement which contributes to the inappropriate nature of the development.
- **8.2.8.1.7 – Setbacks** - the proposal does not achieve the front, side and rear setbacks of the DCP.
- **8.2.8.1.21 – Key Sites Built Form Control** – the proposed concept is inconsistent with the key site, built form map which would potentially reduce amenity level for adjoining developments into the future.

3. THE SITE AND LOCALITY

The site is located No. 10 James Street, Carlingford within the Parramatta Local Government Area (PLGA). The site is a single lot and is legally described as Lot 1 DP32469. The site has a total area of 916sqm, and the shape is irregular, being described as generally rectangular with an acute angle towards the southern boundary.

The site has frontage to James Street to the north and to the Parramatta Light Rail (PLR) rail corridor to the south that contains a private service road.

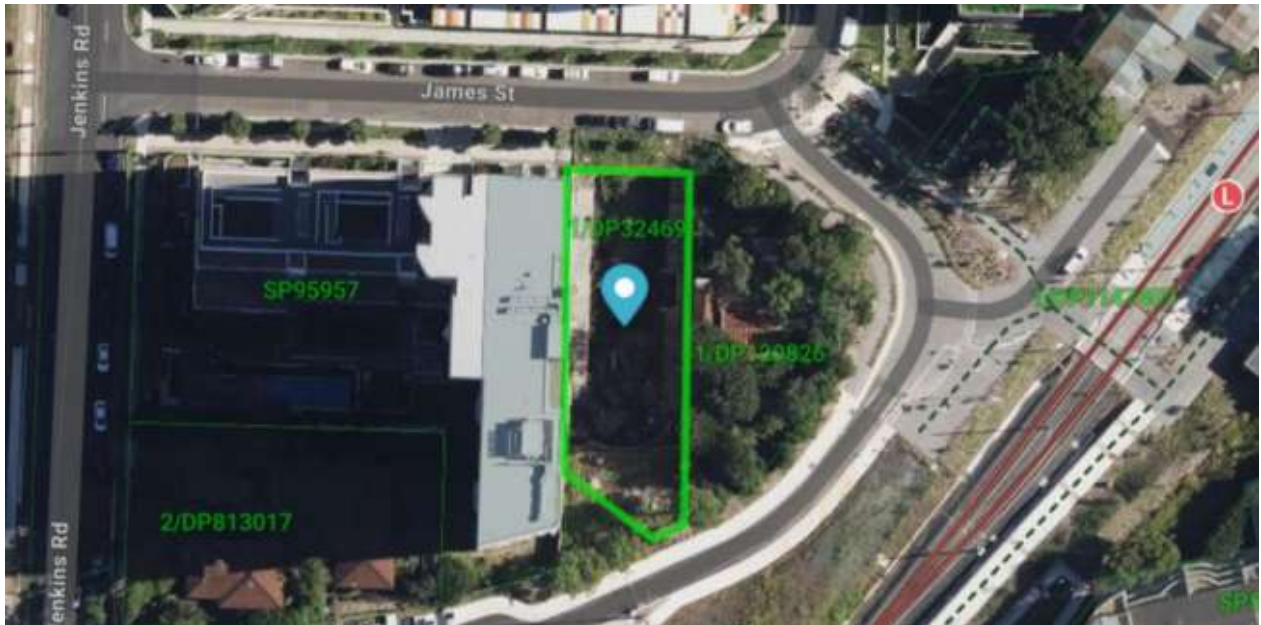


Figure 1: Subject site

The site is currently vacant and consists of a partially constructed basement car park that appears to have been abandoned and is overgrown. The site is generally flat with a gradual fall of approximately 3m from the rear of the site to the front.



Figure 2: View of the site from James Street

Land uses in the vicinity primarily comprises of residential flat building and low density residential to the north and northeast with retail located at the ground level. The area surrounding the development is contextualised as follows:

- North: Directly north of the site is a range of 6-18 storey residential flat buildings and northeast of the site is the Shirely Street Reserve, an open green space.
- East: Directly east of the site is No. 12 James Street, currently vacant and overgrown with vegetation. The site has been approved for the construction of an 18-storey mixed use

development containing 64 apartments and ground floor retail space over five levels of basement parking (approved under DA/80/2019). Further east of the site is the Carlingford Light Rail stop which provides connection to Parramatta and Westmead.

- South: Directly south of the site is a small mosque, a service station and car mechanic shop. Further south is Pennant Hills Road which connects to the M4 and M1.
- West: Immediately west of the site is Nos. 2-8 James Street, a 17-storey mixed use development comprising of 138 residential units, 55sqm of retail space and 207 basement car parking spaces. Further west of the site is the Dundas Zone Substation, an electrical substation distributing electricity to the local area.

By way of background, on 5 March 2013, DA-658/2012/HB was approved by the Hills Shire Council for construction of a 14-story mixed use development comprising 38 units and basement car parking, under the now-repealed The Hills Local Environmental Plan 2012. This DA has been modified once where DA-658/2012/HB/A was approved in 2015 for the removal of a rooftop pool and WC.

The consent was activated with the approval of a construction certificate on 2 December 2014 and excavation works being undertaken. The work has since been abandoned by the previous owner and it is noted that following the review of local government boundaries in 2016, the site which was previously under the Hills Shire LGA now falls under PLGA.

4. THE PROPOSAL

The proposed development seeks partial demolition and construction of a 16-storey RFB over basement parking.

Specifically, this DA seeks consent for:

- Partial demolition of some existing structural elements and preparatory earthworks.
- The construction of a 16-storey residential flat building development (with a lift overrun) comprising:
 - Construction of a two-level basement consisting of 30 car parking spaces, bicycle parking, a motorbike parking space, services and waste room.
 - A three storey non-residential podium including 34 car parking spaces, bicycle parking, waste storage, services and residential lobbies.
 - 45 dwellings across 13 storeys.
 - Communal open space located at the roof top including barbeques, seating and picnic areas and a swimming pool.
- Associated landscaping, public domain works and infrastructure improvements.



Figure 3: Photomontage from James Street

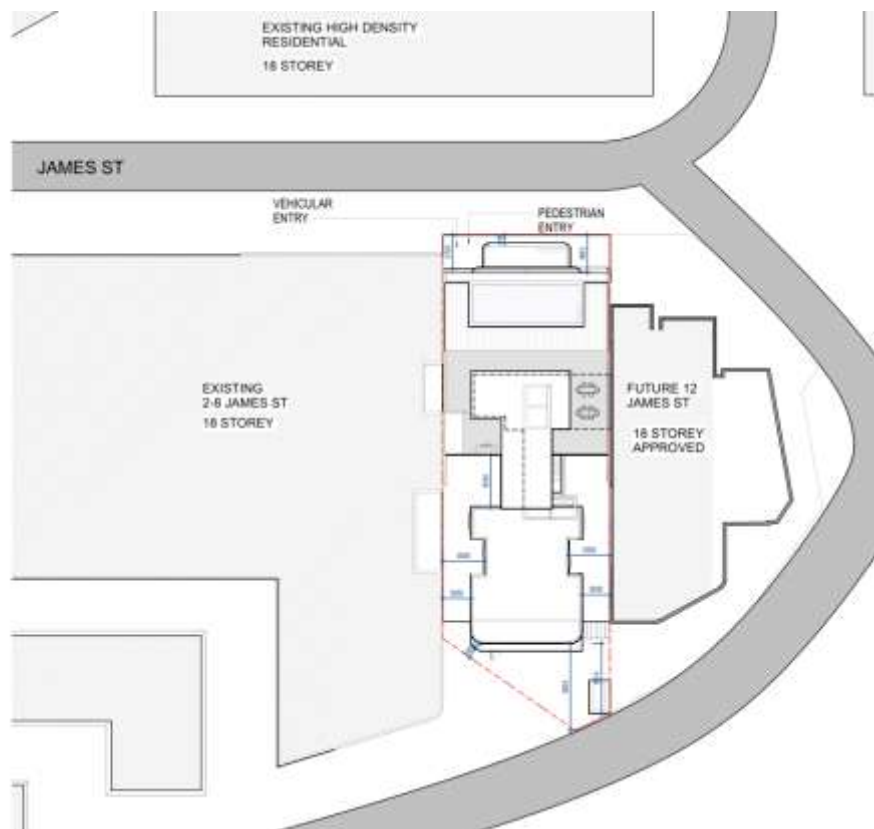


Figure 4: Proposed site plan

Demolition and Site Establishment:

The site currently consists of a partially constructed basement car park that appears to be abandoned, where demolition and site establishment works are proposed. The proposal will utilise the existing excavation level, such that no further excavation is proposed besides some localised trimming, removal of stockpiles and detailed excavation for footings, service trenches, lift pits, etc will be excavated. Additionally, the overgrown vegetation is sought to be removed.

Basement Component:

A basement with two levels is proposed, which provides parking, storage and building serves and plant. Specifically, the basement levels contain the following:

- 30 car parking spaces and one motorcycle parking space.
- Bicycle spaces and secure storage spaces for residents.
- A lift core containing two lifts which cater to the residents.

A singular vehicular access is provided off James Street.

Podium Component:

A three-storey podium is proposed which provided parking, waste storage, resident lobbies, storage and building serves and plant. Specifically, the podium levels contain the following:

- 34 car parking spaces, bicycle spaces and secure storage spaces for residents, located across the three podium levels.
- A lift core containing two lifts which cater to the residents.
- Bin rooms including waste and bulky waste storage located on the Ground floor.
- Substations, and fire pump rooms located at the rear of the building on Level 1.
- Cold water pump, communications and electrical rooms and a fire tank located on Level 2.

The podium has been designed in an attempt by the applicant to provide for visual interest and articulation to the ground plane. A range of materials have been utilised to sleeve the car parking located in the podium.



Figure 5: Podium design

Tower Component:

A thirteen-storey tower is proposed above the podium consisting of 45 dwellings.

Dwelling Mix:

The typology and mix of the tower are broken down below.

Bedroom	Number
2 bedroom*	27
*including 9 liveable, with 7 of those accessible	
3 bedroom	8
4 bedroom	10
Total	45

Communal Space:

The applicant has stated that a total of 304sqm of communal space is provided at the Level 16 (the rooftop). Level 16 contains a communal roof terrace comprising of a communal area for play, eating and relaxing. The Level 16 rooftop also contains a barbeque area and rooftop pool.



Figure 6: Level 16 communal open space

Internal layout and Apartment Typology:

- Levels 3-11 floorplates have been configured to accommodate a single-loaded corridor adjoined by a 4- bedroom unit and three 2-bedroom units.
- Level 12 accommodates a four-bedroom unit and two three-bedroom units.
- Levels 13-15 has been stepped back from the western frontage and includes two three-bedroom units.

External Material and Finishes:

Colours and materials have been selected with careful regard for the design of surrounding development. In summary, the following materials and colour tones will feature prominently across the exterior of the building:

- Medium neutral paint
- Light neutral paint
- Powder coat black balustrade
- Dark brick
- Glazing and frosted glazing
- Powder coat yellow finished louvres



Figure 7: Proposed materials and finishes

Pedestrian Access:

Pedestrian access to the site will be provided from the James Street frontage and residents will have a direct access through James Street to the Carlingford Light Rail stop.

Vehicular access and parking:

Two levels of basement and three levels of above ground parking is proposed to provide:

- 64 car parking spaces including:
 - Six visitor spaces
 - Seven accessible spaces
- 50 bicycle parking spaces and storage
- One motorcycle parking

Vehicular access to the carpark and the waste and loading facilities will be provided from James Street, with loading facilities located at the ground floor.

Waste storage facilities are provided at the ground level. The bin room will have a general waste area, and a bulk waste room. Residents will be able to utilise a waste chute to dispose of waste from all levels.

Landscaping and Public Domain:

The site plan shows James Street with a proposed new concrete footpath (green) connecting to an existing one (blue). A large tree canopy is shown in the center, with a building footprint below it. Labels include: 'Existing concrete footpath', 'Existing street trees to be retained & protected', 'Street trees to be planted with min. 3m away from driveways', 'Proposed new concrete footpath to connect with existing footpath', and 'Existing footpath to be demolished and make turf'. A north arrow is located within the tree canopy area.

Figure 8: Public domain upgrades

Stormwater will be discharged into the existing drainage infrastructure in James Street. It is proposed that new stormwater pipe is installed beneath the proposed development. The new pipe will connect into existing infrastructure along the northern end of James Street. An On-site Detention (OSD) tank is proposed within Ground floor and will be connected to the proposed diverted stormwater network. The dimensions of the proposed OSD tank will give it an effective volume of 45m³.

5. SITE AND APPLICATION HISTORY

The site is currently vacant containing excavated levels and is part of the Carlingford Precinct which has gone through a radical transformation from a low density residential to a high-density residential area over the years.

On 5 March 2013, DA-658/2012/HB was approved by the Hills Shire Council for construction of a 14-story mixed use development comprising 38 units and basement car parking, under the now-repealed The Hills Local Environmental Plan 2012. This DA has been modified once; DA-658/2012/HB/A was approved in 2015 for the removal of a rooftop pool and WC.

The consent was activated with the approval of a Construction Certificate on **2 December 2014** and excavation works being undertaken. The work has since been abandoned by the previous owner. It is noted that following the review of local government area (LGA) boundaries in 2016, the site which was previously under the Hills Shire LGA now falls under the Parramatta LGA.

On 19 March 2025, a pre-lodgement meeting was held with City of Parramatta to discuss the proposed RFB and provided written pre-lodgement meeting advice. A review of the advice indicated that Council officers had concerns about the proposed development at that stage advising that there were numerous variations to relevant numerical standards for it be fully supported in relation to:

- Parking.
- Private open space.
- FSR.
- Minimum site frontage.
- Street setback.
- Building amenity and neighbouring properties.

The applicant was advised that the proposal albeit being an 18-storey tower was unsuitable for a site which was heavily constrained by due to its narrow frontage, lack of setbacks, excessive height, poor street activation and inadequate common open space and landscaping provisions.

