

## COUNCIL ASSESSMENT REPORT

### SYDNEY EASTERN CITY PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSSEC-327 – DA2024/0064
<b>PROPOSAL</b>	Application under State Environmental Planning Policy (Housing) 2021 for three additional storeys to Building A (street facing) and an additional storey to both Building B and C with 41 units (24 units allocated to affordable housing) and amendments to internal basement layout to provide 50 additional car spaces. The additional units under this application will sit atop the building approved under DA2020/0143
<b>ADDRESS</b>	Lot 100 DP 1282477 [25 George Street, North Strathfield]
<b>APPLICANT</b>	UPG HALSTON PTY LTD (Sid Mawad)
<b>OWNER</b>	The Trustee for SGE HIGH ST UNIT TRUST
<b>DA LODGEMENT DATE</b>	10 April 2024
<b>APPLICATION TYPE</b>	Development Application (Alterations or additions to an existing building or structure)
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Section 2.19(1) and Clause 3 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: Council related development over \$5 million
<b>CIV</b>	\$9,120,000.00 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	<i>State Environmental Planning Policy (Housing) 2021</i> , Clause 18 – Affordable housing requirements for additional building height
<b>KEY SEPP/LEP</b>	<ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i></li> <li>• <i>State Environmental Planning Policy (Housing) 2021</i></li> <li>• <i>State Environmental Planning Policy (Planning Systems) 2021</i></li> <li>• <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i></li> <li>• <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i></li> <li>• <i>Canada Bay Local Environmental Plan 2013</i>; and</li> <li>• <i>City of Canada Bay Development Control plan 2017</i>.</li> </ul>
<b>TOTAL &amp; UNIQUE SUBMISSIONS KEY</b>	Initial notification: 73 submissions, Re-notification: 13 submissions

ISSUES SUBMISSIONS		IN		Total unique submissions – 86 Key issues raised – bulk and scale, height, setbacks, overshadowing, privacy, traffic and parking, waste management			
DOCUMENTS SUBMITTED CONSIDERATION	FOR	Plans					
		Reference/Dwg No	Title/Description	Prepared By	Date/s		
		DA 001 (Revision I)	Legend	FUSE Architects	22.07.2024		
		DA 004 (Revision I)	Context Plan	FUSE Architects	12.07.2024		
		DA 005 (Revision I)	Site Analysis	FUSE Architects	12.07.2024		
		DA 006 (Revision I)	Planning Analysis	FUSE Architects	12.07.2024		
		DA 007 (Revision I)	Site Plan	FUSE Architects	12.07.2024		
		DA 008 (Revision I)	Streetscape Analysis	FUSE Architects	12.07.2024		
		DA 009 (Revision I)	Streetscape Building A 6 Storeys	FUSE Architects	12.07.2024		
		DA 010 (Revision I)	Streetscape With Future Context	FUSE Architects	12.07.2024		
		DA 011 (Revision I)	Streetscape Analysis	FUSE Architects	12.07.2024		
		DA 101 (Revision I)	Basement 2 Plan	FUSE Architects	23.07.2024		
		DA 102 (Revision I)	Basement 1 Plan	FUSE Architects	23.07.2024		
		DA 103 (Revision I)	Ground Level Plan	FUSE Architects	12.07.2024		
		DA 104 (Revision I)	Level 1 Plan	FUSE Architects	12.07.2024		
		DA 105 (Revision I)	Level 2 Plan	FUSE Architects	12.07.2024		
		DA 106 (Revision I)	Level 3 Plan	FUSE Architects	12.07.2024		
		DA 107 (Revision I)	Level 4 Plan	FUSE Architects	12.07.2024		
		DA 108 (Revision I)	Level 5 Plan	FUSE Architects	12.07.2024		
		DA 109 (Revision I)	Level 6 Plan	FUSE Architects	19.07.2024		
		DA 110 (Revision I)	Roof Plan	FUSE Architects	24.07.2024		
		DA 201 (Revision I)	Elevations (North & West)	FUSE Architects	22.07.2024		
		DA 202 (Revision I)	Elevations (South & East)	FUSE Architects	22.07.2024		

	DA 301 (Revision I)	Sections (A & B)	FUSE Architects	22.07.2024
	DA 302 (Revision I)	Sections (C & D)	FUSE Architects	22.07.2024
	DA 303 (Revision I)	Sections (E & F)	FUSE Architects	22.07.2024
	DA 304 (Revision I)	Sections (G)	FUSE Architects	22.07.2024
	DA 401 (Revision I)	Unit Types Sheet 1	FUSE Architects	12.07.2024
	DA 402 (Revision I)	Unit Types Sheet 2	FUSE Architects	12.07.2024
	DA 403 (Revision I)	Unit Types Sheet 3	FUSE Architects	12.07.2024
	DA 403A (Revision I)	Unit Types Sheet 4	FUSE Architects	12.07.2024
	DA 403B (Revision I)	Unit Types Sheet 5	FUSE Architects	22.07.2024
	DA 403C (Revision I)	Unit Types Sheet 6	FUSE Architects	22.07.2024
	DA 404 (Revision I)	Shadow Diagrams	FUSE Architects	12.07.2024
	DA 405 (Revision I)	Shadow Diagrams	FUSE Architects	12.07.2024
	DA 406 (Revision I)	Shadow Diagrams	FUSE Architects	12.07.2024
	DA 407 (Revision I)	Shadow Diagrams	FUSE Architects	12.07.2024
	DA 408 (Revision I)	Shadow Study	FUSE Architects	12.07.2024
	DA 409 (Revision I)	Shadow Study	FUSE Architects	12.07.2024
	DA 410 (Revision I)	Shadow Study	FUSE Architects	12.07.2024
	DA 411 (Revision I)	Shadow Study	FUSE Architects	12.07.2024
	DA 412 (Revision I)	Shadow Diagrams	FUSE Architects	12.07.2024
	DA 413 (Revision I)	Shadow Diagrams	FUSE Architects	12.07.2024
	DA 414 (Revision I)	Shadow Diagrams	FUSE Architects	12.07.2024
	DA 415 (Revision I)	Shadow Diagrams	FUSE Architects	12.07.2024
	DA 501 (Revision I)	GFA Diagrams	FUSE Architects	12.07.2024
	DA 502 (Revision I)	Landscape Area Diagrams	FUSE Architects	12.07.2024
	DA 503 (Revision I)	LEP Height Diagram	FUSE Architects	12.07.2024

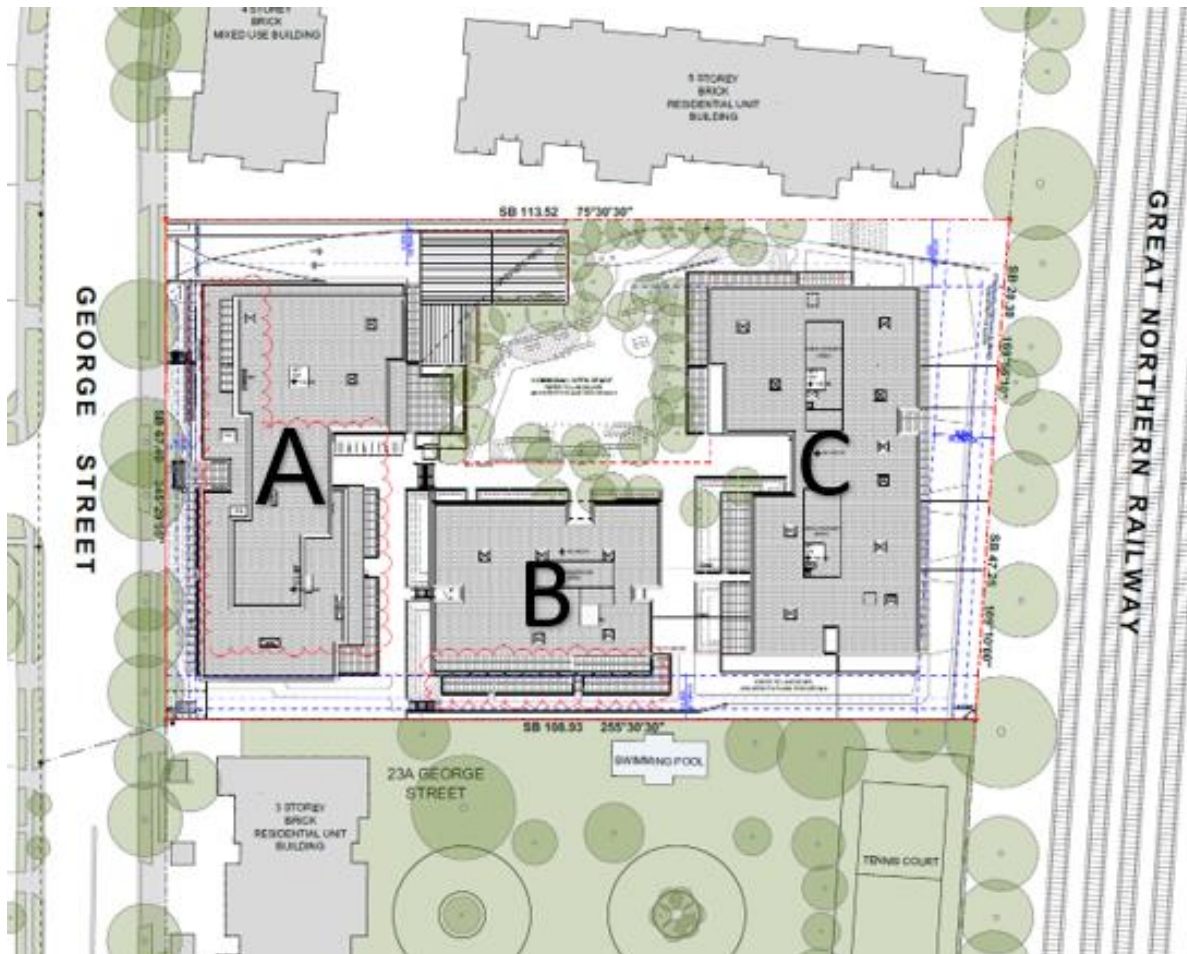
	DA 601 (Revision I)	SEPP 65 – Natural Ventilation	FUSE Architects	22.07.2024
	DA 602 (Revision I)	SEPP 65 – Daylight Access	FUSE Architects	22.07.2024
	DA 603 (Revision I)	SEPP 65 – No Daylight	FUSE Architects	22.07.2024
	DA 604 (Revision I)	Adaptable Unit Type Sheet 1	FUSE Architects	12.07.2024
	DA 604A (Revision I)	Adaptable Unit Type Sheet 2	FUSE Architects	12.07.2024
	DA 701 (Revision I)	Materials & Finishes Schedule	FUSE Architects	12.07.2024
	DA 801 (Revision I)	Perspective 1A	FUSE Architects	12.07.2024
	DA 801B (Revision I)	Perspective 1A	FUSE Architects	12.07.2024
	DA 802 (Revision I)	Perspective 1B	FUSE Architects	12.07.2024
	DA 802B (Revision I)	Perspective 1B	FUSE Architects	12.07.2024
	DA 803 (Revision I)	Perspective 1C	FUSE Architects	12.07.2024
	DA 803B (Revision I)	Perspective 1C	FUSE Architects	12.07.2024
	DA 804 (Revision I)	Perspective 2A	FUSE Architects	12.07.2024
	DA 804B (Revision I)	Perspective 2A	FUSE Architects	12.07.2024
	DA 805 (Revision I)	Perspective 2B	FUSE Architects	12.07.2024
	DA 805B (Revision I)	Perspective 2B	FUSE Architects	12.07.2024
	DA 806 (Revision I)	Perspective 3A	FUSE Architects	12.07.2024
	DA 806B (Revision I)	Perspective 3A	FUSE Architects	12.07.2024
	DA 807 (Revision I)	Perspective 3B	FUSE Architects	12.07.2024
	DA 807B (Revision I)	Perspective 3B	FUSE Architects	12.07.2024
	DA 808 (Revision I)	Perspective 4A	FUSE Architects	12.07.2024
	DA 808B (Revision I)	Perspective 4A	FUSE Architects	12.07.2024
	DA 809 (Revision I)	Perspective 5A	FUSE Architects	12.07.2024
	DA 809B (Revision I)	Perspective 5A	FUSE Architects	12.07.2024