The notes also raise concerns about overshadowing, privacy, visual amenity, and fails to meet planning controls for building coverage, tree planting, and active ground-level uses. It is still considered that with the submission of the subject application and lodgement of a Class 1 appeal for a deemed refusal, that the crux of the above concerns remains and unresolved.

On **10 June 2025**, the subject Development Application (DA) was lodged.

Between **18 June 2025 and 16 July 2025**, the subject was notified/advertised, and three separate submissions were received.

On **21 July 2025**, the applicant filed a Class 1 deemed refusal appeal with the Land and Environment Court however was not received by Council until **28 July 2025**.

On **24 July 2025**, the subject application was considered by the PDAP and it is noted that the applicant did not attend the panel to justify the proposal and to answer any questions which would

have assisted in the potential design improvements of the proposed development however at the time it was unbeknown to all attending that the applicant had lodged an appeal with the Court.

On **13 August 2025**, the prepared panel minutes was forwarded to the applicant for their consideration.

On **20 August 2025**, the First Directions Hearing was held.

On **4 September 2025**, the Statement of Facts and Contentions (SOFAC) by Council as the respondent was filed with the Land and Environment Court.

On **7 October 2025**, the Section 34 Conciliation Conference was held, and no full agreement was reached however the Court had extended the Section 34 process as substantial progress had been made in resolving the key issues such as urban design, setbacks, building separation and landscaping.

A Second Directions Hearing is set for **14 November 2025**.

Note: It is noted that a Request for Further Information (RFI) has not been issued as the Class 1 Appeal was lodged when the application was still under preliminary assessment.

This assessment report for determination is based on the submitted level of plans and information with the subject application and is prepared for the SCCPP with a recommendation for refusal.

6. REFERRALS

The following internal and external referrals were undertaken:

Parramatta Design Advisory Panel

The original plans were considered by PDAP at a meeting on 24 July 2025 and the panel was not fully supportive of the application in its current form and has provided the following advice.

1. The site is approximately 60m west of Carlingford light rail station and is visible from the station. Opposite the site on the northern side of James Street are a series of 6 storey street front buildings between the light rail station, Thallon Street and Jenkins Road. Towers on these sites are set back a minimum of 6m from James Street. On the southern corner of James Street and Jenkins Road are 6 storey high street frontage buildings. The 6 storey street frontage buildings on the northern and southern sides of James Street establish the scale and built form character of James Street. They are an appropriate scale for pedestrians arriving or departing from the light rail station. The set back towers above 6 storeys minimise any wind downdrafts and overbearing effect on pedestrians in the public domain. The subject site is located in Block 4 of Carlingford Local Centre and is a designated key site in the DCP. The Block 4 controls have generally shaped the existing built form in James Street, as the Block 4 controls have a 6 storey street wall scale for these sites, with set back tower.

2. The approved building to the east of the subject site at 12 James Street has a tower set back approximately 8m from the James Street boundary. The tower to the west of the subject site at 2-8 James Street is set back approximately 2 metres from the front boundary (James Street). Although the levels above Level 6 are also set back only 2m from the front boundary, creating a vertical tower form, the tower has a rebate between levels 6 and 7, marking the predominant 6 storey height in the street.

3. The proposed development is built to the front boundary on levels 1 and 2 (carparking) and is set back minimally on Levels 3 – 11. These setbacks vary between 886mm, 1493mm and 3700mm. As the tower at 2-8 James Street is set back 2m, the proposed Level 1 and Level 2 carpark facades project forward of the existing building to the west and Levels 3 - 11, are slightly set back in a range of alignments. These minimal proposed setbacks do not align at any point with the existing building to the west or the approved building to the east, and consequently create a discordant series of built forms within an otherwise consistent streetscape.

4. It is recommended that the proposed Ground Level to Level 5 (6 storeys) be set back 2m from the front boundary, to align with the lowest 6 storeys of the building at 2-8 James Street. It is recommended that the proposed Level 7 to Level 15 be set back 6m from the front boundary. The built form outcome will be to make the lowest 6 storeys visually prominent in the street, to reinforce the predominant 6 storey scale in the street at podium level and to make a stepped transition of tower forms from 2-8 James Street to 12 James Street.

5. This built form approach will require re-planning of car parking and apartments internally. It may require a reduction in apartment numbers and/or sizes on Levels 3-11. This reduction of floor area may mean that a reduction in parking spaces on Levels 1 and 2 would still provide sufficient parking spaces.

6. It is noted that the site has been excavated for 2 basement parking levels and the excavation does not extend to the rear boundary. It may be useful to excavate further toward the rear boundary to allow for the proposed 2m front setback at the lowest 6 levels with minimal loss of parking area or floorspace. This approach may minimise the reduction in apartment numbers and/or sizes on Levels 7 to 15. These levels could move closer to the rear boundary without unduly impacting on the rear streetscape.

7. This approach may reduce some of the deep soil area currently proposed. There is a triangle of land along the laneway, owned by TransportNSW and proposed as part of the light rail works to remain landscape area. The land is contiguous with the subject site and could contribute to landscape area and deep soil in this location.

8. Building separation for the rear portion of the buildings is insufficient at 3.05m and at 4.5m at the notch. The high-level windows in bedrooms and bathrooms in the rear 4 bedroom apartments are not effective in eliminating cross-viewing, as occupants of higher levels in adjacent buildings to the east and west are able to look down into the proposed bedrooms and bathrooms. It is noted that the proposed bedrooms have south facing windows which have the potential to comply with the BCA for window areas without creating cross-viewing between neighbouring buildings. It is recommended to remove or make translucent the high level windows in bedrooms and to make windows translucent and operable for ventilation in bathrooms.

9. The 4 bedroom apartments to the rear of the site have relatively small living and dining areas for such a large number of bedrooms. These are likely to be family apartments with a need for more living space than a 2 bedroom apartment would need. It is recommended that the living and dining areas be extended, possibly with a separate living room or extended living room and that the apartment becomes 3 bedrooms plus a study or some other configuration.

10. There are no windows to the lift lobby and corridor on Levels 3 – 9. It is recommended that windows be provided with screening to avoid cross viewing to bedrooms, to allow for daylight to the corridor, with at least one window openable to allow for natural ventilation.

11. The proposed mix of curved and rectilinear forms, small steps and changes in paint colours on the James Street facade create excessive verticality in the façade. This is a tall tower on a relatively narrow lot and a more horizontal composition of forms would create a more balanced façade composition. A more regular composition of forms and colours, with fewer steps, would create a more visually calm and legible elevation.

12. The material palette of the tower is limited to predominantly painted concrete. The creation of a 6 storey podium is an opportunity to have a visual distinction between the podium and the tower. It is noted that dark grey brick brickwork is currently proposed on Levels 2 and 3 facing James Street, however it returns only a short distance along the eastern elevation and the change of material to painted concrete would be visible from the street. It is recommended that brickwork be provided on the lowest 6 storeys. Brickwork, without the need for windows, would be an acceptable finish for the visually prominent eastern façade and should continue for the full extent of the lowest 6 storeys on the eastern elevation. It is recommended that a warm mid-tone brick be selected rather than the currently proposed dark grey brickwork.

13. The proposed louvres on the James Street façade are a major element of the street frontage. More detailed information on the materials and detailing is required, including a 1:20 wall section.

14. The fire pump rooms and fire tank project above ground and do not align with balconies on levels above, creating an incoherent rear elevation. The forms should be aligned and the lowest 5 levels on the southern elevation should be facebrick.

15. The landscape plans prepared by Conzept indicate mass planted areas to the front and rear of the site with communal open space located principally on the roof level. This roof open-space incorporates a barbecue area and swimming pool. Given the size and configuration of this primary communal open space, the Panel questions the inclusion of the pool, both for its suitability and for its impact on the communal amenity.

16. The triangle shaped 'leftover' area to the rear of the site is entirely mass planted with Trees and shrubs. Access for maintenance to this area appears to be limited. The Proponent should investigate the opportunity to better integrate the space with the PLR land.

17. No sustainable development measures are included in the current proposal. It is recommended that solar panels be provided on the roof to power common areas, as a minimum. Ceiling fans are to be provided in habitable rooms. Glass louvre windows are to be provided in key locations to promote natural ventilation. No gas is to be used in the building.

18. The submitted plans do not contain evidence of achieving solar access to comply with the ADG. Eye from the sun modelling is to be provided in future submissions.

Panel Recommendation

The Panel does not support the proposal and significant re-design is recommended to respond to the issues noted above.

Comment: It is noted that the applicant did not attend the panel to justify the proposal and to answer any questions which would have assisted in the potential design improvements of the proposed development (however at the time it was unbeknown to all attending that the applicant had lodged an appeal with the Court).

Regardless, a copy of the minutes was forwarded to the applicant however Council has engaged the services of Council's Urban Designer to assist in defending the above matters or concerns raised by the panel.

At the recent Section 34 Conciliation Conference, substantial progress has been made to address the above matters, and it is anticipated that amended plans would be formally submitted shortly as part of the Court process.

Catchment/Development Engineer	Council's Development Engineer has assessed the proposal and raised no objections subject to the imposition of the recommended conditions. The following is noted: • <i>The site is located within the former Hills Shire Council Local Government Area (LGA).</i> • <i>A previous development application (DA/658/2012/HB) was approved in 2013 for a 14-storey mixed-use development with 4 basement levels, excavated to RL 86.</i> • <i>Excavation commenced but ceased at RL 91 (equivalent to two basement levels). The site has remained abandoned since.</i> • <i>The original approval did not include groundwater considerations in the conditions of consent.</i> • <i>A subsequent application (BC/169/2024) for the abandoned excavation was refused.</i> This application proposes that stormwater will be disposed of to the street via an on-site detention tank (OSD). The OSD tank has been designed in accordance with Water Sensitive Urban Design (WSUD) principles and supported by a MUSIC model. WSUD requirements have been complied with.
Tree and Landscape Officer	Council's Landscape and Tree Management Officer assessed the proposal and raised the following concerns: • The rear communal open space is inaccessible from both the building and the laneway. • This design fails to meet Apartment Design Guide (ADG) Part 3D-1, which requires direct and equitable access from common circulation areas. • The absence of physical and visual connection between the building and the rear landscape space significantly reduces its usability and integration.

	• The design report references ADG principles such as usability, privacy, social opportunity, equitable access, and long-term management. • These objectives have not been achieved in the current design of the rear space, which remains isolated and disconnected. • The proposed stepping stones do not link to the crossover/footpath extension shown in the laneway public domain plans, resulting in poor pedestrian connectivity. • There is no direct or convenient access to the fire pump room from either the building or the laneway. • The bike storage area is similarly inaccessible, rendering it impractical for end users. The lack of security and inconvenient location will likely discourage use. • The rear space design does not align with Crime Prevention Through Environmental Design (CPTED) principles: • Limited visibility and passive surveillance opportunities. • Poorly defined entryways and paths, which may encourage unwanted access and reduce perceived safety. • Landscaping has obscured access to the substation and does not meet statutory clearance requirements, posing operational and safety concerns. • The current layout presents significant challenges for long-term management and maintenance of the rear communal space. • The rear space is likely to become a wasted or underutilised area due to poor connectivity, lack of access, and ineffective layout. • This represents a lost opportunity to provide meaningful communal amenity for future residents.
Traffic and Transport Engineer	Council's Executive Traffic and Transport Engineer assessed the proposal and raised no objections subject to the imposition of the recommended conditions.
Environmental Health Officer (Acoustic)	Council's Environmental Health Officer assessed the application and noted that an Acoustic Report had not been submitted as part of the proposal. Given the location of the site in close proximity to the Carlingford Light Rail, and Acoustic Report prepared by a suitability qualified person is required.
Environmental Health Officer (General)	Council's Environmental Health Officer assessed the proposal and raised no objections subject to the imposition of the recommended conditions.

Environmental Officer (Waste)	Health	Council's Environmental Health Officer assessed the proposal and raised no objections subject to the imposition of the recommended conditions.
Environmental Officer (Contamination)	Health	Council's Environmental Health Officer assessed the proposal and raised no objections subject to the imposition of the recommended conditions.
Public Domain & Universal Access		Council's Urban Design Section has assessed the proposal and raised the following concerns: Street Activation: The current design includes above-ground parking at street level, which significantly limits opportunities for street-level activation and passive surveillance. The only active frontage at ground level is a small foyer, which is insufficient to contribute meaningfully to the public realm. Public Domain: <i>Footpath Link</i> • A missing footpath link between the two sites on the east and west is to be constructed (refer to attached drawings). • The public footpath must be constructed in accordance with the Parramatta Public Domain Guidelines (PPDG) 2017 and Council's standard construction details. <i>Street Tree Planting</i> • One new street tree is proposed, consistent with the public domain drawings. • The species is to be <i>Lophostemon confertus</i>, in accordance with the PPDG 2017. • The root barrier and edging shown in the planting detail should be removed to comply with Council standards. <i>Driveway Design</i> • The maximum preferred driveway width is 6 metres, as shown in the public domain drawings. <i>Material Differentiation</i> • A material different from the concrete footpath should be used within the private domain to clearly differentiate it from the public domain.

Accessibility Officer	Council's Accessibility assessed the proposal and raised no objections subject to the imposition of the recommended conditions.
Heritage Advisor	Council's Heritage Officer has assessed the proposal and raised no objections subject to the imposition of the recommended conditions.
Wind Consultant	Council's Wind Consultant has assessed the proposal and raised the following concerns: <i>The SLR desktop wind study should be updated to address the following:</i> • <i>Assessment using the Parramatta DCP 2023 wind safety and comfort criteria.</i> • <i>Review the submitted drawings.</i> • <i>Confirm the target comfort criteria for the areas of the development.</i> • <i>Provide mitigation strategies for the elevated balconies.</i> • <i>Provide the wind tunnel study report when available.</i>
Sustainability Consultant	Council's Sustainability Consultant has assessed the proposal and raised the following concerns: • <i>Further work required to demonstrate natural cross ventilation is achieved.</i> • <i>Applicant to address Part 5.4 of the DCP and have noted those items where a response is needed.</i> • <i>The BASIX package requires amendment.</i> • <i>The BASIX certificate commits to no air conditioning in bedrooms and an unheated swimming pool.</i>
Infrastructure Planning	Council's Contributions Officer has assessed the proposal and raised concern regarding a previous Voluntary Planning Agreement associated with the site. The following is noted: • Captag James Project Pty Ltd, the current Owner for 10 James Street, Carlingford (Lot 1 DP 32469) is not a party under the executed Planning Agreement, VPA/18/2023 associated with the previous development consent on the subject site. Noting that the current owner is not a party to the VPA and that the VPA is not registered on the title of the subject allotment, application must be assessed under the City of Parramatta (Outside CBD) Development Contributions Plan 2021 – Amendment No. 1.