	DA 810 (Revision I)	Perspective 6A	FUSE Architects	12.07.2024
	DA 901 (Revision I)	Sun Eye View – Sheet 1	FUSE Architects	22.07.2024
	DA 902 (Revision I)	Sun Eye View – Sheet 2	FUSE Architects	22.07.2024
	DA 902B (Revision I)	Sun Eye View – Sheet 3	FUSE Architects	22.07.2024
	DA 902C (Revision I)	Sun Eye View – Sheet 4	FUSE Architects	22.07.2024
	DA 903 (Revision I)	Solar Study Analysis – Living Area	FUSE Architects	12.07.2024
	<b>Supporting Information / Documents</b>			
	<b>Reference</b>	<b>Title/Description</b>	<b>Prepared By</b>	<b>Date/s</b>
	Ref: M23119 (Pages 1 to 19 incl.)	Response to Council Request for Information Letter – Planning	Planning Ingenuity	23.07.2024
	Project No. 300305301	Response to Council Request for Information – Traffic Comments	Stantec Australia Pty Ltd	23.07.2024
		Response to Council Request for Information – Waste Management Comments	Elephants Foot Consulting Pty Ltd	23.07.2024
	Ref: M230119	Clause 4.6 Height of buildings	Planning Ingenuity	23.07.2024
	754373M_10	BASIX Certificate	Jensen Hughes PTY. LIMITED	26.06.2024
	Version 04	SEPP 65 Design Verification Statement	Rachid Andary (FUSE Architects)	14.03.2024
	SEE (Ref: M230119) – Annexure B (pages 56 to 63 incl.)	Apartment Design Guide Compliance Table	Planning Ingenuity	02.04.2024
	Ref: M230119	Statement of Environmental Effects	Planning Ingenuity	02.04.2024
	Revision M	Waste Management Plan	Elephants Foot	20.03.2024
	No ref.	Response to Request for Further Information – Waste	Elephants Foot	23/07/2024

		Management Letter		
	Project No. 19084 Report Ref: Noise and Vib Impact Assessment R-1	Noise and Vibration Impact Assessment	Pulse White Noise Acoustics Pty Ltd	20.03.2024
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)</b>	Applies to original consent DA2020/0143			
<b>RECOMMENDATION</b>	Approval			
<b>DRAFT CONDITIONS TO APPLICANT</b>	YES			
<b>SCHEDULED MEETING DATE</b>	17 October 2024			
<b>PLAN VERSION</b>	12 July 2024 Revision I			
<b>PREPARED BY</b>	Peter Giaprakas			
<b>DATE OF REPORT</b>	3 October 2024			

## EXECUTIVE SUMMARY

- Application under the Housing SEPP for **additional storeys with 41 units (24 units allocated to affordable housing)** and amendments to internal basement layout to provide **50 additional car spaces**. The additional units under this application will sit atop the building approved under **DA2020/0143**. Specifically, the proposal involves:
  - Additional two to three storeys to **Building A**, comprising an additional 25 apartments, including 8 x 1 bedroom, 10 x 2 bedroom, 5 x 3 bedroom and 2 x 4 bedroom apartments.
  - Additional storey to **Building B**, comprising an additional 5 apartments, including 1 x 1 bedroom, 1 x 2 bedroom, 2 x 3 bedroom and 1 x 4 bedroom apartments.
  - Additional storey to **Building C**, comprising an additional 11 apartments, including 3 x 1 bedroom, 6 x 2 bedroom and 2 x 3 bedroom.
  - Parking total of **182 car spaces**, including **167 resident** and **15 visitor** spaces.



**Figure 1:** Site Plan Extract – Drawing No. DA007 (Revision I), prepared by Fuse Architects, dated 12/07/2024 – Showing location of Buildings A, B & C

- Key issues:
  - Building height variation to development standard (Clause 4.6 supported)
- Key concerns from agencies, community, etc:
  - Bulk and scale
  - Building height
  - Setbacks
  - Overshadowing
  - Privacy
  - Traffic and parking
  - Waste management
- Pre-conditions / jurisdictional prerequisites satisfied (prior to the grant of consent):
  - Section 2.48 of the Transport and Infrastructure SEPP. Ausgrid consents to the development subject to the recommended conditions of consent listed in Ausgrid letter dated 15 May 2024;
  - Section 2.99 of the Transport and Infrastructure SEPP requesting concurrence from Sydney Trains (Transport for NSW – TfNSW). Concurrence has been granted subject to recommended operational conditions in Attachment A of TfNSW letter dated 15 May 2024;
  - Section 38 of The Regulation. Sydney Water advises that should Council decide to progress with the subject development application, conditions of



consent should be applied as recommended in Attachment A in Sydney Water letter dated 14 May 2024;

- Section 145(2) of the Housing SEPP. Issues raised by Council's design review panel have been adequately addressed by the applicant as discussed in this report; and
  - Clause 4.6 written request to vary Clause 4.3 Height of buildings development standard and maximum building height permitted under the Housing SEPP with the provision of affordable housing. A revised Clause 4.6 written request has been reviewed and supported.
- **Key issues have been resolved** through design amendments and recommended conditions. The revised proposal is considered consistent with the Public interest. A summary of revisions in response to submitters concerns and issues identified in the assessment is as follows:
    - **increased setback to 7th storey** of Building A (George Street alignment), an additional 3m to 6m, resulting in a George Street building alignment to external walls between 9.3m to 11m, and presenting as six storeys from George Street with reduced bulk and scale within the streetscape
    - **increased southern setback** to 7th storey of Building B from between 6m and 9.7m to between 9m and 9.4m across the whole southern facade, increasing direct solar access to 23A George Street, and reducing perception of bulk and scale when viewed from 23A George Street;
    - **reduced overall building height**, with design changes to 7th storey of Building A discussed above, plus the deletion of lift overrun, resulting in a reduced height of building variation to 8.7% (from 22.607m down to 20.8m);
    - **reduced car parking** spaces by 9, resulting in 167 resident and 15 visitor spaces, with a total of 182 spaces
    - **increased visitor and residential bicycle parking spaces** to fully comply with the DCP, including 36 visitor bicycle spaces (18 on Ground and 18 in Basement Level 1), and bicycle storage for each of the 172 apartments within the basement.
    - Waste management provisions for bin storage and presentation areas are provided in accordance with Council's requirements
  - The revised proposal is **recommended for approval**.
    - Building massing has been minimised by reducing the non-compliant building height occurring at Building A.
    - Setbacks have been increased to the uppermost floor level at the George Street building alignment of Building A.
    - Increased common boundary setback along the south at the uppermost floor level of Building B.
    - The proposed seven storey building heights of Buildings B and C (at the rear) have been maintained at approximately two storeys below the permissible height limit set by the Housing SEPP, which otherwise allows up to 9 storeys.
    - The distribution of additional floor space available under the Housing SEPP minimises overall bulk and scale and overshadowing to both the site's communal open space, as well as that of neighbouring property 23A George Street.
    - No building is greater than seven storeys.
    - The proposed massing strategy of keeping Buildings B and C significantly under the permissible height results in the same number of apartments at 23A George Street (as approved under DA2020/0143) that will receive a minimum of 2 hours of direct solar access to living rooms and balconies (31 out of 47



apartments, or 66%). 23A George Street will also maintain more than 2 hours of direct solar access between 9am and 3pm in winter solstice and it is noted that the swimming pool will receive full solar access between 9am and 3pm in mid-summer.

- The proposal does not exceed the maximum car parking spaces.
- Parking provisions have been revised to minimise impacts on street parking and local traffic, including reduced on-site car parking spaces, increased visitor spaces and increased bicycle spaces.

The development application (DA2024/0064) seeks consent to amend **DA2020/0143** with alterations and additions. It is noted that DA2020/0143, as amended, currently includes a total of **131 residential units** (including 4 affordable housing units dedicated to Council under a VPA – see section 2.3 below for more detail) comprising 26 x 1 bedroom, 62 x 2 bedroom, 31 x 3 bedroom and 12 x 4 bedroom.

The subject site is known as 25 George Street, North Strathfield ('the site') and comprises a single lot with road frontage to George Street to the west. The site is generally rectangular in shape with a total area of approximately 7,485m<sup>2</sup> and the topography is relatively flat throughout. The land slopes gently across the site from the rear between 2 to 4 metres north-westerly towards George Street.

The site was previously occupied by two large industrial buildings which have now been demolished and construction works commenced and advanced on the site in accordance with DA2020/0143. See **Figure 2** below for reference to current stage of construction on the site.



**Figure 2:** Photograph looking east to the site's George St frontage from Argonne St **Source:** Applicant

The subject site is located within the R3 Medium Density Residential zone under Canada Bay Local Environmental Plan (CBLEP) 2013. The proposed development is permissible with

consent in the R3 Medium Density Residential zone. The proposal complies with the relevant provisions of CBLEP except for a breach to the maximum building height development standard, inclusive of the bonus afforded by the Housing SEPP. A Clause 4.6 Statement has been provided. The proposal is also generally compliant with the provisions of the Apartment Design Guide (ADG) and Canada Bay Development Control Plan (CBDCP) and is a suitable form of development within the site context.

The site is located in an area of transition with increased densities afforded to medium density residential development in the area as a result of recent Housing SEPP changes, as they relate to height and FSR bonuses up to 30% with the provision of infill affordable housing.

The principal planning controls relevant to this proposal include *State Environmental Planning Policy (Housing) 2021*, the Canada Bay Local Environmental Plan 2013(LEP) and the City of Canada Bay Development Control Plan (DCP). The proposal is inconsistent with various provisions of the planning controls including:

- An exceedance of **1.807 metres** in building height. The maximum building height permitted under the Housing SEPP with a 30% bonus, is 20.8 metres which is a **variation of 8.6%** - Clause 4.6 provided).

It is noted that since lodgement of this application, the Homebush TOD Rezoning Proposal has been placed on public exhibition by the NSW Department of Planning, Housing and Infrastructure (DPHI). The rezoning proposal includes a significant uplift in development density in North Strathfield, amongst other areas, and in close proximity to the site

**Referrals** were sent to **Ausgrid** pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021* ('Transport and Infrastructure SEPP') Section 2.48, **TfNSW** (Sydney Trains) pursuant to the Transport and Infrastructure SEPP Section 2.99, and **Sydney Water Corporation** pursuant to *Environmental Planning & Assessment Regulation 2021 (The Regulation)* Section 38. The Agencies raised no objections subject to conditions.

**Jurisdictional prerequisites** to enable the granting of consent imposed by the following controls have been satisfied including:

- Section 2.48 of the Transport and Infrastructure SEPP regarding **Ausgrid** and ensuring that assessment and evaluation of environmental impacts for a new development consent (or where a development consent is modified) is undertaken in accordance with requirements of Section 79C of the Environmental Planning and Assessment Act 1979. Ausgrid consents to the development subject to the recommended conditions of consent listed in Ausgrid letter dated 15 May 2024;
- Section 2.99 of the Transport and Infrastructure SEPP requesting concurrence from Sydney Trains (Transport for NSW – **TfNSW**) and assessment of potential effects of the development on safety or structural integrity and safe and effective operation of existing and proposed rail infrastructure facilities in the rail corridor and what measures are taken to avoid or minimise potential impacts. Concurrence has been granted subject to recommended operational conditions in Attachment A of TfNSW letter dated 15 May 2024;
- Section 38 of The Regulation in relation to **Sydney Water Corporation** to assist with planning the servicing needs of the proposed development. Preliminary assessment indicates that water and wastewater servicing should be available for the proposed development.