External Referrals

WaterNSW	General Terms of Agreement (GTA) was not issued as applicant had not paid the Integrated Development fee as works to the proposed basement had already occurred under a previous consent and that no further major excavations would occur.
Endeavour Energy	Endeavour Energy assessed the proposal and raised no objections subject to the imposition of the recommended conditions.
Transport for New South Wales (TfNSW)	Transport for NSW assessed the proposal and raised no objections. No conditions were recommended.
Sydney Water	Sydney Water assessed the proposal and raised no objections subject to the impositions of the recommendation conditions.
NSW Police	Endeavour Energy assessed the proposal and raised no objections subject to the imposition of the recommended conditions.

7. SECTION 4.15 EVALUATION

7.1 PERMISSIBILITY

The site is zoned R4 High Density Residential under PLEP 2023.

The proposed works are defined as a 'Residential Flat Building' and is permissible pursuant to Part 2 of PLEP 2023.



Figure 9: Zoning map

7.2 ZONE OBJECTIVES

The objectives of the R4 High Density Residential are:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for high density residential development close to open space, major transport nodes, services and employment opportunities.*
- *To provide opportunities for people to carry out a reasonable range of activities from their homes if the activities will not adversely affect the amenity of the neighbourhood.*

To be discussed further in the report, the inappropriate design of the proposal does satisfy the relevant objectives of the R4 High Density Residential zone.

8. ENVIRONMENTAL PLANNING INSTRUMENTS

Overview

The instruments applicable to this application comprise:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2021
- State Environmental Planning Policy (State and Regional Development) 2021
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022
- Parramatta Local Environmental Plan 2023
- Parramatta Development Control Plan 2023

Compliance with these instruments is addressed below.

8.1 State Environmental Planning Policy (State and Regional Development) 2021

Section 2.19 declares that development specified in Schedule 6 is declared to be Regionally Significant Development (RSD) for the purposes of Section 4.5 of the EP&A Act. Section 6 of Schedule 6 of the Planning Systems SEPP specifies the threshold for RSD to be \$30 million. As the Estimated Development Cost is greater than \$30 million, the application is RSD and will be determined by the SCCPP.

8.2 State Environmental Planning Policy (Sustainable Buildings) 2022

Section 2.1 requires that the consent authority is not to consent to carrying out development unless the consent authority is satisfied the embodied emissions attributable to the development have

been quantified. A NATHERs and BASIX Report has been provided however Council's Sustainability Consultant has assessed the proposal and raised concerns with respect to with the following:

- *Further work required to demonstrate natural cross ventilation is achieved.*
- *Applicant to address Part 5.4 of the DCP and have noted those items where a response is needed.*
- *The BASIX package requires amendment.*
- *The BASIX certificate commits to no air conditioning in bedrooms and an unheated swimming pool.*

Based on the current level of information submitted, it is considered that the proposal does not comply with the SEPP.

8.3 State Environmental Planning Policy (Resilience and Hazards) 2021

Section 4.6 requires that the consent authority considers whether the development site is contaminated, and if so whether the land can be made suitable for the proposed development. There is no known contamination history at the site, nor is the site listed on the contaminated site register.

Furthermore, a Preliminary Site Investigation (PSI) was prepared for DA/658/2012/HB which concluded that the subject site was suitable for development.

8.4 State Environmental Planning Policy (Biodiversity and Conservation) 2022

Chapter 2 – Vegetation in Non-Rural Areas

The application has been assessed against the requirements of Chapter 2 of SEPP (Biodiversity and Conservation) 2022. This Policy seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

As the site has been cleared of all trees under DA/658/2012/HB, the proposal is not likely to have any significant impact on biodiversity values.

Chapter 6 – Water Catchments

This Chapter applies to the entirety of the Parramatta Local Government Area as identified on the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Sydney Harbour Catchment Map.

The subject site is not located within the Zoning Map, Critical Habitat Map, Wetlands Protection Area, Strategic Sit Foreshore Map or the Foreshore Area and Boundary Map. Therefore, there are no specific development standards that directly apply to the proposal.

8.5 State Environmental Planning Policy (Transport and Infrastructure) 2021

The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Clause	Comment
Subdivision 2 Development likely to affect an electricity transmission or distribution network	
Clause 2.48 – electricity infrastructure	A referral to the relevant electrical supply authority (Endeavour Energy) occurred and no objections were raised subject to conditions.
Subdivision 2 Development in or adjacent to rail corridors and interim rail corridors – notification and other requirements	
Clause 2.98 – Development adjacent to rail corridors	The subject site is adjacent to the light rail corridor and TfNSW made no comment.
Clause 2.100 – Impact of rail noise or vibration on non-rail development	Not satisfactory as the applicant had not submitted a relevant Acoustic and/or Vibration Report to consider such impacts as part of the subject application. However, as part of the Court appeal, the applicant had subsequently lodged the required report for consideration.
Subdivision 2 Development in or adjacent to road corridors and road reservations	
Clause 2.119 – Frontage to a classified road	The subject site does not have frontage to a classified road.
Clause 2.120 – Impact of road noise or vibration on non-road development	<i>James Street</i> has an average daily traffic volume of less than 20,000 vehicles per day and as such, Clause 2.120 is not applicable.
Clause 2.121 – Excavation in or immediately adjacent to corridors	The development does not any propose any further excavation in or immediately adjacent to corridors and therefore is not applicable.
Clause 2.122 – Traffic-generating development	The proposal development is not on a site with access to a classified road or to a road that connects to a classified road (within 90m) that is of a scale that would be classed as a traffic generating development.
Subdivision 2 Development adjacent to pipeline corridors	
Section 2.77 – Development adjacent to a pipeline corridor	N/A

8.6 State Environmental Planning Policy (Housing) 2021

8.6.1 CHAPTER 4 – DESIGN OF RESIDENTIAL APARTMENT DEVELOPMENTS

The aims of Chapter 4 are to improve the design of residential apartment developments.

The application has been considered the following requirements of Chapter 4:

- (a) The quality of the design of the development, evaluated against the 9 Design principles for residential apartment development
- (b) The Apartment Design Guide; and
- (c) Advice received from the Parramatta Design Advisory Panel.

8.6.1.1 SCHEDULE 9 DESIGN PRINCIPLES FOR RESIDENTIAL APARTMENT DEVELOPMENT

Schedule 9 of SEPP (Housing) 2021 lists 9 Design Principles for residential apartment developments. These principles do not generate design solutions but provide a guide to achieving good design and the means of evaluating the merits of proposed solutions.

As required by the Environmental Planning and Assessment Regulation (EPAR), the application was accompanied by a response to those design principles.

Principles
1. Context and neighbourhood character The RFB development proposed is not of an appropriate scale and appropriate design that meets the context and neighbourhood character of the precinct, which would have a detrimental impact on the area. The proposed development does not meet this principle, due to its noncompliance with the FSR controls of the Parramatta LEP and the numerous ADG and PDGP variations. It was envisaged that a six or seven storey podium be created with a setback tower on this site and this has not occurred in this instance.
2. Built form and scale The proposed overall scale, bulk, FSR, height and setbacks are not considered appropriate for the area. The proposal does exceed the maximum FSR allowable under PLEP, however, the additional yield created is not in character with the current and emerging context. The proposal would not maintain or improve on existing and future residential amenity levels on the subject site and to the adjoining existing or approved developments. It is considered that the whilst the site is of a very constrained nature, however, its proposed form and scale are not in accordance with the intended built form envisaged to the current and emerging context. The proposed exceedance of the FSR Development Standard is not necessary in this instance. The proposal does appropriately adequately address the constraints of the site and is not of an acceptable form and scale envisioned for the area.
3. Density The proposed density on the site is not appropriate in the context as the proposal does not achieve a high level of amenity for residents. The proposal does not comply with relevant setbacks requirements to maintain privacy to itself and neighbouring properties. Whilst located in an area with access to light rail and bus lines to the Parramatta CBD, the nature of the design is not supported where it is more inferior when compared to approved designs in the Precinct. The proposed variation by 45% of the FSR Development Standard is excessive and ought not to be supported. Improvements to the design could have occurred as suggested by PDAP, the applicant did not wish to pursue such amendments and lodged an appeal instead however is working on amendments as part of the Court appeal.

It is contended that to achieve this principle, density or yield would need to be more appropriately controlled.

4. Sustainability

Energy and water efficiency targets under SEPP (Building Sustainability) 2022 have not been achieved.

No sustainable development measures are included in the current proposal.

The design is not consistent with best practice design criteria for cross ventilation and solar access under the ADG and refusal of the subject application is recommended in this instance.

5. Landscape

The proposal has not provided sufficient and appropriate landscaping outcomes within the site or on the roof tops.

The application does not adequately meet the requirements of the Landscaping principle.

6. Amenity

The proposal does not achieve the requirements of the ADG with respect to the solar access and ventilation.

The internal amenity and sizes of each unit is not acceptable which would require a reduction in apartment numbers and floor space hence a reduction in parking numbers.

The high-level windows in bedrooms and bathrooms to address the variations to building separation are not effective in eliminating cross-viewing, as occupants of higher levels in adjacent buildings to the east and west are able to look down into the proposed bedrooms and bathrooms.

The development is not considered to achieve the Amenity Principle.

7. Safety

Windows and units are generally orientated outwards which increase the potential for passive surveillance of the existing and future public domain areas within the roadway.

The proposal can provide a clear delineation between public and private spaces without blocking views to the public domain from the site.

The development is considered to achieve the Safety Principle.

8. Housing Diversity and Social Interaction

The four-bedroom units to the rear of the site have small living and dining areas for such large number of bedrooms. These are likely to be family apartments with a need for more living space than a two-bedroom apartment would need.

It is recommended that the living and dining areas be extended, possibly with a separate living room or extended living room and that the apartment becomes three bedrooms plus a study or some other configuration.

The rooftop terrace incorporates a barbecue area and swimming pool. Given the size and configuration of this primary communal open space, the inclusion of the pool is questioned, both for its suitability and for its impact on the communal amenity.

The proposal is not considered to achieve the Housing Diversity and Social Interaction principle.

9. Aesthetics

The material palette of the tower is limited to predominantly painted concrete. The creation of a six or seven-storey podium is an opportunity to have a visual distinction between the podium and the tower.

It is noted that dark grey brick brickwork is currently proposed on Levels 2 and 3 facing James Street, however it returns only a short distance along the eastern elevation and the change of material to painted concrete would be visible from the street. It is recommended that brickwork be provided on the lowest six or seven storeys.

Brickwork, without the need for windows, would be an acceptable finish for the visually prominent eastern façade and should continue for the full extent of the lowest six or seven storeys on the eastern elevation. It is recommended that a warm mid-tone brick be selected rather than the currently proposed dark grey brickwork.

The proposal is not considered to achieve the Aesthetic principle.

8.6.1.2 APARTMENT DESIGN GUIDE

As part of the Housing SEPP amendment, SEPP No 65 — Design Quality of Residential Apartment Development was repealed and incorporated into Chapter 4 of the Housing SEPP. The provisions of the ADG have remained unchanged following their incorporation into the Housing SEPP and are applicable to the subject RFB development.

The SEPP requires consideration of the ADG which supports the nine design quality principles by giving greater detail as to how those principles might be achieved.

The application is supported by a detailed table demonstrating consistency with the design criteria in the ADG. The table below considers the proposal against key matters:

Clause	Comment	Compliance
Part 2 – Developing the controls		
Note: This part explains the application of building envelopes and primary controls including building height, floor space ratio, building depth, separation and setbacks. It provides tools to support the strategic planning process when preparing planning controls. It is used here only to ascertain degrees of compliance with the most applied controls under Parts 3 and 4 later in this table.		
2E Building Depth		
Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line.	Overall depth of a cross-over or cross-through apartment does not exceed 18m.	Yes
2F Building Separation		
	The proposal does not achieve full compliance with the separation	No

Clause				Comment	Compliance
Building Height	Habitable to Habitable	Non-habitable to Habitable	Non-habitable to Non-habitable	distances prescribed under Section 2F of the Apartment Design Guide. This is due to the adjoining developments at Nos. 2-8 and 12 James Street being constructed (or approved) with zero setbacks to the shared boundaries. In this context, it is physically impossible for the subject site to achieve the nominated 24 metre separation between habitable rooms or 18 metres between habitable and non-habitable rooms. The non-compliance is not reasonable due to the existing or approved built forms, and it is not fully mitigated by the proposed design measures that maintain residential amenity. These include a combination of physical separation at the rear, high-level windows with 1.8 metre sill heights however there still would be potential direct overlooking from higher levels of adjoining development and would involve unreasonable privacy impacts. Importantly, the current proposal does not represent a significant improvement in privacy and amenity outcomes when compared to DA/658/2012/HB. In this context, the proposed building separation is not considered acceptable on merit.	
up to 12m (4 storeys)	12m	9m	6m		
Up to 25m (5-8 storeys)	18m	9m	13.5m		
Over 25m (9+ storeys)	24m	12m	18m		
2G Street Setbacks					
Determine street setback controls relative to the desired streetscape and building forms, for example:				The proposed development is built to the front boundary on levels 1 and 2 (carparking) and is set back minimally on Levels 3 – 11. These	No

Clause	Comment	Compliance
- Define a future streetscape with the front building line - Match existing development - Step back from special buildings - Retain significant trees - In centres the street setback may need to be consistent to reinforce the street edge - Consider articulation zones accommodating balconies, landscaping etc. within the street setback - Use a setback range where the desired character is for variation within overall consistency, or where subdivision is at an angle to the street - Manage corner sites and secondary road frontages	setbacks vary between 886mm, 1493mm and 3700mm. As the tower at Nos. 2-8 James Street is set back 2m, the proposed Level 1 and Level 2 carpark facades project forward of the existing building to the west and Levels 3 - 11, are slightly set back in a range of alignments. These minimal proposed setbacks do not align at any point with the existing building to the west or the approved building to the east and consequently create a discordant series of built forms within an otherwise consistent streetscape.	
2H Side and rear setbacks		
Test side and rear setbacks with height controls for overshadowing of the site, adjoining properties and open spaces: - building separation and visual privacy - communal and private open space - deep soil zone requirements	The proposal does not achieve compliant side and rear building setbacks and is not supported based on the same reasons provided for under the building separation variation.	No
Part 3 - Siting the Development This part provides guidance on the design and configuration of apartment development at a site scale. Objectives, design criteria and design guidance outline how to relate to the immediate context, consider the interface to neighbours and the public domain, achieve quality open spaces and maximise residential amenity. It is to be used during the design process and in the preparation and assessment of development applications		
3B Orientation		
Building types and layouts respond to the streetscape and site while optimising solar access and minimising overshadowing of neighbouring properties in winter.	The building layout has not been orientated to address the intended or existing character of the streetscape with no provision of a suitable building height transition to James Street.	No
3C Public domain interface		
Transition between private & public domain is achieved without compromising safety and security and amenity of the public domain is retained and enhanced.	The building does not contain well defined private and communal open spaces that transitions adequately from the public domain (refer to Council's Urban Design	No

Clause	Comment	Compliance												
	Officer comments under Section 6 of this report for further information).													
3D Communal & public open space														
Provide communal open space with an area equal to 25% of site	The applicant has states that 33% of the site is communal open space however this is questioned as the quality of the rear landscaped area and the size of the pool on the rooftop terrace are not supported.	No												
Minimum 50% of usable area of communal open space to receive direct sunlight for a minimum of 2 hours between 9 am and 3 pm on 21 June.	The proposal achieves above 50% of direct sunlight to the communal open space only if the rooftop terrace area without a pool would be counted towards as areas as common open space.	No												
3E Deep Soil Zone														
Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality. Deep soil zones are to be provided equal to 7% of the site area and with min dimension of 6m for sites areas greater than 1500m².	8.2% of the site area is a deep soil zone with minimum dimension of 6m	Yes												
3F Visual Privacy														
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 border="1"> <thead> <tr> <th>Building Height</th><th>Habitable rooms & balconies</th><th>Non habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td><td>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>12</td><td>6</td></tr> </tbody> </table>	Building Height	Habitable rooms & balconies	Non habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12	6	See Section 2F of this table above in relation to building separation discussion.	No
Building Height	Habitable rooms & balconies	Non habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12	6												

Clause	Comment	Compliance
3G Pedestrian Access & entries		
Pedestrian access, entries and pathways are accessible and easy to identify.	It is not clear from the drawings how the area of deep soil to the rear will be accessed. It has the potential to add an amenity to the residents if it is made accessible. Above-ground parking limits street-level activation and passive surveillance, with only a small foyer at ground level containing no residential or commercial uses.	No
3H Vehicle Access		
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	Vehicle access and egress is proposed to be provided at James Street. Council's Traffic and Transport Officer has reviewed the proposed vehicular access and raises no objections subject to conditions of consent.	Yes.
3J Bicycle and car parking		
<u>Car parking</u> For development on sites that are within 800m of a railway station, the minimum parking for residents and visitors to be as per RMS Guide to Traffic Generating Developments, or Council's car parking requirement, whichever is less.	64 car spaces are proposed with a combination of basement, at-grade and above-ground levels. Council's Traffic and Transport Officer has reviewed the proposed car parking and raises no objections subject to conditions of consent.	Yes.
<u>Bicycle Parking</u> Provide adequate motorbike, scooter and bicycle parking space (undercover).	The proposal provides 50 bicycle spaces (five for visitors and 45 within individual residential storage cages). Council's Traffic and Transport Officer has reviewed the proposed bicycle parking and raises no objections subject to conditions of consent.	Yes.

Clause	Comment	Compliance
Part 4 - Designing the Building This part addresses the design of apartment buildings in more detail. It focuses on building form, layout, functionality, landscape design, environmental performance and residential amenity. It is to be used during the design process and in the preparation and assessment of development applications		
4A Solar & daylight access		
Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.	The applicant states that 71.1% of all units receive a minimum of two hours direct sunlight between 9am and 3pm at mid-winter however the submitted plans do not contain evidence of achieving solar access to comply with the ADG (with no submission of appropriate eye from the sun modelling being submitted with the subject application.	No
A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter	22% of apartments do not receive direct sunlight in mid-winter. While this marginally exceeds the 15% ADG guideline, the variation is not reasonable given the number of other variations being proposed. An appropriate design has not occurred which respects the site constraints and the built form of adjoining towers. The development has not demonstrated that an appropriate solar access has been achieved along with addressing relevant and functional layouts and natural cross ventilation matters have been met. The outcome is not acceptable on merit.	No
4B Natural Ventilation		
At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	80% of all units are naturally cross ventilated however according to Council's Sustainability this has not been fully demonstrated.	No
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	Overall depth of a cross-over or cross-through apartment does not exceed 18m.	Yes

Clause	Comment	Compliance
4C Ceiling Heights		
Ceiling height achieves sufficient natural ventilation and daylight access. The development is required to provide 2.7m minimum ceiling heights.	All floors achieve sufficient height.	Yes
4D Apartment size and layout		
Apartments are required to have the following minimum internal areas with one bathroom: • 1 bedroom = 50m² • 2 bedrooms = 70m² • 3 bedrooms = 90m² Additional internal space required for each additional bedroom or bathroom.	The proposed apartments have the following minimum internal areas: • 88-90sqm for 2 bedrooms • 119-121sqm for 3 bedrooms • 127sqm for 4 bedrooms. However as mentioned above, the proposed internal layouts of the four-bedroom apartments are not supported, and the proposal requires a substantial redesign.	Not satisfactory
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	All apartments exceed the minimum requirements.	Yes
Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry space).	The maximum habitable room depth is 8m from a window.	Yes
Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan where the living, dining and kitchen are combined, there is to be a maximum depth of 8m from a window.	Habitable room depths do not exceed 2.5m times of the ceiling height.	Yes
Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	The proposal provides above 12sqm of area for master bedrooms and above 9sqm for other bedrooms.	Yes
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	The proposed bedrooms have a minimum dimension of 3m.	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 proposal provided above 4m minimum width for living rooms.	Yes

Clause	Comment	Compliance												
The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	All units exceed a minimum width of 4m internally.	Yes												
4E Private Open Space and balconies														
All apartments are required to have primary balconies as follows: <table border="1"> <thead> <tr> <th>Dwelling type</th><th>Min area</th><th>Min depth</th></tr> </thead> <tbody> <tr> <td>1 bedroom</td><td>8m²</td><td>2m</td></tr> <tr> <td>2 bedroom</td><td>10m²</td><td>2m</td></tr> <tr> <td>3 bedroom</td><td>12m²</td><td>2.4m</td></tr> </tbody> </table>	Dwelling type	Min area	Min depth	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3 bedroom	12m ²	2.4m	The apartments have adhered to the balcony areas and dimensions.	Yes
Dwelling type	Min area	Min depth												
1 bedroom	8m ²	2m												
2 bedroom	10m ²	2m												
3 bedroom	12m 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 15m ² and a minimum depth of 3m	No apartments are provided in the podium or ground floor which is not supported in this instance.	No												
4F Common circulation and spaces.														
The maximum number of apartments off a circulation core on a single level is 8.	The development proposes a maximum of four units to be accessed from the circulation space on a single level.	Yes												
4G Storage														
In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided: <table border="1"> <thead> <tr> <th>Dwelling type</th><th>Storage volume</th><th>size</th></tr> </thead> <tbody> <tr> <td>1 bedroom apt</td><td>6m³</td><td></td></tr> <tr> <td>2 bedroom apt</td><td>8m³</td><td></td></tr> <tr> <td>3+ bedroom apt</td><td>10m³</td><td></td></tr> </tbody> </table> At least 50% of the required storage is to be located within the apartment.	Dwelling type	Storage volume	size	1 bedroom apt	6m ³		2 bedroom apt	8m ³		3+ bedroom apt	10m ³		Not addressed by the applicant in their DA submission	No
Dwelling type	Storage volume	size												
1 bedroom apt	6m ³													
2 bedroom apt	8m ³													
3+ bedroom apt	10m ³													
4H Acoustic privacy														
Noise transfer is minimised through the siting of buildings, building layout, and acoustic treatments. Plant rooms, services and communal open space and the like to be located at least 3m away from the bedrooms.	No appropriate acoustic and vibration have been submitted by the applicant as part of their DA submission. However, as part of the Court appeal, the applicant had subsequently lodged the required report for consideration.	No												

Clause	Comment	Compliance
Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.		
4K Apartment mix		
A range of apartment types with different number of bedrooms (1bed, 2 bed, 3 bed etc) should be provided.	The development has incorporated the following apartment mix: • 27: two-bedroom units. • 8: three-bedroom units. • 10: four-bedroom units. As mentioned above, the proposed internal layouts of the four-bedroom units are not supported. It is considered that the applicant has not appropriately considered the relevant social impacts as no one-bedroom units are proposed where the design has been dictated by market forces analysis rather than addressing the affordable housing aspects.	No
4M Facades		
Building facades to provide visual interest, respect the character of the local area and deliver amenity and safety for residents. Building functions are expressed by the façade.	Comments to be provided from the DAP regarding the adequacy of the proposed façade design which clearly requires a substantial refinement.	No
4N Roof design		
Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use the roof space for residential accommodation and open space are maximised. Roof design incorporates sustainability features.	The development has proposed a relatively flat roof design which is integrated with the overall development. All plant equipment would be adequately screened and located toward the centre of the roof.	Yes

Clause	Comment	Compliance
4O Landscape design		
Landscape design contributes to the streetscape and amenity. Landscape design is viable and sustainable. Sites greater than 1,500m²: 1 large tree or 2 medium trees per 80m² of deep soil zone	As mentioned earlier in this report and table, the proposed landscaped scheme is not supported as the rear landscaped area is 'dead' space and the proposed pool on the roof top terraces would dominate the use of the limited common open space areas being provided for this development.	No
4P Planting on structures		
Appropriate soil profiles are provided.	Soil depth and soil volume within planters /over the basement /on podium structure /over OSD is inadequate and does not meet the ADG requirements. • There is no soil on structure shown for the podium roof terrace. • The proposed trees are shown in small pots and will not survive due to the lack of soil available. • For a small tree minimum 9m³ is required to ensure the tree thrives in the locality.	No
4Q Universal design		
Universal design features are included in apartment design to promote flexible housing for all community members. A variety of apartments with adaptable designs are to be provided.	Whilst the minimum number of accessible units are provided for (nine liveable and seven accessible units). Council's Universal Design (Accessibility) Officer has reviewed the application and noted the following deficiencies in the design as follows: 1. The proposed platform lift is not an acceptable outcome. 2. Ensure the active leaf of doors provide a minimum 850mm clearance.	No

Clause	Comment	Compliance
	3. Ensure low level thresholds are provided at the doors providing access all areas. 4. The abutments of varying surfaces are to provide level transitions. 5. Ensure equipment and furniture provide suitable features for persons with a mobility impairment.	
4U Energy efficiency		
Development incorporates passive environmental design measures – solar design, natural ventilation etc.	The energy efficiency approach adopted in the submitted documentation and have not been supported by Council's Sustainability Consultant as follows: • Further work required to demonstrate natural cross ventilation is achieved. • Applicant to address Part 5.4 of the DCP and have noted those items where a response is needed. • The BASIX package requires amendment. • The BASIX certificate commits to no air conditioning in bedrooms and an unheated swimming pool.	No
4W Waste Management		
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents. Domestic waste is minimised by providing safe and convenient source separation and recycling.	No objections are raised subject to conditions.	Yes

8.7 Parramatta Local Environmental Plan 2023

8.7.1 LEP Development Standards

The relevant matters to be considered under PLEP 2023 for the proposed development are outlined below.

Standards and Provisions	Compliance
Part 4 Principal development standards	
Section 4.3 Height of buildings Allowable: 57m	Proposed: Maximum 56.05m however also failed to properly assess the relevant Building Height Development Standard of PLEP 2023 where it had not factored in the new natural ground levels of the recently excavated basement level. As a result, the proposed compliance with the building height taken from the original ground levels is now not compliant and there is no lodged Clause 4.6 written submission to justify the jurisdictional non-compliance. The applicant would need to prepare and submit the required Clause 4.6 submission to the Court as part of the appeal process.
Section 4.4 Floor space ratio Allowable: 4:1 or 3,664sqm	FSR: 5.8:1 GFA: 5,300.5sqm The proposed FSR variation has been supported by submission of a Clause 4.6 written submission and is not supported in this instance.
 Figure 10: FSR map	
Section 4.6 Exceptions to Development Standards	A variation to the LEP FSR Development Standard is proposed. A written Clause 4.6 submission has been submitted as part of the subject Development Application however the proposed variation is excessive and is not supported in this instance.
Part 5 Miscellaneous provisions	
Section 5.1A Development on land intended to be acquired for public purposes	The subject site is not identified on the map.