Amplifications, adjustments, deviations and/or minor extensions may be required.

Detailed requirements will be provided at the S73 application stage. Sydney Water advises that should Council decide to progress with the subject development application, conditions of consent should be applied as recommended in Attachment A in Sydney Water letter dated 14 May 2024; and

- Section 145(2) of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) in relation to referral to Council's Design Review Panel (**DRP**) prior to determining the development application.
- Section 147 of the *State Environmental Planning Policy (Housing) 2021* (**Housing SEPP**) in relation to determination of development applications and modification applications for residential apartment development
- **Clause 4.6** written request to vary Clause 4.3 Height of buildings development standard and maximum building height permitted under the Housing SEPP with the provision of affordable housing. A revised Clause 4.6 written request has been reviewed and is considered to be well founded.

The application was initially placed on **public exhibition** from 17 April 2024 to 8 May 2024, with **73 submissions** being received and re-notified as a revised proposal from 2 August 2024 to 16 August 2024, with **13 submissions** being received (**total of 86 submissions**). These submissions raised issues relating to building height, streetscape, overdevelopment, and potential acoustic, privacy and overshadowing impacts. Traffic and parking and waste management issues were also raised. These issues are considered further in this report.

The application is referred to the **Sydney Eastern City Planning Panel** ('the Panel') as the development is '*regionally significant development*', pursuant to Section 2.19(1) and Clause (5)(b) of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* as the proposal is development for *community facilities* and a *place of public worship* with a **CIV over \$5 million**.

A **briefing meeting** was held with the **Panel** on 10 September 2024 where, *inter alia*, the key issue was discussed regarding building height exceedance of the Housing SEPP.

The **key issues** associated with the proposal included:

1. **Site context** and history provided, noting the existing amended approval includes 131 residential units (with 4 being affordable housing units).
2. Application includes **up to 3 additional storeys with additional 41 residential units** (including 24 affordable housing units) and amendments to internal basement layout (50 additional car spaces).
  - Additional units to sit atop of approved building under existing amended approval, with building footprint to remain the same.
3. **Clause 4.6 variation** proposed for **Height of buildings**, noting the split height controls over the site (see figure 7) – proposed **variation of 8.6%**.
4. **Referrals**
  - External Agencies – Ausgrid, Sydney Water Corporation, Sydney Trains
  - Internal Agencies – DRP, Engineering (Traffic and Parking), Environmental (Waste Management), Environmental (Noise) and Property Services
5. Submissions – total 86 received (including 2 in support of the proposal) - noting primary objections raised by surrounding residents relate to bulk and scale, height, urban character, setbacks, overshadowing, privacy, noise, and traffic and parking.

Additional comments from the Panel included:

- Consideration of electric vehicle charging capacity for residential spaces

- Consideration of existing approval in assessment of proposed additional levels

Following consideration of the matters for consideration under Section 4.15(1) of the EP&A Act, the provisions of the relevant State environmental planning policies, in particular the *State Environmental Planning Policy (Housing) 2021* and the *Canada Bay Local Environmental Plan 2013*, **the proposal may be supported.**

Regarding Clause 4.3(2) Height of building non-compliance and the **Clause 4.6** written request to vary the development standard, the written request has been prepared in relation to the proposed variation to the 20.8m maximum building height, inclusive of a 30% bonus afforded by Section 16(3) of the Housing SEPP, to the base 16m development standard contained within Clause 4.3 of CBLEP. The revised proposal includes a reduced maximum height to the non-compliant Building A. The **variation has been reduced to 8.6%**, with non-compliant building elements located to minimise any environmental impacts on the site itself and to adjoining residential property.

Remaining issues raised by the Community and those technical issues raised by internal and external Agencies, have been resolved through amendments and/or additional information. These technical and design issues, along with the other critical issues, are still considered in this report in terms of the acceptability of the proposal as currently presented and accordingly contribute to the reasons for approval following a detailed assessment of the proposal.

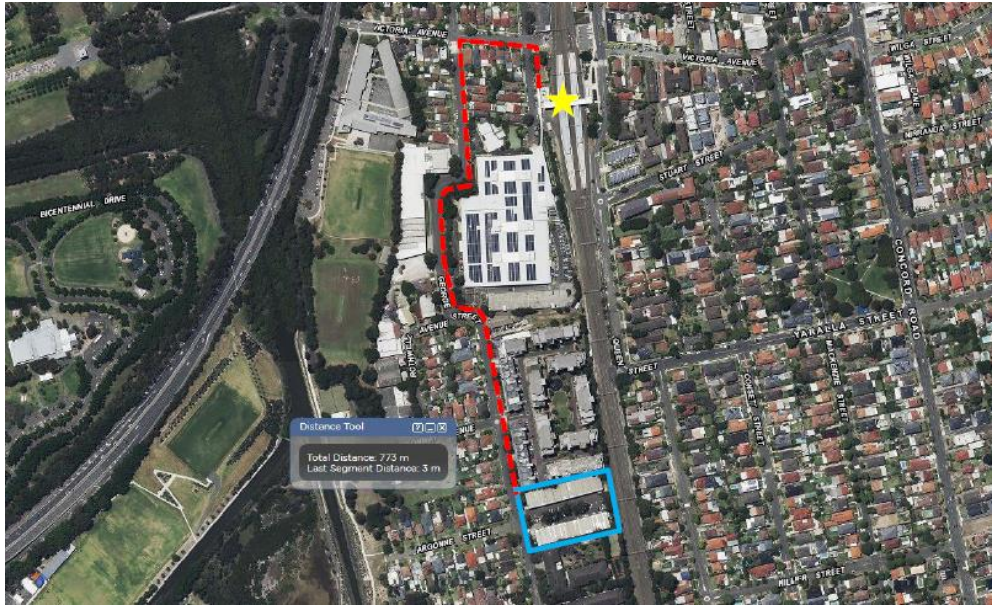
## **1. THE SITE AND LOCALITY**

---

### **1.1 The Site**

- The site was rezoned from *IN1 General Industrial* to *R3 Medium Density Residential* in June 2020 following the making of *Canada Bay Local Environmental Plan 2013* (Amendment No 13).
- The site, located on the eastern side of George Street, has the street address 25 George St, North Strathfield and is legally described as SP 22302.
- The site is located within the LGA suburb of North Strathfield which is approximately 14.5km to the west of the Sydney CBD as the crow flies.
- The site is located approximately 225m walking distance south of Concord West Station.





**Figure 3:** Aerial photograph – **walking route** (dashed red line) from site (blue outline) to Concord West Railway Station (yellow star) **Source:** Applicant's SEE, page 26

- The site is generally rectangular in shape with a total area of approximately 7,485m<sup>2</sup> and the topography is relatively flat throughout. The land slopes gently across the site from the rear between 2 to 4 metres north-westerly towards George Street.
- The site has the following dimensions:
  - Northern boundary – 113.52m
  - Eastern boundary (rear – adjacent Northern Railway) – 67.555m
  - Southern boundary – 108.93m
  - Western boundary (George Street) – 67.4m



**Figure 4:** Aerial location photograph – Site shaded in red **Source:** (IntraMaps)

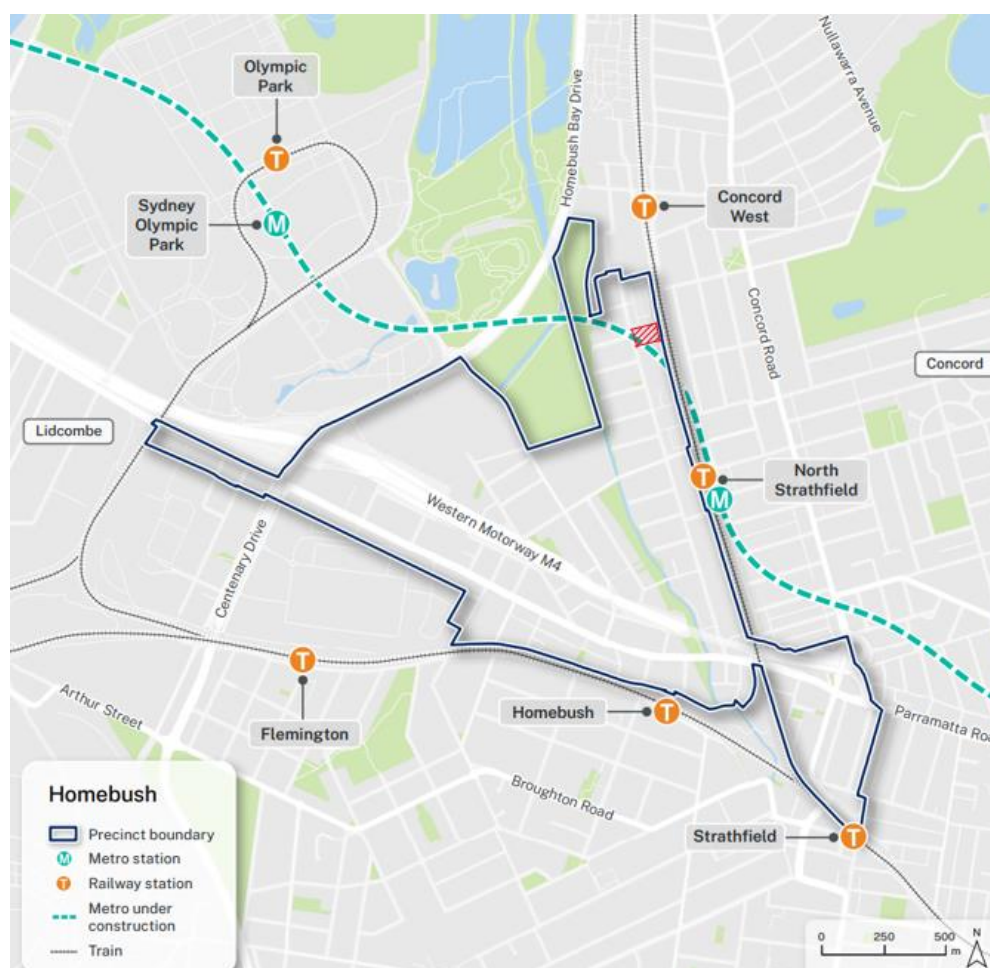
- The site was previously occupied by industrial buildings which have now been demolished and works commenced on the site in accordance with DA2020/0143.

## 1.2 The Locality

- The surrounding area is primarily characterised by low density housing on the western side of George Street and medium density housing on the eastern side of George Street.
- The Main Northern Railway shares the site's eastern (rear) boundary.
- The property to the north of the site, at No. 27 George Street, contains a mixed use development with buildings ranging from four to six storeys in height.
- To the south, at No. 23A George Street, is a residential development with a range of buildings predominantly four storeys in height.
- Examples of surrounding development can be seen on page 8 of the applicant's SEE.
- Concord West Station is located approximately 225m walking distance north of the site.
- The site is within land identified as Homebush - Transport Oriented Development (TOD) accelerated precinct (see figure 3 below).
- As part of the State-led TOD Program, planning controls in Homebush have been reviewed by the NSW Department of Planning to identify areas of the precinct suitable to support higher densities for more homes.



- Homebush TOD rezoning proposal was available for public feedback between 16 July and 30 August 2024 on the NSW Planning Portal and feedback is currently being reviewed DPHI.



**Figure 5: Homebush TOD Precinct Boundary Map – Site hatched in red**

**Source:** (<https://www.planning.nsw.gov.au/plans-for-your-area/priority-growth-areas-and-precincts/parramatta-road/homebush>)

## 2. THE PROPOSAL, BACKGROUND AND SITE HISTORY

### 2.1 The Proposal

- The proposal seeks consent to amend **DA2020/0143** with alterations and additions. It is noted that DA2020/0143, as amended, currently includes a total of **131 residential units** (including **4 affordable housing** units dedicated to Council under a **VPA** – see section 2.3 below for more detail) comprising 26 x 1 bedroom, 62 x 2 bedroom, 31 x 3 bedroom and 12 x 4 bedroom.
- This application is proposed under *State Environmental Planning Policy (Housing) 2021* and seeks consent for three additional storeys to **Building A** (street facing) and an additional storey to both **Building B** and **Building C** with **41 units (24 of which are allocated to affordable housing)** and amendments to internal basement layout to provide **50 additional car spaces**. The additional units under this application will sit atop the building approved under DA2020/0143.