Section 5.6 Architectural roof features	An architectural roof feature is not proposed.
Section 5.7 Development below mean high water mark	The subject site is not identified on the map.
Section 5.10 Heritage conservation	The site does not contain a heritage item, and it is not located within a heritage conservation area. However, the subject site is in vicinity of several heritage items of local significance. The heritage impact of this proposal has been addressed under Section 6 of this report and has been supported by Council's Heritage Advisor.
Section 5.11 Bush fire hazard reduction	The subject site is not identified on the map.
Section 5.21 Flood Planning	The subject site is not identified as flood prone.
Part 6 Additional local provisions	
Section 6. 1 Acid sulfate soils	The site is not mapped as containing Acid Sulfate Soils.
Section 6. 2 Earthworks	No substantial earthworks are proposed as part of the subject application as excavation basement works have already been undertaken under a previous development consent. Any works would be undertaken subject to appropriate engineering techniques.
Section 6. 3 Biodiversity	The subject site is not identified on the map.
Section 6. 4 Riparian land and waterways	The subject site is not identified on the map.
Section 6. 5 Stormwater management	Council's Development Engineer is not satisfied that the level of details submitted would ensure that the proposed stormwater drainage design which includes an OSD would be appropriately managed.
Section 6. 6 Foreshore area	The subject site is not identified on the map.
Section 6.7 Essential Services	There are existing electrical, telecoms, sewer and water connections available to the site and therefore can be sufficiently serviced by the required essential services.
Section 6.8 Landslide Risk	The subject site is not identified on the map.
Section 6.13 Design Excellence	The subject site is not identified on the map.
Section 6.17 Underground power lines on certain land at Carlingford	The site is not mapped as located on underground powerlines and therefore is compliant.

8.7.2 Section 4.6 Exceptions to Development Standards

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. A variation to the FSR Development Standard is proposed and the applicant has submitted a detailed written Clause 4.6 submission to support the proposed variation.

FSR Variation Request

The proposal does not comply with the maximum 4:1 FSR Development Standard detailed in Clause 4.4 of PLEP 2023.

The variation to the standard relates to enabling the proposed building form and apartment yield. This equates to a 1.8:1 (45%) variation.

The necessity for this variation arises from the specific site context and design approach.

The site is flanked by a relatively new 18 storey mixed use development at Nos. 2-8 James Street and an approved 18 storey mixed use development at Nos. 12 James Street (DA/80/2019) which relied upon a Clause 4.6 due to an exceedance of the 5:1 maximum FSR to the approved FSR of 6:1 under The Hills Local Environmental Plan 2012.

According to the applicant, to achieve a built form that is compatible with this emerging character and to deliver a high-quality residential outcome (including larger apartments for families), a higher FSR is proposed on the subject site.

Importantly, the proposed 5.8:1 FSR does not translate to a disproportionate visible bulk because the envelope remains in harmony with the neighbouring buildings, and the additional floor area is accommodated within the design in a manner that minimises external impacts.

Additionally, the applicant had contended that the proposed building's height remained compliant with the maximum 57m height of building control under Clause 4.3 of PLEP 2021 however it has been discovered that this is not the case. The applicant would need to address this technical non-compliance by lodging a Clause 4.6 written submission as well.

Given the departure to the FSR Development Standard, the applicant has submitted a request to vary the FSR standard under Clause 4.6 of PLEP 2023.

Clause 4.6(1) – Objectives of clause 4.6

The objectives of this clause are:

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

Clause 4.6(2) – Operation of clause 4.6

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

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

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

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

The applicant has provided the following commentary and environmental planning grounds to justify the non-compliance with the Development Standard (relevant extracts provided).

The full request is included at Attachment 4.

Whether compliance with the development standard is unreasonable or unnecessary

(a) to ensure buildings are compatible with the bulk, scale and character of existing and desired future development in the surrounding area,

The site is located within the Carlingford Central Precinct and is identified as part of Block 4 under Section 8.2.8.1 of the Parramatta Development Control Plan 2023.

Block 4 comprises 2-8 James Street, 10 James Street (the subject site), and 12 James Street. While the DCP envisaged an amalgamated outcome across the block with two 18-storey towers and a coordinated built form, this has not occurred.

Instead, development has proceeded in a fragmented manner.

On either side of the subject site, Council has approved 18-storey mixed use developments—one constructed at 2- 8 James Street, and one approved at 12 James Street (DA/80/2019).

Notably, the consent at 12 James Street relied on a Clause 4.6 variation to exceed the 5:1 FSR under The Hills LEP 2012, approving an FSR of 6:1.

Both adjoining towers were approved at or close to the boundary of 10 James Street, inconsistent with the envisaged built form.

The building at 2-8 James Street also departs from the built form envisaged in the DCP by adopting an elongated form.

The elongated form of 2-8 James Street significantly mitigates any overshadowing impacts from development at 10 James Street on sensitive locations further south, including 1 Jenkins Street and the K13 Submarine Memorial Park. Importantly, critical solar access to the K13 Memorial Park and nearby residential uses is maintained throughout the day.

In this context, the proposed 16-storey residential flat building at 10 James Street sits comfortably between two existing and approved 18-storey buildings. It maintains a similar building height while incorporating the additional floor space behind the facade (FSR 5.8:1) within a built form that is consistent with its neighbours. Given the precedent established by the adjoining approvals and the fact that the envisioned built form under the DCP has not been realised, a strict enforcement of the

4:1 FSR control would result in an under-scaled and inconsistent outcome. Conversely, the proposal achieves a logical and visually cohesive continuation of the high-density character of James Street.

Furthermore, the additional GFA is accommodated behind the principal façade line, such that the proposal does not appear significantly bulkier than a compliant building when viewed from the street. The proposal sits between two existing or approved high-density developments at 2-8 and 12 James Street, both of which establish the prevailing height, scale and urban grain of the precinct. The proposed built form continues this pattern and does not introduce material overshadowing impact beyond that already cast by adjoining buildings (and avoids any overshadowing to sensitive land uses). The additional density is absorbed within a compliant height envelope and does not unreasonably increase the building's apparent bulk or street wall. Therefore, the environmental impacts of the additional floor space will be negligible due to the building's alignment and relationship to adjoining sites.

Given this site-specific context, and the fact that the proposal satisfies the design intent and scale anticipated for this part of Carlingford, this objective is achieved notwithstanding non-compliance.

(b) to regulate density of development and generation of vehicular and pedestrian traffic,

The development proposes 45 residential apartments in an area that has been identified for high density residential development, and is supported by public transport, being located approximately 60 metres from the Carlingford Light Rail stop.

The intensity of development resulting from the proposed 5.8:1 FSR is consistent with that already approved on adjoining sites at 2-8 and 12 James Street, both of which contain or will contain 17- to 18-storey residential towers with greater apartment yields. The proposed scale of development and its associated residential density can be suitably accommodated within the local street network and public transport services (refer to the Transport Impact Assessment (TIA)...

The proposed vehicle access is from James Street and integrates with an existing semi-constructed basement car park. The development will provide compliant on-site parking across five levels (two basement levels and three podium levels) and ensures that overflow parking impacts on the street network are minimised. The TIA concludes that the development will not have any adverse traffic impacts on nearby streets or intersections

Pedestrian activity generated by the proposal is appropriate for a location adjacent to public transport and within a high-density precinct. The site layout and access arrangements will support safe pedestrian movement to and from James Street and surrounding streets. Therefore, while the proposal exceeds the FSR standard, it does not generate a level of density or movement inconsistent with the objectives of the development standard. The objective of regulating vehicular and pedestrian movement remains satisfied.

(c) to provide a transition in built form and land use intensity,

The subject site is located within a consolidated high-density residential area bounded by 2-8 James Street and 12 James Street. Both of these sites contain or are approved for 18-storey mixed use developments. The proposed 16-storey building at 10 James Street sits between these developments and provides an appropriate continuation of the high-density built form already established on either side.

Given that the street frontage has already been defined by tall towers built to the shared boundaries with 10 James Street, it is considered that a reduced-scale development on the subject site would create an inconsistent and abrupt visual break in the streetscape. The proposed development, by aligning in height and massing with its neighbours, achieves a coherent and legible built form along James Street.

Further transition occurs at a broader scale. South of the site, beyond the rail corridor, built form lowers to low- and medium-density. The tower form at 2-8 James Street, which adopts a longer profile than that envisaged under the DCP, has effectively buffered the subject site from directly overshadowing any sensitive southern areas... This allows the proposed development at 10 James Street to provide the proposed built form for the block without creating additional shadow or visual bulk impacts to the south.

The land use intensity is also appropriate for the location. The site is within walking distance of the Carlingford Light Rail stop and located in a precinct zoned R4 High Density Residential, which supports the proposed development density. The variation to FSR does not result in an intensity of use that is inconsistent with the planned function of the area, nor does it compromise the ability of the surrounding area to transition to its desired future character. Therefore, the development delivers a suitable transition in built form and land use intensity within its local context and satisfies the objective.

(d) to require the bulk and scale of future buildings to be appropriate in relation to heritage sites and their settings,

The proposal does not adversely impact any heritage item or its setting. The site is located adjacent to Item I42 – Carlingford Stock Feeds, but is physically separated from the heritage building, which is located to the northeast and occupies only a small portion of the mapped heritage item. As confirmed by the Statement of Heritage Impact (...), the bulk, scale and alignment of the proposed development are appropriate in light of the surrounding context, which is already characterised by multi-storey residential and mixed-use developments. The existing built form in the area, including existing or approved high-rise towers at 2-8 and 12 James Street, provides a visual and spatial buffer that minimises any potential heritage interface. Key view corridors to and from the heritage item have already been modified by surrounding development and are not considered integral to its significance. As such, the proposal will not result in any adverse heritage impact and is consistent with the objective.

(e) to reinforce and respect the existing character and scale of low density residential areas.

The subject site is not located within or immediately adjoining a low-density residential area. It forms part of the Carlingford Central Precinct and is zoned R4 High Density Residential, where high density residential flat buildings are envisaged. The existing character of the immediate streetscape is already defined by high-rise development, including the constructed 18-storey tower at 2-8 James Street and the approved 18-storey tower at 12 James Street. These developments directly adjoin the subject site on both sides and establish the prevailing scale and built form of the block.

There is no interface with land zoned R2 Low Density Residential or land that exhibits a low-rise character within the immediate vicinity. The Carlingford Light Rail corridor forms a physical and visual buffer between this highdensity precinct and any lower density land further to the south. In this context, the proposed development does not undermine the character or scale of any low-density residential area. Additionally, there is no overshadowing impact on any low-density residential area.

Accordingly, the proposed development respects the intent of this objective by maintaining the distinction between the high-density character of James Street and other residential typologies elsewhere in the locality, nor does not impose an inappropriate scale at the edge of a low density area. This objective is therefore not directly relevant in this instance, but nonetheless, the development is consistent with it.

Environmental planning grounds to justify contravention of the development standard

Test 1 - Is the proposal's appearance in harmony with the buildings around it and the character of the street?

Yes. The proposal presents a built form that is consistent with the existing and approved development at 2-8 and 12 James Street, both of which are 18-storey towers. The proposed 16-storey height and 5.8:1 FSR are directly comparable in scale. The adjoining site at 12 James Street (approved under DA/80/2019) was granted consent with a similar 6:1 FSR through a clause 4.6 variation to The Hills LEP 2012. Both adjoining towers are constructed to the boundaries of the site, effectively defining the built form envelope.

The proposed building maintains visual consistency with the street and general massing of those developments. Its location in a high-density residential precinct adjacent to a light rail stop supports the building's scale. The non-compliant portion of the development therefore appears in harmony with its surrounds and reinforces the existing character of the James Street streetscape.

Test 2 - Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

Yes. The proposed exceedance in FSR does not result in adverse environmental impacts. The additional floor area is accommodated within a height and footprint that closely aligns with surrounding built form as discussed above. The adjoining building at 2-8 James Street features an elongated layout that mitigates overshadowing from future development at 10 James Street.

The non-compliant portion of GFA is located behind the principal façade and does not contribute to any perceived increase in bulk. Where this floor area extends toward side boundaries, the proposal includes separation, high-level windows, and blank walls to protect the amenity of adjoining developments. As such, the additional GFA does not result in any material impact on visual privacy or residential amenity.

The subject building will not unreasonably overshadow public open space or private properties. As demonstrated in the accompanying shadow diagrams (...), the proposed development will have no materially greater overshadowing or visual impact than a compliant design. The Visual Impact Assessment concludes that the proposed development results in no unreasonable visual impact, and the accompanying urban design statement confirms that the proposed built form will not adversely impact the character of the streetscape. The non-compliance therefore does not constrain the development potential of adjoining sites.

Given the above, the requirements of Test 1 and Test 2 are met, this demonstrates that adverse impacts are avoided to promote the "good design and amenity of the built environment" providing sufficient environmental planning grounds to justify the variation to the height standard under Clause 4.6(3)(b).

In summary, the following environmental planning grounds are put forward to justify contravening the development standard.

- The non-compliance results in a built form that integrates with the approved 18-storey towers on either side, promoting visual consistency and compatibility with the existing streetscape.
- The non-compliance promotes the orderly and economic use of land by providing a high-density development in an appropriate zone, providing for additional dwellings to contribute to targets set by the National Housing Accord, and accommodating larger family-sized apartments contributing to diversity of dwelling mix.

- *The non-compliant portion of the development achieves equal amenity outcomes compared to a complaint design, with no appreciable additional overshadowing or material privacy or amenity impact, with the increased GFA absorbed behind the façade.*

Council Comments

An assessment to determine whether compliance with the standard is ‘unreasonable and unnecessary’ has been undertaken. It is not considered that there are ‘sufficient planning grounds’ to support the variation and recommend the variation not be supported for the following reasons:

Unreasonable and Unnecessary

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

Wehbe v Pittwater Council

Case law in the NSW LEC has considered circumstances in which an exception to a Development Standard may be well founded. In the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827 the presiding Chief Judge outlined the following five circumstances:

The objectives of the Development Standard are not achieved notwithstanding non-compliance with the standard.

<i>FSR Objectives</i>	<i>Proposal</i>
<i>a) to ensure buildings are compatible with the bulk, scale and character of existing and desired future development in the surrounding area,</i>	The proposal does not provide acceptable transition between buildings and to the James Street streetscape. The massing and built form do not respond to the intended built form controls of the site and the proposal would need to provide for a, appropriate transition in built form by stepping back upper levels to create a tower like outcome. Despite the variation, it is considered that the FSR would not be reflective of existing/future developments within the locality and was originally expected on the subject site. The variation is excessive and would result in significant adverse visual streetscape impacts, particularly when viewed from all three separate developments on Nos. 2-12 James Street. The proposed variation would not provide a planning benefit with the provision of only seven additional units when compared to the previous approved concept that affords better amenity outcomes.

	The proposed extent of the FSR by 45% with parking levels above would have a significant adverse visual impact upon the locality which would cause additional unnecessary overshadowing onto surrounding properties including the public domain areas.
<i>b) to regulate density of development and generation of vehicular and pedestrian traffic,</i>	Considered unsatisfactory in relation to the proposed impacts onto the adjoining existing/approved tower developments where the subject proposal as submitted would not maintain or improve the amenity of the residents to those towers. The proposed extent of the FSR by 45% with levels of above ground parking would have a significant adverse visual impact upon the locality which would cause additional unnecessary overshadowing onto surrounding properties including public domain areas. The proposed FSR would not contain significant adverse vehicular or pedestrian traffic impacts.
<i>c) to provide a transition in built form and land use intensity,</i>	As discussed above, the proposed works would not be expected to provide for a satisfactory building transition which was originally intended for by providing a visual break between the three buildings on this side of James Street. The building on this site was always intended to be lower than the towers on Nos. 2-8 James Street and No. 12 James Street. The proposal does not provide for a satisfactory building transition in this instance. The proposed large FSR with levels of above ground parking does result in a development that would detrimentally impact on the existing character of the area and on adjoining developments including the future residents of the proposed development itself.
<i>d) to require the bulk and scale of future buildings to be appropriate in relation to heritage sites and their settings,</i>	The proposed FSR would not contain significant adverse heritage impacts.
<i>e) to reinforce and respect the existing character and scale of low density residential areas.</i>	The proposed development is not in the vicinity of any low-density residential areas and as a result would have no impacts.

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

Whilst the applicant does not challenge that the underlying objectives are not relevant however it is considered that that the applicant has not demonstrated that the objectives of the FSR Development Standard are achieved notwithstanding the proposed variation.

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

If compliance was required or at least the extent of the large variation was substantially reduced, the built form and density anticipated by the DCP would be better achieved. The DCP outcomes are the ‘underlying objectives’ for the future built intended outcomes on this site and as such strict compliance with Clause 4.4 of the LEP would not thwart them but rather assist in achieving them.

The development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable

The applicant does not contend that the FSR standard has been abandoned although the approval at No. 12 James Street did involve a FSR variation supported by a Clause 4.6 written submission. That consent was issued by another Council, and it is contended that despite that approval the Development Standard has not been abandoned however approval of the subject Clause 4.6 would not assist in the intent in upholding the integrity of the FSR Development Standard within the Carlingford Precinct. Regardless, the proposed variation and the extent of it is not supported in this instance.

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

Council holds that the zoning is reasonable and appropriate in this instance and does not rely on this test.

Four2Five Pty Ltd v Ashfield Council

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

In this case, upholding the integrity of the site specific DCP controls is the justification in not supporting the proposed FSR variation and the applicant had not provided sufficient planning grounds for the Panel to support the submitted Clause 4.6 written submission.

Initial Action Pty Ltd v Woollahra Municipal Council

Chief Judge Preston, in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 clarified, at paragraph 87, that, “*Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development*”.

Whilst it is not considered that the proposal would have several benefits over a compliant scheme other than providing more yield, the Panel does not have to be satisfied in relation to such a test.

Again, the Panel ought to refuse the Clause 4.6 as it has not provided sufficient grounds to support such a large variation to FSR in this instance.

Clause 4.6(4)

Consent Authority Assessment of Proposed Variation Clause 4.6(4) of PLEP 2023 outlines that “the consent authority must keep a record of its assessment carried out under subclause (3).”

Comment: The matters of clause 4.6(4) have been dealt with in the preceding section.

Conclusion

In summary, it is not considered that breaching the FSR standard is appropriate as it is not consistent with envisioned built form for the subject site and its surrounds.

It is considered that the applicant’s written request has not adequately addressed the matters required to be demonstrated and that the request to vary the FSR Development Standard within PLEP 2023 cannot be supported as the proposal does not achieve the objectives of the standard and the zoning. Approval of the proposal in its current form would be contrary to the public interest. In reaching this conclusion, regard has been given to the relevant Judgements of the LEC.

9. DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no draft Environmental Planning Instruments (EPIs) relevant to the subject application.

10. DEVELOPMENT CONTROL PLAN

PARRAMATTA DEVELOPMENT CONTROL PLAN 2023

The relevant matters to be considered under PDCP 2023 for the proposed development are outlined below.

Note: Clause 149 of SEPP (Housing) 2021 limits the application of PDCP 2023 in the following matters:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

Development Control	Comment	Compliance
Part 2 – Design in Context		
2.3 Preliminary Building Envelope	The proposed building envelope is not considered to be acceptable in this instance given the character of the area.	No
2.4 Building Form and Massing	The bulk and scale are not suitable for the site and positively responds to the surrounding context.	No

2.5 Streetscape and Building Address	The overall form of the development and design is not considered suitable for the subject site and is not conducive of the site constraints.	No
2.6 Fences	Only rear fencing is proposed due to limited side setbacks proposed and is of a satisfactory nature.	Satisfactory
2.8 Views and Vistas	There are no significant views and vistas from the subject site.	N/A.
2.9 Public Domain	Council's Public Domain team have reviewed the application and requested additional information regarding street activation and public domain matters (see Section 6 of this report for further details).	No
2.10 Accessibility and Connectivity	The proposal has not satisfactorily addressed both the accessibility and connectivity matters facing this development site. The proposed rear area is considered to constitute as 'dead' space and there are steps proposed to the lobby area off the James Street entrance. Pedestrian access and public domain access for all is not successfully promoted throughout the site and the design is not considered to be sufficient (see Section 6 of this report for further details).	No
2.11 Access for People with Disabilities	As mentioned previously in this report, matters relating to accessibility have not been adequately addressed by the applicant.	No
2.14 Safety and Security	Opportunities for casual surveillance of public domain are lost due to no commercial or apartments on the ground level. Unsupportive comments have been provided from DAP and Council's Landscaping and Urban Design Sections regarding the adequacy of the design of the proposed building. Although NSW Police have supported the proposal subject to safety by design recommendations, it is considered that there is ample opportunity for design improvements to be made to increase surveillance and safety for future residents.	No
Part 3 – Residential Development		
3.1 Housing Diversity and Choice		
3.1.2 Dwelling Mix <i>The following dwelling mix is required for RFBs, containing 10 or more dwellings:</i> (a) 10-20% of dwellings to have 3 or more bedrooms.	A total of 60% of units are two bedrooms, whilst 40% of bedrooms are three and four-bedroom units. There are concerns with the proposed mix in that there are no one-bedroom units to promote the principles of affordable housing and there are too many four-bedroom units that have inappropriate internal layouts.	No

(b) 60-75% of dwellings to have 2 bedrooms. (c) 10-20% of dwellings to have 1 bedroom/studio.		
3.1.3 Accessible and Adaptable Housing <i>Residential flat buildings are to provide adaptable housing in accordance with the below:</i> • 10 or more apartments = 15% total dwellings	The proposal includes nine liveable apartments, with seven of those accessible apartments, which is compliant with the DCP.	Yes
3.2 General Residential Controls		
3.2.1 Solar Access and Ventilation C.01 Dwellings within the development site and on adjoining properties are to receive a minimum 3 hours of sunlight to primary living areas between 9am and 3pm on 21 June. C.02 Private open spaces within the development site and on adjoining properties are to receive a minimum 3 hours of sunlight to at least 50% of the private open space area between 9am and 3pm on 21 June	The applicant has stated that the proposal is compliant with the ADG which requires a minimum of two hours rather three hours under the DCP. However, the veracity of this claim has not been fully tested as the applicant had not submitted sun eye modelling to even demonstrate that it complies with the minimum ADG requirements. However, the applicant had submitted such modelling as part of the Court appeal which is under its consideration.	No
3.2.2 Visual and Acoustic Privacy	The proposed development does not comply with minimum building separation distances between habitable rooms as specified in Section 3F of the ADG and the privacy measures would not completely prevent direct overlooking in a high-density residential environment. Refer to the DAP comments earlier in this report which discuss that internal layouts and changes required to the privacy measures to windows.	No

	Further, the applicant had not submitted a required Acoustic/Vibration Report to fully address the relevant requirements of the Infrastructure SEPP and the DCP. However, the applicant had lodged the report under the Court appeal for its consideration.	
3.4.2 Swimming Pools	As mentioned earlier in this report, there are concerns with the location, use and size of the proposed swimming on the rooftop terrace that would significantly adversely impact on the useability of the limited common open space area for the development.	Not satisfactory
3.5 Apartment Buildings		
3.5.1 Key Development Standards for Apartment Buildings		
3.5.1.1 Minimum Site Frontage		
Min. 24m site frontage at building line	The proposed site frontage is a departure from the numeric standards. A compliant scheme is unachievable for the site however a responsive design that takes this constraint into account has not occurred in this instance which indicates that the proposal represents as a form of overdevelopment on the subject site.	No
Corner lots must have a minimum site frontage width of 18m for the shortest street frontage.	The subject development site is not a corner site.	N/A
3.5.1.2 Preliminary Building Envelope		
Building Height		
There are no equivalent height/storeys under this control as the site is subject to the Carlingford Precinct controls (see table further below)	N/A - the proposal is not compliant with PLEP maximum 57m height limit where the applicant had not lodged the required Clause 4.6 written submission (as it originally contended that it complied with the Building Height Development Standard). The applicant is currently preparing such a submission to the Court to satisfy relevant jurisdictional matters with the interpretation involved in measuring the building from what is now the new ground levels.	N/A
Any part of a basement or subfloor area that projects greater than 1m above NGL comprises a storey.	Noted – there are basement levels that are above 1m above NGL and are to be technically counted as storeys.	Yes
Street Setback		
6m front setback (including 3m setback for landscape)	Not achieved however the subject site is subject to key built form controls under the Carlingford Precinct section of the DCP.	No
Buildings must be set back a minimum of 3 metres from the secondary/laneway street.	As the lot has a very angled rear lot boundary line, not all sections of the site have a 3m rear setback to the rear laneway. The closest setback is 1.2m to the rear	No

	boundary, and the furthest setback to the rear boundary is 9.5m. The reduced setbacks when compared to the previous approved concept would reduce amenity levels for residents of the site and adjoining developments unless the design is amended to address the concerns such as the concerns raised by PDAP.	
Side and Rear Setbacks		
Side and rear setback are to be provided to ensure compliance with the residential privacy and separation requirements of the ADG.	See discussions above in this report regarding building separation and privacy. Refusal is recommended as proposal has not adequately addressed this variation.	No
3.5.1.3 Streetscape and Building Address	The proposal does not introduce any building height transition and the proposed façade treatments are not supported. The proposal requires substantial refinements to address this concern.	No
3.5.1.4 Open Space and Landscape		
<u>Deep Soil Zone</u> Required: Min. 30% of the site (50% to be located at the rear) On sites over 1,500m², a min. dimension of 6m will be required for at least 7% of the total site area in accordance with the ADG. The remaining 23% of the deep soil zone may be provided with a minimum dimension of 4m x 4m.	Deep soil has been provided in accordance with the ADG at approximately 8% which requires a minimum of 7%.	No
<u>Basements</u> Where basements are provided and extend beyond the building envelope, a min. soil depth of 1.2m is to be provided, measured from the top of the slab, and will not be calculated as part of the deep soil zone.	Council's Landscape and Tree Management Officer have reviewed the application. The officer notes that soil depths and volumes within planters and over the basement appear to be inadequate and do not meet the requirements of the ADG.	No
<u>Communal Open Space</u> Residential flat buildings must provide communal	The applicant has states that 33% of the site is communal open space however this is questioned as	No

open space to meet the requirements of Section 3D of the Apartment Design Guide.	the quality of the rear landscaped area and the size of the pool on the rooftop terrace are not supported.	
Private Open Space Private open space with a min. dimension of 2 metres must be provided for each dwelling as follows: a) 1-bedroom/studio units must provide a minimum of 8m² per dwelling. b) 2-bedroom units must provide a minimum of 12m² per dwellings. c) 3 or more-bedroom units must provide a minimum of 16m² per dwelling.	The proposal provides sufficient private open space as per Section 3D of the ADG.	Yes
3.5.1.5 Parking Design and Vehicular Access	A combination of basement, at-grade and above-grade carparking is proposed which is not supported. However, Council's Traffic and Transport have reviewed the proposed parking design and vehicular access and raise no objections subject to conditions of consent. Notwithstanding the above, it is noted that such an arrangement is not supported in principle from a planning, urban design and public domain perspective for reasons discussed earlier in this report unless the design is amended to address the concerns such as the concerns raised by PDAP.	No
3.5.1.6 Internal Amenity	Whilst the development provides for compliant ceiling heights, the proposal has failed to demonstrate that appropriate ground level treatment (ceiling heights), solar access and cross ventilation outcomes have been addressed, and this view has been supported by the DAP.	No
3.6 Residential Subdivision		
3.6.1 Site Consolidation and Development on Isolated Sites	The proposed development will not result in the creation of an isolated lot that could not be developed in compliance with the relevant planning controls, including the PLEP 2023 or PDCP 2023.	Yes
Part 5 – Environmental Management		
5.1 Water Management	Both Council's Development Engineer and Sustainability Consultant has reviewed the application and raised objections to the level of details submitted	No

	on the stormwater plans and with the submitted BASIX Certificate not mentioning the proposed pool within its water commitments. Further, the applicant had not adequately dealt with the relevant groundwater requirements in that the proposal does not propose the basement to be tanked (waterproofed).	
5.2 Hazard and Pollution management		
5.2.1 Control of Soil Erosion and Sedimentation	No objections are raised subject to conditions.	Yes
5.2.2 Acid Sulfate Soils	The site is not mapped as containing Acid Sulfate Soils.	N/A
5.2.3 Salinity	The proposal is not identified on the map.	N/A
5.2.4 Earthworks and Development of Sloping Land	No substantial earthworks are proposed as part of the subject application as excavation basement works have already been undertaken under a previous development consent. Any works would be undertaken subject to appropriate engineering techniques.	Yes
5.2.5 Land Contamination	A search of Council records did not include any reference to contamination on site or uses on the site that may have caused contamination and was appropriately dealt with under the previous consent.	N/A
5.2.6 Air Quality	N/A.	N/A
5.2.7 Bush Fire Prone Land	The site is not identified as bushfire prone.	N/A
5.3 Protection of the Natural Environment	No impact on the natural environment.	Yes
5.4 Environmental Performance	The overall environmental performance of the proposal is not supported for a variety of reasons as the applicant had provided no sustainable development measures.	No
5.4.1 Energy Efficiency	Further work by the applicant is required to address Part 5.4 of the DCP and the BASIX Certificate according to Council's Sustainability Consultant.	No
5.4.2 Water Efficiency	Further work by the applicant is required to address Part 5.4 of the DCP and the BASIX Certificate according to Council's Sustainability Consultant.	No
5.4.3 Urban Cooling	Further work by the applicant is required to address Part 5.4 of the DCP and the BASIX Certificate according to the DAP.	No
5.4.4 Solar Light Reflectivity (Glare)	Further work by the applicant is required to address Part 5.4 of the DCP and the BASIX Certificate according to the DAP.	No
5.4.5 Natural Refrigerants in Air Conditioning	Air-conditioning requirements not addressed by the applicant.	No
5.4.6 Bird Friendly Design	Capable of compliance	Yes
5.4.7 Wind Mitigation	Submitted Wind Report has been reviewed by Council's Wind Consultant and is not supported.	No