- See **Figure 1** for block locations of Buildings A, B and C.
- See **Figures 6 & 7** below for a perspective renditions of proposal as is presents to the street and from the internal communal open courtyard.
- Specifically, the proposal involves:
  - **Additional 2/3 storeys to Building A**, comprising an **additional 25 apartments**, including 8 x 1 bedroom, 10 x 2 bedroom, 5 x 3 bedroom and 2 x 4 bedroom apartments.
  - **Additional storey to Building B**, comprising an **additional 5 apartments**, including 1 x 1 bedroom, 1 x 2 bedroom, 2 x 3 bedroom and 1 x 4 bedroom apartments.
  - **Additional storey to Building C**, comprising an **additional 11 apartments**, including 3 x 1 bedroom, 6 x 2 bedroom and 2 x 3 bedroom.
  - **Parking total of 182 car spaces**, including **167 resident** and **15 visitor spaces**.
  - **Total addition of 12 x 1 bedroom apartments.**
  - **Total addition of 17 x 2 bedroom apartments.**
  - **Total addition of 12 x 3/4 bedroom apartments.**
- The key development data is provided in **Table 1** below.

**Table 1: Development Data**

<b>Development Data / Control</b>	<b>Proposal</b>
Site area	7,485m <sup>2</sup>
GFA	15,568m <sup>2</sup>
FSR (residential)	<b>2.08:1</b>
Clause 4.6 Requests	Yes – Height of buildings (1.807m or 8.6% variation, as revised)
No. of apartments	<b>41 total (incl. 24 dedicated affordable housing</b> in addition to 4 affordable housing units dedicated to Council under VPA with original consent (DA2020/0143). <b>(Note:</b> the 41 apartments proposed under this application are in addition to 132 units approved under DA2020/0143, and will provide a total of 172 apartments)
Max. Height	<b>22.607m</b> (as revised) (max. permitted with SEPP 30% bonus is 20.8m. Result is a variation of 1.807m or 8.6% - CI4.6 objection submitted)
Storeys	Building A: Part 6 / part 7 storeys Building B: 7 storeys Building C: 7 storeys

Landscaped area	N/A (no change)
Car Parking spaces	<b>182</b> car spaces, incl. <b>167 resident</b> and <b>15 visitor</b> spaces (as revised)
Setbacks	<p>New Level 4 to Building A</p> <ul style="list-style-type: none"> <li>• Front setback: Consistent with existing (DA2020/0143) – min. 4m to 8.5m to external walls</li> <li>• Northern boundary: consistent with existing front setback (DA2020/0143) – min. 9m</li> <li>• Southern boundary: Consistent with existing (DA2020/0143) – min.6m</li> </ul> <p>New Level 5 to Building A</p> <ul style="list-style-type: none"> <li>• Front setback: consistent with existing (DA2020/0143)</li> </ul> <p>New Level 6 to Building A</p> <ul style="list-style-type: none"> <li>• George Street (front) boundary: between 9.3m and 11m to external facade</li> <li>• Southern boundary: min. 14.9m</li> <li>• Northern boundary: between 10.8m and 11.9m to external wall</li> </ul> <p>(as revised)</p> <p>New Level 6 to Building B</p> <ul style="list-style-type: none"> <li>• Southern boundary – between 9m and 9.6m to external wall</li> </ul> <p>(as revised)</p> <p>New Level 6 to Building C</p> <ul style="list-style-type: none"> <li>• Eastern (rear) boundary: consistent with existing rear setback (DA2020/0143) – between 8.2m and 11.5m</li> <li>• Southern boundary: consistent with existing (DA2020/0143) – min. 9m</li> <li>• Northern boundary: consistent with existing (DA2020/0143) – min. 9m</li> </ul> <p>(<b>Note:</b> the above revised setbacks are also stated and discussed in the applicant's '<i>Response to the Council Request for Additional Information</i>' letter, pages 4, 5 and 6</p>



**Figure 6:** CGI perspective rendition of proposed development as viewed from Argonne St, looking east to Building A façade **Source:** Applicant / Fuse Architects



**Figure 7:** CGI perspective of view looking south-east from internal courtyard **Source:** Extract from applicant's drawing titled 'Perspective 6A', No. DA810 (Revision 1), prepared by Fuse Architects, dated 11/07/2024

## 2.2 Background

The development application was lodged on 10 April 2024. A chronology of the development application since lodgement is outlined in Table 2 below:

**Table 2: Chronology of the DA**

Date	Event
<b>11 April 2024</b>	DA referred to external agencies
<b>17 April 2024</b>	Exhibition of the application (initial notification)
<b>25 June 2024</b>	Request for Information from Council to applicant
<b>26 July 2024</b>	Amended plans lodged including: <ul style="list-style-type: none"> <li>• Reduced building height</li> <li>• Increased southern side boundary setbacks</li> </ul> Increased George Street setback to level 6
<b>02 Aug 2024</b>	Exhibition of the revised application (re-notification)
<b>10 September 2024</b>	Panel briefing

## 2.3 Site History

**27 May 2014**, the Concord West Precinct Masterplan prepared by JBA on behalf of the Council was published. The Masterplan encompassed parcels of land on the western side of the Northern Railway Line at Concord West, the subject site included.

The conclusions of the Concord West Masterplan informed the preparation of a Planning Proposal for the subject site to amend the zoning and maximum height and FSR controls as follows:

- Change the zoning of the site from IN1 General Industrial to R3 Medium Density Residential;
- Change the maximum height control from 12 metres to part 16 metres and part 22 metres; and
- Change the maximum FSR control from 1:1 to 1.6:1.

**15 August 2017**, Planning Proposal (Council ref: PP2016/0006) & Gazettal of LEP Amendment – Council Meeting of City of Canada Bay Council held on 15 August 2017, resolved *inter alia* that:

- *the Planning Proposal for 25 George Street, North Strathfield, prepared by Urbis be submitted to the Department of Planning and Environment for finalisation*
- *the draft amendments to the Development Control Plan – Special Precincts for land within the Concord West Precinct be adopted*
- *the Draft Development Control Plan - Special Precincts be amended to exclude the application of Part C3 (Car Parking) of the Canada Bay Development Control Plan to Part 2.15 Concord West Precinct*
- *the applicant be advised to consult with Sydney Trains prior to the lodgement of a development application*
- *Prior to the Planning Proposal proceeding to the Department of Planning and Environment for finalisation, arrangements are to be in place to dedicate a minimum of 5% of the fully developed Gross Floor Area to Council as affordable housing.*

The Planning Proposal was intended to rezone land and facilitate redevelopment of the subject site through the demolition of existing industrial buildings, and the construction of residential flat buildings. The Planning Proposal and intended development outcome was

considered in accordance with the Concord West Precinct Master Plan and Parramatta Road Urban Transformation Strategy.

Canada Bay Local Environmental Plan 2013 (Amendment No 13) now applies to land at 25 George Street, North Strathfield, being SP 22302.

**20 April 2018**, the amendments proposed to the CBLEP 2013 under the Planning Proposal for the site were gazetted.

**5 November 2019**, Section 7.4 of the Act – Voluntary Planning Agreement (VPA) – Affordable Housing dedication to Council – The Parramatta Road Corridor Urban Transformation Strategy and Parramatta Road Urban Transformation Implementation Plan 2016-2023 requires a minimum of 5% of new housing to be provided as affordable housing.

On 5th November 2019, the Developer and Council entered into a planning agreement under Section 7.4 of the Environmental Planning & Assessment Act, 1979. The planning agreement stipulates that, should Development Consent be granted to **DA2020/0143**, the developer agreed to dedicate to Council a minimum of 5% of the uplift of the Gross Floor Area, or 2 three-bedroom units, whichever is greater, as affordable housing as defined in the Act. The provision of affordable housing to Council is clarified by condition of consent.

**14 December 2021**, requirements of Clause 6.9 of CBLEP (now repealed) – The applicant stated during assessment of the original development application **DA2020/0143**, that, 'in accordance with Department of Planning, Infrastructure and Environment procedures, a Letter of Offer for contributions to designated State public infrastructure to satisfy clause 6.9 of Canada Bay Local Environmental Plan 2013 has been made subsequent to the lodgement of that development application'. A **satisfactory arrangements certificate** (ref: SVPA2020-42), in relation to development application DA2020/0143 was issued by the DPIE on 14.12.2021.

**21 March 2022**, **DA2020/0143** for demolition of existing structures and construction of a residential apartment building with three towers of 4-6 levels containing 145 apartments (including affordable housing dedicated to Council) with two levels of basement and 126 car parking spaces was approved by Sydney Eastern City Planning Panel. <https://www.planningportal.nsw.gov.au/planning-panel/25-george-street-north-strathfield>

- **Modifications to DA2020/0143** include:
  - **14 April 2022, MOD2022/0041** for Amendments to Landscape Plans – Approved 14 July 2022
  - **13 March 2023, MOD2023/0034** for Modify Condition 31 (re timing for contributions payment) – Approved 22 May 2023
  - **2 May 2023, MOD2023/0049** for Internal changes to mix and size of units – **131 apartments** comprising 26 x 1 bed, 62 x 2 bed, 31 x 3 bed and 12 x 4 bed – no changes to building envelope – Approved 17 August 2023
  - **20 February 2024, MOD2024/0018** for Minor design refinements and enhancement, to the external façade, material finishes and building entries

**21 February 2024**, Several versions of preliminary schemes were discussed between the Applicant and Canada Bay Council officers prior to submission of this development application (DA2024/0064), which seeks consent for alterations and additions to an approved residential flat building under DA2020/0143.

On 21 February 2024, the **DRP** considered **Pre-DA Ref: PL2024/0002**, for amending DA to a recently determined application (**DA2021/0143**), to take advantage of the recent Housing

SEPP changes to benefit from an uplift of up-to 30% extra GFA and Height where up-to 15% of GFA is for affordable housing.

The DRP did not support **PL2024/0002** in its current form at the time of consideration, raising the following issues:

- *Massing – Exceedance of 25m building height requiring significant fire safety upgrade – Massing not ideal*
- *George Street Façade – Streetscape presentation requires better integration and a more subtle distinction at the new upper levels*
- *Courtyard – Building expression around the common open space has scope for improvement, eg. Calmer facades with only one height datum, more variety with colours, materials and or scale*
- *Central Building – Concern with scale of central building, integration with building to south – building setbacks and separation, in particular from the adjoining COS and pool area. Shadow diagrams should also demonstrate additional impacts in March and September equinox*

**10 April 2024, DA2024/0064**, this application, was lodged for application under State Environmental Planning Policy (Housing) for three additional storeys to Building A (street facing) and an additional storey to both Building B and C with 41 units (24 units allocated to affordable housing) and amendments to internal basement layout to provide 50 additional car spaces. The additional units under this application will sit atop the building approved under **DA2020/0143**.

### **3. STATUTORY CONSIDERATIONS**

---

#### **3.1 Environmental Planning and Assessment Act, 1979**

Pursuant to section 4.17(1)(b) of the EP&A Act authorises a consent authority to impose a condition of development consent requiring the modification of a consent granted under the EP&A Act.

The subject application invites such a condition such that this DA would require the modification of DA2017/0544.

Pursuant to section 4.17(5) of the EP&A Act and section 67 of the Regulation, the process for modification is as follows:

1. The consent authority imposes a condition of consent on the new DA (i.e. this DA) requiring that a “Notice of Modification” in relation to Development Consent DA2020/0143 be lodged with Council prior to the issue of a Construction Certificate for the new DA2024/0064;
2. The Applicant submits the notice of modification in the terms required by s67 of the Regulation, including details of the modification; and
3. The notice takes effect when the consent authority gives written notice to the person giving the notice that the consent authority received the notice.