5.4.8 Waste Management	Satisfactory subject to conditions.	Yes
Part 8 – Carlingford Local Centre		
8.2.8.1 Carlingford Central	The proposal in principle would not be inconsistent with the vision and the desired character of the precinct other than the nature of the design itself do not promote the intent as such with poor planning outcomes achieved.	No
8.2.8.1.2 Urban Context: Opportunities and Constraints Block 4 (2-12 James Street) This Section of this DCP recognises the role of the key sites and proposes development controls to ensure their development will contribute to achieving the objectives of this plan. The urban design, functional and socioeconomic outcomes proposed for these sites are the expression of the opportunity to: • Provide landmark buildings denoting the core of an urban village centred around the light rail station, open space, pedestrian and cycle connections, and community facilities. • Provide street level active uses and human scale in the village centre. • Provide a substantial number of residential units in close proximity to the light rail station. • Contribute to the local open space network while ensuring development applies water sensitive urban design principles. • Provide landmark buildings at key gateways to the Precinct on Pennant Hills Road including the Bunnings	The site is located within Block 4 of the Carlingford Local Centre and forms part of a designated key site under the DCP. This block is intended to accommodate landmark buildings that anchor the emerging urban village around the light rail station. While the original vision for a consolidated development across Nos. 2-12 James Street has not been fully materialised, the proposal does not attempt to complete a satisfactory street wall between the adjoining towers at Nos. 2-8 and 12, to ensure it is in accordance with the intent of the block's key controls. The comment from DAP clearly demonstrates that the proposal does not exhibit design excellence and that it would not appropriately fit in with existing and approved developments on the adjoining sites.	No

site and the service station site.		
8.2.8.1.3 Structure Plan and Masterplan	Noted, the proposal in principle would not be inconsistent with the plan however the proposed design is poor and is not supported in this instance.	No
Structure Plan – Access and Circulation	As mentioned previously in this report, access and circulation could be improved and the proposal is not supported as submitted.	No
Structure Plan – Open Space Strategy	The proposal does not align with the intent to provide for appropriate open space on the site that being a development that would connect well to surrounding public domain spaces within the wider precinct.	No
Structure Plan – Public Domain	The proposed public domain plan has not been supported by Council's Urban Design Section for reasons already in this report.	No
Structure Plan – Indicative Building Height and FSR	The proposal does not comply with the height requirement, and it far exceeds the maximum FSR standard by 45% which is not supported for reasons already in this report. The building height, massing and street presentation are not contextually appropriate in this instance and requires a substantial redesign.	No
Illustrative Masterplan	Noted, however the proposal is not visually moderated by its setting. The development is not appropriately scaled, and the proposed landscaped scheme is not supported. The masterplan requires commercial activation, and this has not been provided for. The proposal has not demonstrated that satisfactory privacy and solar outcomes have been provided for both the subject site and on adjoining sites. The proposal does not fit in contextually.	No
8.2.8.1.4- Site Coverage and Requirements The minimum site area of development sites shall be consistent with the site areas specified in the potential site amalgamation plan (Figure 8.2.8.1.4.1). Building site coverage shall not exceed of 35% of site area.	The site is unable to be amalgamated as Nos. 2-8 James Street has already been developed, and No. 12 James Street has an approved development. The proposal covers above the maximum 35% of the site area a result of the very constrained site, however it is a good indicator that the proposal represents as a form of over-development especially when considering FSR is 45% over the maximum allowed for.	No
8.2.8.1.5- Residential Development Types	Not supported on the grounds that the proposal had not demonstrated satisfactory residential development types which is part due to the proposed large variation to FSR being proposed.	No
8.2.8.1.6- Building Form For the purpose of this part of Parramatta DCP 2023, building heights as specified	The applicant has not adequately addressed the relevant LEP height requirement and will be addressed with lodgement of a Clause 4.6 written submission. Regardless, in total the development is 16 storey	No

in the Building Height Map in the Parramatta LEP 2023 equal to number of storeys depicted in Table 8.2.8.1.6.1 – 57m = 18 storeys, with retail at ground floor and commercial at first floor. In general, a residential flat building depth of approximately 18 metres from glass line to glass line is appropriate. Developments that propose depths wider than 18 metres from glass line to glass line must demonstrate how satisfactory daylight and natural ventilation are to be achieved. The minimum dimensions within a development, for internal courtyards and between adjoining sites shall be: Buildings up to 4 storeys • 12 metres between habitable rooms/balconies. • 9 metres between habitable/balconies and • 6 metres between non-habitable rooms. Buildings from 5 to 8 storeys • 18 metres between habitable rooms/balconies. • 12 metres between habitable rooms/balconies and non-habitable rooms. • 9 metres between non-habitable rooms. Buildings 9 storeys and above • 24 metres between habitable rooms/balconies. • 18 metres between habitable rooms/balconies and non-habitable rooms.	development which is lower than the equivalent storeys allowed for in the relevant table (which is 18 storeys). Further, there is no retail/commercial space is proposed. As a result of the allotment of the proposed development the building length is slightly longer than 18m however the apartment units do not exceed 18m in depth. Whilst the applicant claims that 71.1% of the units achieve the minimum ADG solar access requirements and 80% natural ventilation in accordance however both the DAP and Council’s Sustainability Consultant dispute this. However, the applicant had lodged modelling to the Court which is currently under consideration. The proposal does not achieve full compliance with the separation distances prescribed under Section 2F of the ADG. This is due to the adjoining developments at Nos 2-8 and No. 12 James Street being constructed (or approved) with zero setbacks to the shared boundaries. In this context, it is physically impossible for the subject site to achieve the nominated 24 metre separation between habitable rooms or 18 metres between habitable and non-habitable rooms however the DAP had identified refinements to occur to ensure privacy is better afforded. As currently submitted, the proposed non-compliance is not reasonable outcome.	
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• 12 metres between non-habitable rooms.		
8.2.8.1.7- Setbacks Front setbacks – site specific setback controls apply Side and rear setbacks must comply with building separation, open space and deep soil zone controls in this Section of this DCP. Rear setback is to be a minimum of 8 metres. Side setbacks are to be a minimum of 4.5 metres to walls and 6 metres to windows from ground floor to fourth storey, and 6 metres for walls and windows above the fourth storey.	Site specific setbacks have been established - see further below in this report. In short, as mentioned earlier the proposed front setbacks are not supported as no building transition has been provided for after six or seven levels which was envisaged under the key built form controls for Nos. 2-12 James Street. The proposal does not achieve the side and rear setbacks of the DCP. This is due to the adjoining developments at Nos. 2-8 and 12 James Street being constructed (or approved) with zero setbacks to the shared boundaries. In this context, it is physically impossible for the subject site to achieve the nominated 24 metre separation between habitable rooms or 18 metres between habitable and non-habitable rooms. Nonetheless, the non-compliance is not reasonable for the same reasons provided above for under the building separation discussion.	No
8.2.8.1.8- Building Design In general, 2.7 metre minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25 metres is permitted. Provide primary balconies for all apartments with a minimum depth of 2 metres. Developments which seek to vary the minimum standards must demonstrate that negative impacts from noise and wind cannot be satisfactorily mitigated with design solutions. The minimum area for a balcony is 10m². In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single	The proposed ceiling heights, and floor to ceiling heights are consistent with the ADG although it would be ideal if the ground lobby level could be higher and achieve a maximum height of 4m to afford for better amenity levels. All apartments have proposed balconies, which have been designed to the standards and controls of the ADG. A maximum of four units is provided per level of the core.	No

core/corridor should be limited to eight (8). In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: Residential Flat Buildings • Studio apartments – 6m³ • One-bedroom apartments – 6m³ • Two-bedroom apartments – 8m³ • Three plus bedroom apartments – 10m³	The applicant has not demonstrated that appropriate storage facilities have been provided.	
8.2.8.1.9- Landscaping and Private Domain A minimum of 25% of the unbuilt upon area of a site is to be a deep soil zone. Alternatively, 15% of the total site area, whichever is greater. The area of communal open space required should be at least 30 percent of the site area.	The ADG requires a minimum of 7% of a site is to be deep soil zone with minimum dimensions of 6m. The proposed development provides 8.2% of the site area being a deep soil zone with minimum dimension of 6m. 33% of the site area is provided as communal open space at the roof top level as claimed by the applicant however this has not been clearly demonstrated.	No
8.2.8.1.10- Solar Access, Natural Ventilation and Building Orientation Buildings must be designed to ensure that adjoining residential buildings, and the major part of their landscape receive at least four hours of sunlight between 9am and 3pm on 21 June. Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of four hours direct sunlight between 9 am and 3 pm on 21 June.	The applicant has stated that 71.1% of all units receive a minimum of two hours direct sunlight between 9 am and 3 pm at mid-winter in accordance with the DCP however this has not been clearly demonstrated. The applicant had provided modelling in the appeal process to demonstrate compliance. The proposed development will not result in unreasonable overshadowing of adjoining public or private spaces due to excess floor space being proposed.	No

Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10 percent of the total units proposed. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed. Sixty percent (60%) of residential units should be naturally cross ventilated. Orient and design buildings to maximise the number of dwellings with direct sunlight where possible. Ideally, face the long axis of the development up to 30 degrees east and 20 degrees west of true north. This is illustrated in Figure 8.2.8.1.10.3. Face living spaces to the north wherever possible. No more than 10% of single aspect residential units are to face due south.	The applicant has stated that 80% of the residential units are naturally cross ventilated however this has not been clearly demonstrated. The proposal is located on a very constrained site which results in the short axis facing north to west. Notwithstanding this living spaces have been oriented to face north where possible.	
8.2.8.1.11- Access and Parking	The proposal is generally consistent with the controls in Part 6 of the DCP. Access into the site has been provided by James Street which requires vehicles to enter the site in a forward direction only. As there is only one street frontage being James Street – the proposal utilises this as the main vehicular access point. The proposed car parking areas and spaces have been designed in general accordance with the DCP and the relevant Australian Standards.	Yes

8.2.8.1.12- Stormwater Management	Council's Engineering Section has assessed the proposal and raised no objections subject to conditions	Yes
8.2.8.1.13- Flexibility	The proposed development incorporates some design features that support flexibility and long-term adaptability in line with the DCP objectives such as: - the building layout includes multiple circulation cores serving a limited number of dwellings per floor. - improving legibility and facilitating potential reconfiguration. The structural arrangement supports residential use across upper levels and allows for efficient car parking within the podium and basement levels. Due to limited side setbacks, a fence is only provided at the rear of the site.	Yes
8.2.8.1.14 - Public Domain	As mentioned previously in this report, Council's Urban Design Section have not supported the submitted Public Domain Plans for deficiencies involved.	No
8.2.8.1.15- Adaptable Housing	Again, whilst the number of required accessible units have been provided for, there are associated accessibility matters that have not been fully addressed as mentioned earlier and above in this report.	No
8.2.8.1.16- Ecologically Sustainable Development	According to both to the DAP and Council's Sustainability Consultant, matters relating to Ecologically Sustainable Development (ESD) have not been addressed as mentioned earlier in this report.	No
8.2.8.1.17 Access, Safety and Security	As mentioned previously, matters relating to access and safety have not been entirely addressed.	No
8.2.8.1.18- Geotechnical	Whilst no major excavations are proposed under the subject application as the works had already been carried out under a previous consent.	Yes
8.2.8.1.19- Undergrounding of Existing Power Lines	The site is not located above high voltage powerlines.	Yes
8.2.8.1.20- Development Near Light Rail Corridors	The proposed development does not interrupt the requirements for continued access on the light rail corridor. The application was referred to TfNSW and they raised no objections.	Yes
8.2.8.1.21- Key Sites Built Form Control	The proposal as submitted does not comply with the required key sites built form controls map in relation to the illustrated intended built form outcome for No. 10 James Street.	No