A condition of consent requiring the above is recommended and is stated as follows:



**Prior to the issue of any Construction Certificate** for the development approved by this Consent (DA2024/0064) and pursuant to s4.17(5) of the EP&A Act and s67 of the EP&A Regulation, a notice of modification must be submitted to Council outlining such matters as may be relevant in regard to development consent DA2020/0143.

### 3.2 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

#### (a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Canada Bay Local Environmental Plan 2013*; and
- City of Canada Bay Development Control Plan.

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

**Table 3: Summary of Applicable Environmental Planning Instruments**

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 2: Vegetation in non-rural areas Chapter 6: Water Catchment  The proposal does not include excavation or the removal of vegetation. Relevant Chapters were considered with the original consent under DA2020/0143.  The proposal is consistent with this Policy subject to the recommended conditions of consent.	Y
State Environmental Planning Policy (Sustainable Buildings) 2022	No compliance issues identified subject to imposition of conditions on any consent granted.  The proposal is consistent with this Policy subject to the recommended conditions of consent.	Y
State Environmental Planning Policy (Housing) 2021	Chapter 2 Affordable Housing, Division 1 In-fill affordable housing.	Y



	<p>Chapter 4 Residential flat buildings – Design of residential apartment development.</p> <p>The proposal is consistent to the design quality principles and the proposal is consistent to the ADG requirements for car parking and building separation, internal area for each apartment, and floor to ceiling heights.</p> <p>The proposal is consistent with this Policy subject to the recommended conditions of consent.</p>	
State Environmental Planning Policy (Planning Systems) 2021	<p>Chapter 2: State and Regional Development</p> <ul style="list-style-type: none"> <li>Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 4 of Schedule 6 as it comprises Capital Investment Value in excess of \$5,000,000.00.</li> </ul> <p>The proposal is consistent with this Policy.</p>	Y
SEPP (Resilience & Hazards) 2021	<p>Chapter 4: Remediation of Land</p> <p>The proposed alterations and additions to the approved development do not involve any variation to the assessment of the site's suitability for the proposed use that was granted consent under DA2020/0143. Accordingly, Chapter 4 is appropriately satisfied.</p> <p>The proposal is consistent with this Policy subject to the recommended conditions of consent.</p>	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	<ul style="list-style-type: none"> <li>Section 2.98 Development adjacent to rail corridors <ul style="list-style-type: none"> <li>Section 2.98(2)</li> </ul> </li> <li>Section 2.100 Impact of rail noise or vibration on non-rail development <ul style="list-style-type: none"> <li>Section 2.100(2)(a)(b)</li> </ul> </li> </ul> <p>Concurrence has been granted subject to recommended <b>operational conditions</b> in Attachment A of TfNSW letter dated 15 May 2024.</p> <p>The proposal is consistent with this Policy subject to the recommended conditions of consent.</p>	Y
Canada Bay LEP	<ul style="list-style-type: none"> <li>Clause 2.3 – Permissibility and zone objectives</li> </ul>	Y N Y

	<ul style="list-style-type: none"> <li>• Clause 4.3 Height of buildings (refer to key issues) (Clause 4.6 written request provided)</li> <li>• Clause 4.4 Floor space ratio (overridden by Housing SEPP bonus FSR – compliant with Housing SEPP)</li> </ul>	
City of Canada Bay DCP	Part B - General Controls - Parking Requirements Appendix 2 – Engineering Specification	Y

Consideration of the relevant SEPPs is outlined below.

### **State Environmental Planning Policy (Biodiversity & Conservation) 2021 (Biodiversity & Conservation SEPP)**

The Biodiversity & Conservation SEPP was notified on 2 December 2021 and commenced on 1 March 2022. The provisions of the SEPP relevant to the proposal are set out in Chapters 2 Vegetation in non-rural areas and 6 Water Catchments.

#### *Chapter 2 - Vegetation in non-rural areas*

The requirements of Chapter 2 Vegetation in non-rural areas (previously SEPP (Vegetation in Non-rural Areas) 2017) were considered in the assessment of the original development application (DA2020/0143). The proposed development does not involve any changes to the approved removal of vegetation on the subject site. As such, this chapter is not applicable to the proposed development and is acceptable.

#### *Chapter 6 - Water Catchments*

The requirements of Chapter 6 Water Catchments (previously Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005) were considered in the assessment of the original development application. On 21 October 2022, the Biodiversity and Conservation SEPP was amended, and Chapter 6 was introduced. These provisions took effect from 21 November 2022.

The site is located approximately 160m from Powell's Creek which flows into Homebush Bay and Parramatta River. The site is also located within the Sydney Harbour catchment. The proposed alterations and additions are assessed against the following provisions of Part 6.2 - Development in regulated catchments:

<b>Chapter 6 – Division 2 Controls on development generally</b>		
<b>Clause</b>	<b>Requirement</b>	<b>Proposal</b>
Clause 6.6 Water quality and quantity	(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following- (a) whether the development will have a neutral or beneficial effect on the quality of water entering a waterway, (b) whether the development will have an adverse impact on water flow in a natural waterbody,	No material reduction in water quality or quantity from the site.  No adverse impact to the water quality and quantity of the locality.  Stormwater management will be consistent with the originally approved development (DA2020/0143) on the subject site and the proposed alterations and additions will not make any significant changes.

	<p>(c) whether the development will increase the amount of stormwater run-off from a site,</p> <p>(d) whether the development will incorporate on-site stormwater retention, infiltration or reuse,</p> <p>(e) the impact of the development on the level and quality of the water table,</p> <p>(f) the cumulative environmental impact of the development on the regulated catchment,</p> <p>(g) whether the development makes adequate provision to protect the quality and quantity of ground water.</p> <p>(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied the development ensures-</p> <p>(a) the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and</p> <p>(b) the impact on water flow in a natural waterbody will be minimised.</p>	
<p>Clause 6.7 Aquatic ecology</p>	<p>(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following—</p> <p>(a) whether the development will have a direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation,</p> <p>(b) whether the development involves the clearing of riparian vegetation and, if so, whether the development will require—</p> <p>(i) a controlled activity approval under the <a href="#">Water Management Act 2000</a>, or</p> <p>(ii) a permit under the <a href="#">Fisheries Management Act 1994</a>,</p> <p>(c) whether the development will minimise or avoid—</p> <p>(i) the erosion of land abutting a natural waterbody, or</p> <p>(ii) the sedimentation of a natural waterbody,</p>	<p>The site is sufficiently separated from any waterway and will not have any adverse impact to the aquatic ecology of the Sydney Harbour catchment.</p> <p>The proposal will include appropriate mitigation measures during construction and operation as conditioned. This is consistent with the originally approved (DA2020/0143) residential flat building development on the subject site and is therefore acceptable.</p>

	<p>(d) whether the development will have an adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area,</p> <p>(e) whether the development includes adequate safeguards and rehabilitation measures to protect aquatic ecology,</p> <p>(f) if the development site adjoins a natural waterbody—whether additional measures are required to ensure a neutral or beneficial effect on the water quality of the waterbody.</p> <p><b>Example—</b> Additional measures may include the incorporation of a vegetated buffer between the waterbody and the site.</p> <p>(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—</p> <p>(a) the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development,</p> <p>(b) the development will not have a direct, indirect or cumulative adverse impact on aquatic reserves,</p> <p>(c) if a controlled activity approval under the <a href="#">Water Management Act 2000</a> or a permit under the <a href="#">Fisheries Management Act 1994</a> is required in relation to the clearing of riparian vegetation—the approval or permit has been obtained,</p> <p>(d) the erosion of land abutting a natural waterbody or the sedimentation of a natural waterbody will be minimised,</p> <p>(e) the adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area will be minimised.</p>	
Clause 6.8 Flooding	(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority	The site is not impacted by flooding.

	<p>must consider the likely impact of the development on periodic flooding that benefits wetlands and other riverine ecosystems.</p> <p>(2) Development consent must not be granted to development on flood liable land in a regulated catchment unless the consent authority is satisfied the development will not—</p> <p>(a) if there is a flood, result in a release of pollutants that may have an adverse impact on the water quality of a natural waterbody, or</p> <p>(b) have an adverse impact on the natural recession of floodwaters into wetlands and other riverine ecosystems.</p>	
<p>Clause 6.9 Recreation and public access</p>	<p>(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider—</p> <p>(a) the likely impact of the development on recreational land uses in the regulated catchment, and</p> <p>(b) whether the development will maintain or improve public access to and around foreshores without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation.</p> <p>(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—</p> <p>(a) the development will maintain or improve public access to and from natural waterbodies for recreational purposes, including fishing, swimming and boating, without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation,</p> <p>(b) new or existing points of public access between natural waterbodies and the site of the development will be stable and safe,</p> <p>(c) if land forming part of the foreshore of a natural waterbody will be made available for public access as a result of the</p>	<p>The site is not located adjacent to or in the vicinity of any public open space or publicly accessible land.</p>

	development but is not in public ownership—public access to and use of the land will be safeguarded.	
Clause 6.10 Total catchment management	In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consult with the council of each adjacent or downstream local government area on which the development is likely to have an adverse environmental impact.	<p>None identified.</p> <p>The proposal will include appropriate mitigation measures during construction and operation as conditioned. This is consistent with the originally approved (DA2020/0143) residential flat building development on the subject site and is therefore acceptable.</p>

The proposal is consistent with this Policy subject to conditions of consent.

**State Environmental Planning Policy (Sustainable Buildings) 2022** (Sustainable Buildings SEPP)

The provisions of SEPP (BASIX: Building Sustainability Index) 2004 (SEPP BASIX) were considered in the assessment of the original development application (DA2020/0143). Since that time, SEPP BASIX has been repealed and Chapter 2 Standards for residential development - BASIX, incorporated into the State Environmental Planning Policy (Sustainable Buildings) 2022. The proposed alterations and additions are submitted with a new BASIX Certificate which demonstrates that the proposal achieves the required water, energy and thermal comfort targets.

The Sustainable Buildings SEPP) now applies to the proposal and maintains objectives to ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development.

The application is accompanied by BASIX Certificate No. 754373M\_10 prepared by Jensen Hughes PTY. LIMITED dated 26 June 2024 committing to environmentally sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP.

The proposal is consistent with the Sustainable Buildings SEPP subject to the recommended conditions of consent.

**State Environmental Planning Policy (Housing) 2021** (Housing SEPP)

State Environmental Planning Policy (Housing) 2021 (Housing SEPP) commenced on 26 November 2021 and aims to incentivise the supply and ensure the effective delivery of new affordable and diverse housing.

The Housing SEPP was recently amended on 14 December 2023 to incentivise provision of additional affordable housing with a floor space ratio bonus of 20-30% and a building height bonus of 20-30%, for projects that include at least 10-15% of gross floor area as affordable housing.

The relevant sections of the current Housing SEPP which apply to this development are:

- Chapter 2 Affordable housing, Division 1 In-fill affordable housing; and
- Chapter 4 Design of residential apartment development.

<b>Chapter 2 Affordable Housing – Division 1 In-fill affordable housing</b>		
<b>Clause</b>	<b>Requirement</b>	<b>Proposal</b>
Clause 15C Development to which division applies	<p>(1) This division applies to development that includes residential development if—</p> <p>(a) the development is permitted with consent under Chapter 3, Part 4, Chapter 5 or another environmental planning instrument, and</p> <p>(b) the affordable housing component is at least 10%, and</p> <p>(c) all or part of the development is carried out—</p> <p>(i) for development on land in the Six Cities Region, other than in the City of Shoalhaven or Port Stephens local government area—in an accessible area, or</p> <p>(ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.</p>	<p>The development is permitted with consent.</p> <p>The affordable housing component proposed is 15%.</p> <p>The site is located 770m walking distance from the public entry to Concord West Railway Station</p>
Clause 16 Affordable housing requirements for additional floor space ratio	<p>(1) The maximum floor space ratio for development that includes residential development to which this division applies is the maximum permissible floor space ratio for the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).</p> <p>(2) The minimum affordable housing component, which must be at least 10%, is calculated as follows—</p> $\text{affordable housing component} = \frac{\text{additional floor space ratio (as a percentage)}}{2}$ <p>(3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).</p>	<p>The site is permitted a FSR of 1.6:1 and GFA of 11,976m<sup>2</sup> under the CBLEP.</p> <p>The proposal is for a total FSR of 2.08:1 and GFA of 15,567m<sup>2</sup>, or an additional GFA of 3,591m<sup>2</sup>, FSR 0.48:1 and bonus of 30%.</p> <p>15% of the total GFA (or 2,335.05m<sup>2</sup>) is provided as affordable housing.</p>
Clause 18 Affordable housing requirements for additional building height	<p>(1) This section applies to development that includes residential development to which this division applies if the development—</p> <p>(a) includes residential flat buildings or shop top housing, and</p>	<p>The building height bonus includes 30% of 16m</p>



	<p>(b) does not use the additional floor space ratio permitted under section 16.</p> <p>(2) The maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the land plus an additional building height of up to 30%, based on a minimum affordable housing component calculated in accordance with subsection (3).</p> <p>(3) The minimum affordable housing component, which must be at least 10%, is calculated as follows—</p> $\text{affordable housing component} = \frac{\text{additional building height}}{\text{(as a percentage)}} \div 2$	<p>(allowing 20.8m) and 30% of 22m (allowing 28.6m).</p> <p>The proposal includes:  Building A- 23.12m (20.8m limit applies)  Building B- 26.64m (28.6m limit applies)  Building C- 25.45m to lift overrun (28.6m limit applies)</p> <p>CI4.6 supported.</p>
<p>Clause 19 Non-discretionary development standards—the Act, s 4.15</p>	<p>(1) The object: to identify development standards for particular matters relating to residential development under this division that, if complied with, prevent the consent authority from requiring more onerous standards for the matters. (Section 4.15(3), which does not prevent development consent being granted if a non-discretionary development standard is not complied with)</p> <p>(2) The following are non-discretionary development standards in relation to the residential development to which this division applies—</p> <p>(a) a minimum site area of 450m<sup>2</sup>,</p> <p>(b) a minimum landscaped area that is the lesser of—</p> <p>(i) 35m<sup>2</sup> per dwelling, or</p> <p>(ii) 30% of the site area,</p> <p>(c) a deep soil zone on at least 15% of the site area, where—</p> <p>(i) each deep soil zone has minimum dimensions of 3m, and</p> <p>(ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,</p> <p>(d) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter,</p> <p>(e) the following number of parking spaces for dwellings used for affordable housing—</p> <p>(i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces,</p> <p>(ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces,</p>	<p>2(a) Site area = 7,485m<sup>2</sup></p> <p>2(b) 30% of the site area (or 2,246m<sup>2</sup>) – minimum landscaped area provided.</p> <p>2(c) &amp; (d) Landscape areas and deep soils zones are not proposed to be altered under this application.</p> <p>2(e) 24 apartments proposed as AH:  14 x 2 bed AH = 7 parking spaces  10 x 3 bed AH = 10 parking spaces  17 AH parking spaces provided.</p>

	<p>(iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space,</p> <p>(f) the following number of parking spaces for dwellings not used for affordable housing—</p> <p>(i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces,</p> <p>(ii) for each dwelling containing 2 bedrooms—at least 1 parking space,</p> <p>(iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,</p> <p>(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,</p> <p>(h) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide,</p> <p>(i) if paragraphs (g) and (h) do not apply, the following minimum floor areas—</p> <p>(i) for each dwelling containing 1 bedroom—65m<sup>2</sup>,</p> <p>(ii) for each dwelling containing 2 bedrooms—90m<sup>2</sup>,</p> <p>(iii) for each dwelling containing at least 3 bedrooms—115m<sup>2</sup> plus 12m<sup>2</sup> for each bedroom in addition to 3 bedrooms.</p> <p>(3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.</p>	<p>2(f) 144 proposed apartments not used as AH:</p> <p>38 x 1 bed = 19 parking spaces</p> <p>65 x 2 bed = 65 parking spaces</p> <p>45 x 3/4 bed = 98 parking spaces</p> <p>This requires 152 parking spaces for standard (not AH) apartments.</p> <p>In total, 169 parking spaces are required. The proposal provides 176.</p> <p>2(g) ADG applies to internal area of apartments</p> <p>2(h) &amp; (i) do not apply.</p>
Clause 20 Design requirements	<p>(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—</p> <p>(a) the desirable elements of the character of the local area, or</p> <p>(b) for precincts undergoing transition—the desired future character of the precinct.</p>	<p>Compliance with applicable ADG Design Criteria and/or acceptable on merit within local context and evolving Housing SEPP provisions.</p>
Clause 21 Must be used for affordable housing for at least 15 years	<p>(1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development—</p> <p>(a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and</p>	<p><b>As conditioned</b></p>

	(b) the affordable housing component will be managed by a registered community housing provider.	

Chapter 4 Design of residential apartment development		
Clause	Requirement	Proposal
Clause 147 Determination of development applications and modification applications for residential apartment development	<p>(1) <b>Development consent must not be granted to residential apartment development</b>, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—</p> <p>(a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,</p> <p>(b) the Apartment Design Guide,</p> <p>(c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.</p> <p>(2) The 14-day period referred to in subsection (1)(c) does not increase or otherwise affect the period in which a development application or modification application must be determined by the consent authority.</p> <p>(3) To avoid doubt, subsection (1)(b) does not require a consent authority to require compliance with design criteria specified in the Apartment Design Guide.</p> <p>(4) Subsection (1)(c) does not apply to State significant development.</p>	<p>(1)(a) Design principles Satisfactory. Consistent with original approval DA2020/0143.</p> <p>(1)(b) ADG Satisfactory. Consistent with original approval DA2020/0143. Note, revised plans are now compliant with building separation between development and 23A George Street to the south.</p> <p>(1)(c) DRP Advice Revised plans in response to advice. Satisfactory.</p> <p>For further detail, refer to applicant's compliance tables in the Attachments of this report and merit discussions on key issues.</p>
Clause 148 Non-discretionary development standards for residential apartment development—the Act, s 4.15	<p>The following are non-discretionary development standards—</p> <p>(a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,</p> <p>(b) the internal area for each apartment must be equal to, or greater than, the recommended</p>	<p>Parking provisions comply.</p> <p>Internal area for each apartment complies.</p>

	minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide, (c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.	
Clause 149 Apartment Design Guide prevails over development control plans	ADG controls apply	Proposal generally complies with ADG requirements.  Minor height exceedance is supported with Clause 4.6 written request – supported.

***State Environmental Planning Policy (Planning Systems) 2021*** (Planning Systems SEPP)

**Chapter 2: State and Regional Development**

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in 3 of Schedule 6 of the Planning Systems SEPP as the proposal is development for Council related development. Accordingly, the Sydney Eastern City Panel is the consent authority for the application.

The proposal is consistent with this Policy subject to the recommended conditions of consent.

***State Environmental Planning Policy (Resilience and Hazards) 2021*** (Resilience & Hazards SEPP)

**Chapter 4: Remediation of Land**

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* ('the Resilience and Hazards SEPP') have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

Council's environmental health officer reviewed the relevant reports with DA2020/0143 and raised no objections to the approval of the development application subject to relevant conditions of consent which were adopted.

The proposed alterations and additions to the approved development does not involve a change of use or any further excavation. The proposed alterations and additions to the approved development do not involve any variation to the assessment of the site's suitability for the proposed use that was granted consent under DA 2020/0143. Accordingly, Chapter 4 is appropriately satisfied.

***State Environmental Planning Policy (Transport and Infrastructure) 2021*** (Transport & Infrastructure SEPP)

**Division 15 Railways – Subdivision 2 Development in or adjacent to rail corridors and interim rail corridors—notification and other requirements**

Section 2.98(1)	<p>(1) This section applies to development on land that is in or adjacent to a rail corridor, if the development—</p> <p>(a) is likely to have an adverse effect on rail safety, or</p> <p>(b) involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or</p> <p>(c) involves the use of a crane in air space above any rail corridor, or</p> <p>(d) is located within 5 metres of an exposed overhead electricity power line that is used for the purpose of railways or rail infrastructure facilities.</p>	<p>The proposed development adjacent to the rail corridor and therefore Clause 2.98 applies.</p> <p>The proposal will not have any impact on rail safety as originally approved under DA2020/0143.</p> <p>The development involves alterations and additions to the original approval (DA2020/0143). The proposal does not;</p> <ul style="list-style-type: none"> <li>• Will not involve the placing of metal finish on rail corridors;</li> <li>• Will not involve the use of cranes above the rail corridor, as originally approved; and</li> <li>• Is setback 8 metres from the boundary shared with the rail corridor.</li> </ul> <p>Concurrence has been granted subject to recommended <b>operational conditions</b> in Attachment A of TfNSW letter dated 15 May 2024.</p>
Section 2.98(2) Development adjacent to rail corridors	<p>Before determining a development application for development to which this section applies, the consent authority must—</p> <p>a) within 7 days after the application is made, give written notice of the application to the rail authority for the rail corridor, and</p> <p>b) take into consideration—</p> <p>i. any response to the notice that is received within 21 days after the notice is given, and</p> <p>ii. any guidelines that are issued by the Planning Secretary for the purposes of this section and published in the Gazette.</p>	<p>Council referred the application to TfNSW (Sydney Trains) on 23 April 2024.</p> <p>Concurrence has been granted subject to recommended <b>operational conditions</b> in Attachment A of TfNSW letter dated 15 May 2024.</p>
Section 2.99	<p>(1) This section applies to development (other than development to which section 2.101 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land—</p> <p>(a) within, below or above a rail corridor, or</p>	<p>The proposed development adjacent to the rail corridor and therefore Clause 2.99 applies.</p> <p>The proposal does not seek to alter the extent of excavation beyond that originally approved and as such, the structural integrity of the rail corridor will be</p>

	<p>(b) within 25m (measured horizontally) of a rail corridor, or</p> <p>(c) within 25m (measured horizontally) of the ground directly below a rail corridor, or</p> <p>(d) within 25m (measured horizontally) of the ground directly above an underground rail corridor.</p>	<p>protected as approved under DA2020/0143.</p> <p>The proposal is adequately setback and will not involve any uses which will impact the operation of the rail corridor, as originally approved.</p> <p>Concurrence has been granted subject to recommended <b>operational conditions</b> in Attachment A of TfNSW letter dated 15 May 2024.</p>
Section 2.100(1)	<p>(1) This section applies to development (other than development to which section 2.101 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land—</p> <p>(a) within, below or above a rail corridor, or</p> <p>(b) within 25m (measured horizontally) of a rail corridor, or</p> <p>(c) within 25m (measured horizontally) of the ground directly below a rail corridor, or</p> <p>(d) within 25m (measured horizontally) of the ground directly above an underground rail corridor</p>	<p>An Acoustic Report prepared by Pulse White Noise Acoustics Pty Ltd, Ref No. 2410001-25, dated 20 March 2024, is submitted with this application.</p> <p>Council's Environmental Health Officer has reviewed the report with application and confirmed 'external noise level criteria in accordance with the NSW NPI has been set which is satisfactory', <b>subject to conditions</b> provided.</p>
Section 2.100(2)	<p>Before determining a development application for development to which this section applies, the consent authority must take into consideration any guidelines that are issued by the Planning Secretary for the purposes of this section and published in the Gazette.</p>	<p>Noted.</p> <p>References to guidelines other than relevant SEPPs discussed in the report include:</p> <ul style="list-style-type: none"> <li>• Development Near Rail Corridors &amp; Busy Roads – Interim Guideline</li> </ul>
Section 2.100(3)	<p>If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—</p> <p>a) in any bedroom in the residential accommodation—35</p>	<p>Council's Environmental Health Officer has reviewed the report with application and confirmed 'external noise level criteria in accordance with the NSW NPI has been set which is satisfactory', <b>subject to conditions</b> provided.</p> <p>It is noted that appropriate conditions of consent have been included in the original development consent</p>

	<p>dB(A) at any time between 10.00 pm and 7.00 am,</p> <p>b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time</p>	<p>(DA2020/0143) to address the issue of rail-related noise and vibration. These conditions will also be maintained as part of the amended development application.</p>
--	--	---

The proposal is consistent with this Policy.