 Figure 12: Dimensioned built form controls for Block 4 (2-12 James Street) Residential car parking requirements are as follows: 0.8 space/1 bedroom unit 1 space/2 bedroom unit 1.3 spaces/3 bedroom unit Retail and commercial uses are limited to ground floor. Nos. 2-12 James Street, by virtue of their location close to the light rail station, have the ability to provide development of substantial height to contribute a landmark to denote the village centre. The development of Nos. 2-12 James Street should	The built form controls clearly intend that there be an appropriate building transition (between 6-10 storeys) to both the street and with adjoining developments. The controls also intend that there be a substantial rear setback with reduced setbacks when compared to the towers at No. 8 James and No. 12 James Street to enable for satisfactory building separation. The current design with 16-storeys with either a nil setback or minimal setbacks would reduce amenity level for adjoining developments including residents of the subject development. A total of 38 residential and nine visitor spaces (with a total of 47 spaces) are required. A total of 64 spaces has been provided including • Car parking: 58 (including seven accessible spaces) • Visitor parking: Six The above was assessed to be unsatisfactory by Council's Traffic section and has recommended a condition to require nine visitor spaces instead of six. Also, it was found that some spaces were too narrow (on Levels 1 and 2) and have required that only 52 residential spaces would need to be provided instead to have wide enough spaces whilst still achieving compliance with the car parking rates. None are proposed. This proposed development has been restricted by the surrounding developments. Nos. 2-8 and 12 James Street have already been developed or approved independently, each with buildings extending to their common boundaries. Infill development on the subject site is therefore necessary to complete the intended built edge. The proposal is slightly lower than the surrounding developments which would not provide for a sufficient break-up of architectural form and reading along the street wall.	
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provide for orderly development by maximising opportunities for a shared basement layout and common open areas. Using the above urban design principles, Nos. 2-12 James Street may achieve two 18 storey towers. Placement of the towers minimises overshadowing of adjacent buildings and open spaces to the south (Figure 8.2.8.1.21.3). The six storey podium on Nos. 8-10 James Street provides development to the street frontage in a form and scale commensurate with the civic life of the village centre and to allow for ground floor active uses. Nos. 2-6 James Street will be developed to a maximum height of six storeys to maintain sufficient solar access to the existing low rise buildings to the south. Due to its close proximity to the light rail station, the FSR limit for this key site is higher than sites further from the light rail station. This is to encourage developments of substantial size thus creating a critical mass for the village centre. Due to the more urban context to the site, a greater site coverage is appropriate. The building footprint is limited to 55% of the site. This allows deep soil	The proposed large FSR of 5.8:1 is a contributing factor as to why the proposed variation to the site coverage control occurs on the site. The proposed FSR exceeds the mapped control of 4:1 and is not consistent with the built form outcomes already approved on adjoining sites. Whilst it is necessary to complete the street wall, the nature of the proposed street wall heights is not	
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provision of a minimum 15% of the total site area. Due to the more urban context to the site open space is provided on a rooftop podium. Deep soil planting must cover a minimum 15% of the total site area. C.26 The building site coverage must be a maximum of 55%. Refer to Figure 8.2.8.1.21.4. The setbacks from the irregular boundaries of this key site vary in response to the need to provide solar access, pedestrian circulation space and to introduce modulation in the street wall	supported and therefore does not achieve the strategic objectives for Block 4. The proposal has taken into consideration the ADG requirements for deep soil requirements and the very constrained nature of the site is noted.	
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11. PLANNING AGREEMENTS

Refer to Section 6 under the Strategic Planning Infrastructure comments of this report in relation to the previous voluntary planning agreement (VPA) applies on the subject site under the previous development consent. As the applicant is not a party to the VPA and the original applicant paid the relevant funds associated with the original approval, the applicant would only be charged with the seven additional units proposed using the current Section 7.11 contribution rates.

12. ENVIRONMENTAL PLANNING REGULATIONS

Applicable Regulation considerations including demolition, fire safety, fire upgrades, compliance with the Building Code of Australia (BCA), Principal Certifying Authority (PCA) appointment, notice of commencement of works, sign on work sites, critical stage inspections and records of inspection can be addressed by appropriate consent conditions.

13. THE LIKELY IMPACTS OF THE DEVELOPMENT

As discussed in detail throughout this report, Council is not satisfied that the proposed development would not have an unreasonable environmental impact on either the natural or built environments and would, on balance, have a positive social and economic impact in the locality.

14. SITE SUITABILITY

As discussed in detail throughout this report, Council is not satisfied that the subject site is suitable for the proposed development.

15. SUBMISSIONS

The application was required to be notified/advertised in accordance with the Consolidated Notification Requirements in Appendix 1 of Council's Community Engagement Strategy 2022-2024 and three submissions were received. The issues raised within those submissions are addressed below.

Issue	Response
The proposed development would adversely impact on the amenity levels of residents at the adjoining development at Nos. 2-8 James Street to the west due to the large variation to FSR.	As discussed throughout this report, it is agreed that the proposal as currently designed would significantly adversely impact on the amenity levels of adjoining residents. This impact is in part due to the large FSR variation being proposed.
There is no reasonable justification to allow for such a variation in this instance.	The justifications provided by the applicant in the submitted Clause 4.6 written submission is not well founded and refusal is recommended in this instance.
The proposed nil setbacks are not supported for the same reasons above and does not comply with the relevant Australian Standards in that it requires adequate seismic separation from adjacent structures or min 1% building height for DtS to prevent pounding or adverse damage during an earthquake.	There are planning concerns with the proposed building setbacks as explained above in this report. There are no objections in principle with a nil setback on this very constrained site as it noted that the adjoining developments also adopt nil setbacks including the previous consent on the subject site. Any approval granted with a nil setback would have required the applicant or the developer to comply with relevant Australian Standards or BCA requirements.
Similar provisions to be met for other lateral loading e.g. wind loading.	Again, any approval would have contained relevant conditions to comply with any relevant legislative requirements.
Unclear how the building would be scaffolded hard against the boundary at 2-8 James Street where no connection to that property would be permitted for construction materials e.g. formwork.	This is a matter that would have been required to be considered by the developer post-consent and relevant construction conditions would have been imposed in any consent in relation to the construction process such as the preparation of the required construction management plan (CMP).
Scaffold also cannot extend across the boundary at street level as there is an egress and access	

ramp directly adjacent to 10 James St.	
The Statement of Environmental Effects refers to the corridors at 2-8 James St as non-habitable.	It is confirmed that the relevant side boundary contains lobby corridors and that there are south facing windows to the apartments mentioned in the submissions.
Whilst this is correct, the northeastern apartment has a window that faces south over 10 James. The proposal would effectively block off this window from light.	Whilst it is agreed that both the corridors and windows would be blocked by the development, it was always anticipated that either nil or minimal setbacks would be implemented on the subject site due to its constrained and isolated nature with a very narrow width.
The corridor relies on natural light and natural ventilation. The proposal would limit ventilation causing moisture.	However, there are design amendments recommended that would improve the overall amenity levels of both adjoining development and on the subject site. It is acknowledged that this concern may be entirely addressed when the matter is heard before the Land and Environment Court.
The nil setback would make it impossible for boundary façade maintenance for 2-8 James.	A nil setback would hard up against the adjoining developments which then would not require any maintenance. Should there be space between developments, it would be matter for each strata management on how maintenance would be achieved (if required at all).
Dust construction impacts and the smoke detectors in the corridors of 2-8 James would be impacted.	Appropriate construction dust controls would be implemented and would be reflected in conditions of consent should any consent be granted.
Unclear where construction pickup/drop off would occur as James and Thallon Streets are not suitable for this.	The applicant would be required to develop a detailed CMP and would have been appropriately conditioned should consent be granted.
Neither streets can be closed for such activities.	
Construction traffic management unclear.	A more detailed plan would have been required to be submitted had approval been granted as a condition.
Adverse geotechnical impacts on 2-8 James due to variations in basement levels and unclear how surcharge loads from columns and retention systems would be transmitted to outside the zone of influence for that property.	A Geotechnical Assessment is provided and confirms that the works can be undertaken on the site, subject to appropriate engineering techniques.
How will vibrations be monitored and mitigated.	All works would need to be undertaken in accordance with relevant requirements during the post-consent phase of the development.
Traffic report not agreed with respect to peak times traffic loads	Council's Traffic Engineer has assessed the proposal and raised no objections in relation to traffic generation however did require amendments to be made to the parking layout of

and not enough car parking in particular visitor parking.	the development. This forms part of the recommended refusal of the subject application.
Oversupply of units in Carlingford would have a strain on services.	The proposal is permissible consent and the subject development forms part of the Carlingford Precinct which had allowed for an uplift in housing densities. However, as discussed above in this report, the proposed large variation to FSR is not supported and form part of the recommended refusal of the application.
Property devaluations would occur.	There is no evidence presented that this outcome would occur in this instance.

16. PUBLIC INTEREST

As outlined in this report, there are several issues which have not been resolved to the satisfaction of Council and as such the proposal as submitted is not considered to be in the public interest.

17. 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.

18. DEVELOPMENT CONTRIBUTIONS

Developer contributions are required as per the *City of Parramatta Council Section 94 Development Contributions Plan (Former Hills LGA)*. Had this application been recommended for approval, appropriate conditions would have been included in the recommendation requiring payment of the contributions prior to issue of a Construction Certificate for the additional seven units being proposed as contributions have already been paid by the previous developer under the previous consent.

19. SUMMARY AND CONCLUSION

The application has been assessed relative to Section 4.15 of the EP & A 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.

As such, it is recommended that the SCCPP refuse the application.

18. OFFICER'S RECOMMENDATION

Pursuant to Section 4.16(1)(b) of the EP&A Act, 1979:

That SCCPP as the consent authority refuse DA/273/2025 for the partial demolition of existing structural elements, the construction of a 16-storey RFB with parking, and associated landscaping, public domain works, and infrastructure improvements. on land at No. 10 James Street, Carlingford, for the following reasons:

1. STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

a) Clause 2.100 Impact of rail noise or vibration on non-rail development

No submission of acoustic/vibration report has been submitted to address the relevant impacts.

Section 4.15(1)(a)(iv) of the EP&A Act 1979.

2. STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

Chapter 4 Design of residential apartment development

a) Schedule 9 Design principles for residential apartment development

The proposed development is inadequate, and majority of the design principles are not met.

b) Part 2F Building Separation of the ADG

The proposed privacy measures would not adequately address perceived separation with adjoining developments.

c) Part 3B Orientation of the ADG

The at-ground /above ground parking which contains no residential or commercial space does not promote passive surveillance to the street.

d) Part 3C Public Domain Interface

The submitted public domain plans are not supported.

e) Part 3D Communal and Public Open Space

The proposal does not provide direct and equitable access from common areas and has not proposed high quality open space. The proposal does not meet the minimum 25% area required for common open spaces.

f) Part 3F Visual Privacy

As the proposal does not comply with the minimum building separation requirements, the proposed privacy measures would not adequately address overlooking between developments.

g) Part 3G Pedestrian Access and Entries

Pedestrian access points including the access to the rear of the site is not supported.

h) Part 3J Bicycle and Car Parking

The design has not provided sufficient visitor spaces and driveway entrance for the development site.

i) Part 4A Solar and Daylight Access

22% of apartments do not receive direct sunlight in mid-winter due to site constraints and the built form of adjoining towers.

j) Part 4D Apartment Size and Layout

The layout of the 4-bedroom apartments has not been optimally designed.

k) Part 4G Storage

Not adequately addressed.

l) Part 4K Apartment Mix

There is a need for consideration to reduce the number and design of the 4-bedroom apartments.

m) Part 4P Planting on Structures

The proposed soil depths and volumes are inadequate.

n) Part 4U Energy Efficiency

Not adequately addressed.

Section 4.15(1)(a)(iv) of the EP&A Act 1979.

3. PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2023

a) Clause 4.3 Building Height

The proposal exceeds the maximum 57m building height permitted on the site and the applicant had not lodged a Clause 4.6 written submission to justify the proposed variation.

b) Clause 4.4 Floor Space Ratio

The proposed FSR of 5.8:1 exceeds the maximum FSR permitted on the site of 4:1 by 45% is excessive and does not comply with objectives (a), (b) & (c) of the Development Standard. Furthermore, the written request to vary the FSR Development Standard pursuant to Clause 4.6 of the LEP is inadequate.

c) Clause 6.5 Stormwater Management

The applicant has not demonstrated that stormwater would be appropriately managed.

Section 4.15(1)(a)(iv) of the EP&A Act 1979.

4. PARRAMATTA DEVELOPMENT CONTROL PLAN 2023

a) Part 2.3 Preliminary Building Envelope

The proposed FSR and building height variations are not supported.

b) Part 2.4 Building Form and Massing

The proposed built form, massing and the associated design are not supported.

c) Part 2.5 Streetscape and Building Address

The proposal has not adequately addressed the relevant James Street streetscape.

d) Part 3.1.3 Accessible and Adaptable Housing

The proposed steps to the lobby level and the associated lift platform are not supported.

e) Part 3.5.1.5- Parking Design and Vehicular Access

The car park design containing at-grade/above ground levels with poor visitor spaces and driveway entrance widths are not supported.

f) Part 5.1.5 Groundwater

The applicant has not demonstrated that groundwater would be appropriately managed.

g) Part 8.2.8.1.2 Urban Context: Opportunities and Constraints

The proposal has not adequately addressed the urban context, where it has not improved on the already approved concept on the site and would significantly adversely impact on the amenity levels for future and existing residents.

h) Part 8.2.8.1.4 Site Coverage and Requirements

The proposal has a site coverage that is above the maximum 35 site coverage requirement which contributes to the inappropriate nature of the development.

i) Part 8.2.8.1.7 Setbacks

The proposal does not achieve the front, side and rear setbacks of the DCP.

j) Part 8.2.8.1.21 Key Sites Built Form Control

The proposal is inconsistent with the key site, built form map controls which would reduce the amenity levels for adjoining development including the subject development.

Section 4.15(1)(a)(iv) of the EP&A Act 1979.

5. SUITABILITY OF THE SITE

Given the non-compliances detailed above it is not satisfied the proposed development is suitable for the subject site.

Section 4.15(1)(a)(iv) of the EP&A Act 1979.

6. LIKELY IMPACTS

Given the non-compliances detailed above, it is not satisfied that the proposed development will have acceptable impacts.

Section 4.15(1)(a)(iv) of the EP&A Act 1979.

7. PUBLIC INTEREST

Given the non-compliances detailed above it is not satisfied the development is in the public interest.

Section 4.15(1)(a)(iv) of the EP&A Act 1979.