### **Canada Bay Local Environmental Plan 2013**

The relevant local environmental plan applying to the site is the *Canada Bay Local Environmental Plan 2013* ('the LEP'). The aims of the LEP include *inter alia*:

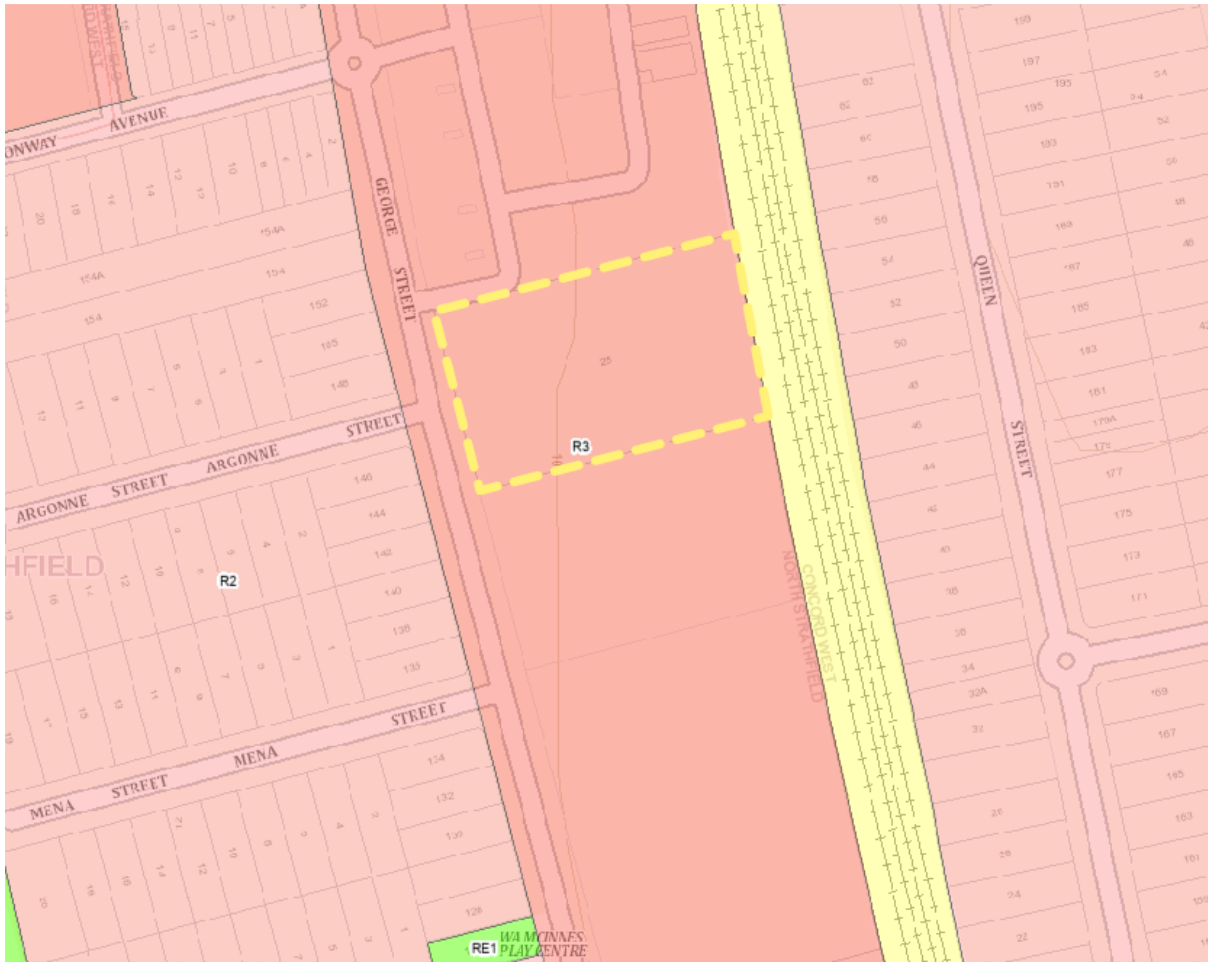
- *to maintain and enhance the existing amenity and quality of life of the local community by providing for a balance of development that caters for the housing, employment, entertainment, cultural, welfare and recreational needs of residents and visitors*
- *to achieve high quality urban form by ensuring that new development reflects the existing or desired future character of particular localities*
- *to promote sustainable transport, reduce car use and increase use of public transport, walking and cycling*

The proposal is consistent with these aims as it provides housing within a high quality urban form that is close to public transport.

### ***Zoning and Permissibility (Part 2)***

The site is located within the R3 Medium Density Residential zone pursuant to Clause 2.2 of the LEP.





**Figure 8: Zoning Map Extract** **Source:** NSW Planning Portal Spatial Viewer

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of *residential flat building* which is a permissible use with consent in the Land Use Table in Clause 2.3.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The proposal provides additional housing within a medium density residential environment.
- The proposal provides a variety of housing types within a medium density residential environment.
- The proposal also delivers affordable housing.

*General Controls and Development Standards (Part 2, 4, 5 and 6)*

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below. The proposal does not comply with the Height of buildings development standard in Part 4.3 of the LEP/Clause 18 of the Housing SEPP and accordingly, a Clause 4.6 request has been provided with the application for the exceedance of the maximum Height of buildings development standard.

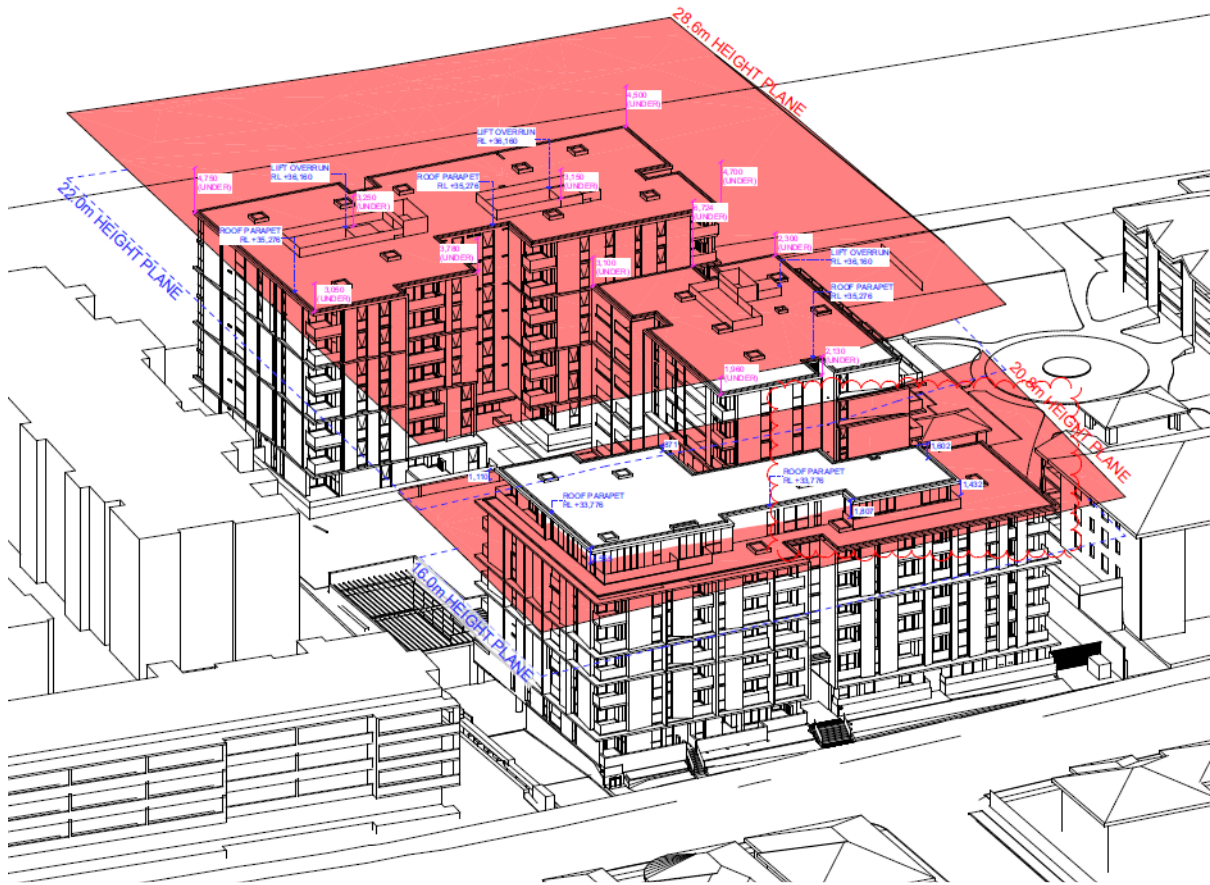
**Table 4: Consideration of the LEP Controls**

Control	Requirement	Proposal	Comply
Min. Lot size (CI 4.1A)	800m <sup>2</sup>	7,485m <sup>2</sup>	Yes
Height of buildings (CI 4.3(2))	The building height bonus afforded under the Housing SEPP includes 30% of the max. CBLEP height of 16m which applies to the front portion of the site (allowing <b>20.8m</b> ) and 30% of max. CBLEP height of 22m which applies to the rear portion of the site (allowing 28.6m)	The proposal includes: <ul style="list-style-type: none"> <li>• <b>Building A- 23.12m</b></li> <li>• Building B-26.64m</li> <li>• Building C-25.45m to lift overrun</li> </ul>	<b>No</b> , the front portion of the site at Building A (supported with CI4.6 objection – variation of <b>1.807m or 8.6%</b> )
FSR (CI 4.4(2))	The site is permitted a FSR of 1.6:1 and GFA of 11 ,976m <sup>2</sup> under the CBLEP.  bonus of 30%, 15% of the total GFA (or 2,335.05m <sup>2</sup> ) is provided as affordable housing	The proposal is for a total FSR of 2.08:1 and GFA of 15,567m <sup>2</sup> , or an additional GFA of 3,591m <sup>2</sup>	Yes
Mix of dwelling sizes in residential flat buildings and mixed use development (CI 6.11)	At least 20% of dwellings, be studio or 1 bedroom dwellings, and at least 20% of the dwellings, have at least 3 bedrooms.	The proposed alterations and additions result in the following unit mix within the whole development: <ul style="list-style-type: none"> <li>• 38 x 1 bed (22%)</li> <li>• 54 x 3/4 bed (31%)</li> </ul>	Yes

The proposal is considered to be generally consistent with the LEP except for Clause 4.3(2) Height of buildings.

#### *Clause 4.6 Request*

The applicant seeks to vary LEP Clause 4.3(2) Height of buildings and Clause 18 of the Housing SEPP. The variation being 1.807m or 8.6%. Refer to visual representation of non-compliance in the figure below.



**Figure 9:** Extract of Height Plane Diagram showing extent of building height non-compliance at Building A **Source:** Applicant's drawing no. DA503 (Revision I), prepared by Fuse Architects, dated 12/07/2024)

#### *Preconditions to be satisfied*

Clause 4.6(4) of the LEP establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard. Clause 4.6(2) provides this permissive power to grant development consent for a development that contravenes the development standard is subject to conditions.

The two preconditions include:

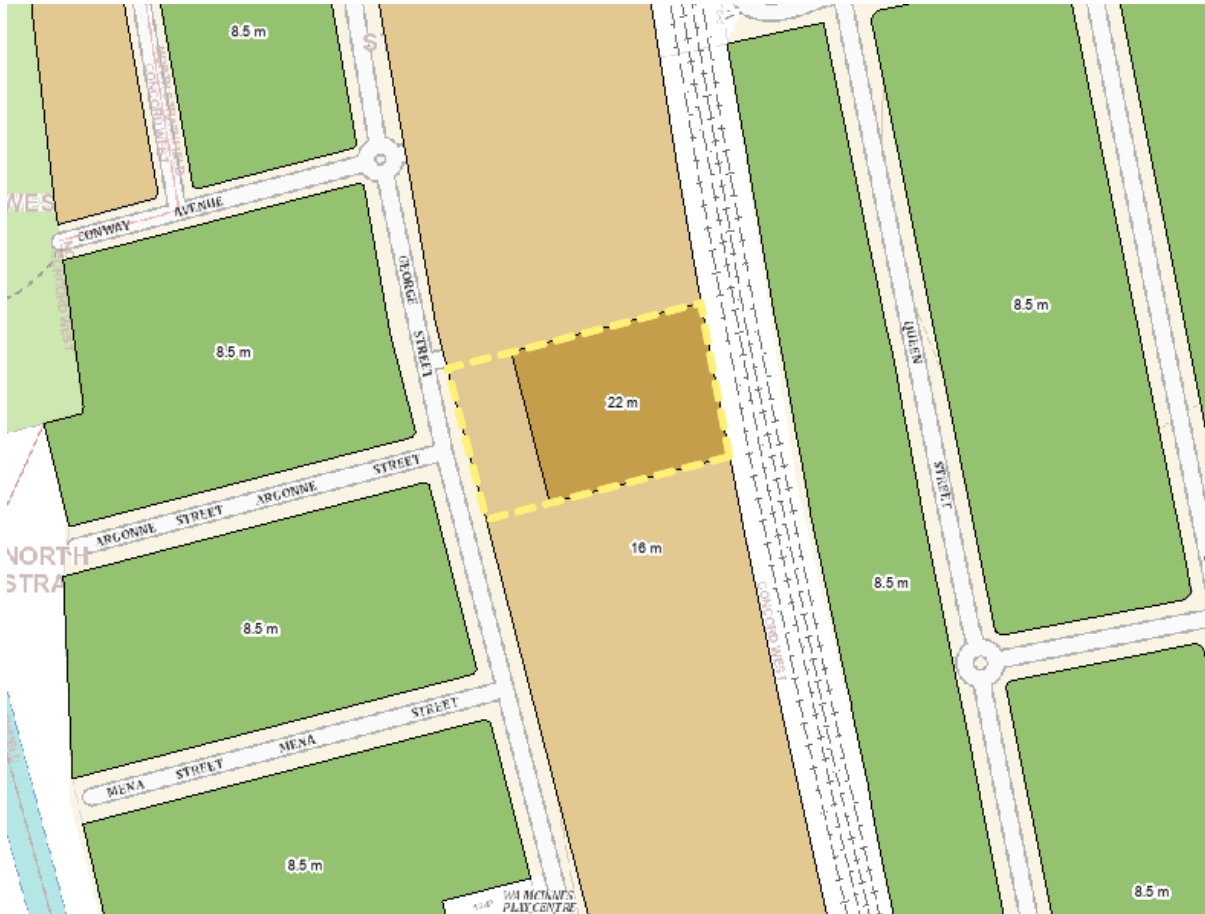
1. Tests to be satisfied pursuant to Cl 4.6(4)(a) – this includes matters under Cl 4.6(3)(a) and (b) in relation to whether the proposal is unreasonable and unnecessary in the circumstances of the case and whether there are sufficient environmental planning grounds to justify contravening the development standard and whether the proposal is in the public interest (Cl 4.6(a)(ii)); and
2. Tests to be satisfied pursuant to Cl 4.6(b) – concurrence of the Planning Secretary.

These matters are considered below for the proposed development having regard to the applicant's Clause 4.6 request.

#### Clause 4.6 – Exemption of Development Standards

- (1) *The objectives of this clause are as follows—*
- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
  - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*
- (4) *The consent authority must keep a record of its assessment carried out under subclause*
1. What Clause is sought to be varied:

Clause 4.3(2) of the Canada Bay Local Environmental Plan 2013 (CBLEP 2013) states that *the height for a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map* (see extract of LEP height map in **Figure 10** below for reference to the site's maximum height apportionment). The Height of buildings Map shows that the maximum building height permitted for a building on the subject land is 16m to the front portion of the site and 22m to the rear portion. A building height bonus afforded however under the Housing SEPP including, 30% of the maximum LEP height of 16m, which applies to the front portion of the site (allowing **20.8m**) and 30% of maximum LEP height of 22m, which applies to the rear portion of the site (allowing **28.6m**).



**Figure10: Height of building Map Extract** **Source: NSW Planning Portal Spatial Viewer**

The proposed development has a maximum height of **23.12m**, therefore exceeding the development standard by 1.807m or **8.6%**.

## 2. Clause 4.6 Objectives:

The following objectives are contained in Clause 4.6 of the Canada Bay Local Environmental Plan 2013:

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

The following objective are contained in the Housing SEPP C15A:

- *The objective of this division is to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.*

In consideration of the applicant's written submission, Council is satisfied that it is appropriate to invoke the provisions of Clause 4.6 to vary the Height of buildings development standard allowing flexibility in the application of the Height of buildings given the circumstances of the development proposal as follows:

- The applicant's written request demonstrates that compliance is both unreasonable and unnecessary in the circumstances of the case and that there are sufficient

planning grounds to justify contravening the Height of buildings development standard.

- The proposed non-compliant height results in a built form that achieves a better outcome for the site.
- The proposal satisfies the objectives of the Housing SEPP C115A.
- The proposal satisfies the objectives of the Height of buildings development standard and is consistent with zone objectives.

3. Clause 4.6(3) Provisions:

Sub-clause (3) of Clause 4.6 of the CBLEP 2013 states that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating the following:

- (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.*

In consideration of the applicant's written submission, Council is satisfied that it is unreasonable and unnecessary to require strict compliance with the Height of Buildings development standard under Clause 4.3(2) of the CBLEP 2013, and that there are sufficient environmental planning grounds to justify contravening the Height of Buildings standard for the reasons set out below.

Council is also satisfied that the proposed development is in the public interest because it is consistent with the following objectives of the Height of Buildings development standard, as contained in Clause 4.3(1) of the CBLEP 2013, for the reasons set out below:

- a) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively contribute to the streetscape and public spaces,*
- b) to protect the amenity of residential accommodation, neighbouring properties and public spaces in terms of—*
  - i. visual and acoustic privacy, and*
  - ii. solar access and view sharing,*
- c) to establish a transition in scale between medium and high density centres and adjoining lower density and open space zones to protect local amenity,*
- d) to ensure that buildings respond to the natural topography of the area.*

The proposal is considered to satisfy the above objectives for the following reasons:

- The proposed development is well articulated with the height non-compliance confined to Building A and setback from the primary building alignment and does not result in additional overshadowing to adjoining residential property.
- The proposed development is adequately setback from adjoining properties.
- No impacts on water views or significant vistas have been identified in the locality as a result of proposed additional storeys.

- The existing large and mature trees in George Street will be retained, softening the proposal when viewed within the streetscape and from nearby residential development.
- The level of overshadowing as a result of the proposed alterations and additions is minimal.

Council is also satisfied that in accordance with sub-clause (4) (ii) of Clause 4.6, the proposal will be in the public interest because it is consistent with the following objectives of the R3 Medium Density Residential zone in which the site is located, for the reasons stated below:-

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comments in relation to the above objectives are as follows:-

- The proposal will provide additional general housing as well as additional affordable housing in the area.
- The proposal will not unreasonably impact on existing surrounding residential developments in terms of noise and visual amenity, overshadowing or generate any notable increase in traffic and on-street parking.

Council is satisfied that the contravention of the Height of buildings development standard in this case will not raise any matter of significance for state or regional environmental planning and that the public benefit of the Height of buildings development standard will be maintained as the proposal meets the objectives of the development standard and zone objectives

#### **(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

As mentioned in the Executive Summary and Section 1.2 of this report, there is a proposed instrument which has been the subject of public consultation under the EP&A Act, and is relevant to the proposal, including the following:

- *The draft Homebush Transport Orientated Development Rezoning Proposal (Homebush TOD Rezoning)*

The proposed instrument is considered below:

The proposal's compatibility with the desired future character of the locality has also been considered in the assessment giving regard to the draft Homebush TOD Rezoning.

The draft Homebush TOD Rezoning was available for public feedback between 16 July and 30 August 2024, and proposes significant planning uplift in North Strathfield, amongst other areas. Relevant to this proposal, the Homebush TOD Rezoning seeks to:

- Rezone the R2 Low Density Residential land immediately to the west of the subject to R4 High Density Residential, and also increase the maximum permitted FSR to 2.2:1 and building height to 28m. This increase in density will permit a maximum height of 8 or 9 storeys, which will result in a bulk and scale greater than that proposed in the subject application; and
- Land to the south of the site on the eastern side of George Street is also proposed to be upzoned to R4 High Density Residential and MU1 Mixed Use, with increases in FSR from 2.8:1 – 4:1, and heights between 42m – 103m.

In assessing the proposal regarding desired future character, consideration has been given to the uplift in density and building heights proposed by the draft Homebush TOD Rezoning.

The proposal is generally consistent with this proposed instrument.

**(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

- Canada Bay Development Control Plan ('the DCP')

The proposal provides acceptable compliance with the DCP. The relevant compliance tables form Annexure E of the applicants SEE. Relevant controls have generally been complied with regarding setbacks, waste provisions and parking, for example, however the building height and the rise in storeys are not consistent with the DCP.

It is noted that where an EPI set outs controls which are inconsistent with a development control plan, the controls of the EPI will take precedence. This is particularly relevant for the storey height control and upper level setbacks (to George Street) as it applies to the subject site under K6 Concord West of DCP, given the bonuses afforded by the Housing SEPP permit building height beyond the DCP storey height control. It is anticipated that the area will continue to transition to higher densities given its strategic location, proximity to public transport and evolving Housing SEPP provisions.

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- City of Canada Bay S7.11 Development Contributions Plan 2017

This applicable Contributions Plan has been considered and included the recommended draft consent conditions.

**(d) Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act**

There have been no planning agreements entered into under this application and there are no draft planning agreements being proposed for the site.

It is noted that the proposal remains consistent with the Planning Agreement already attached with the original consent DA2020/0143, as discussed in this report.

**(e) Section 4.15(1)(a)(iv) - Provisions of Regulations**

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- There are no relevant matters under this section.



Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the 2021 EP&A Regulation are relevant to the proposal.

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

### 3.3 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- **Context and setting** – The proposal is considered to be generally consistent with the context of the site and the originally approved development under DA2020/0143, in that the proposed alterations and additions to DA2020/0143 is appropriate as a result of building height and FSR bonuses afforded under Housing SEPP, the extent to which the design responds to existing and future buildings in the vicinity, and the provision of additional general residential housing as well as in-fill affordable housing to the area.

The proposal may be supported for the following reasons:

- Character and amenity of the locality and streetscape:
  - The proposal continues the design characteristics as approved under DA2020/0143, for example, site planning, architectural language and form and landscaped character.
  - The approved building alignment to the street frontage, building footprint, setbacks, landscaped area, and extent of basement have all been maintained.
  - Overall bulk and scale is consistent with that desired by the current Housing SEPP provision.
  - The proposal does not alter the amount of deep and soft landscaping on-site.
  - The mature street trees spanning across the George Street frontage will be retained. These trees soften the overall appearance of the development as viewed from the street.
  - There are no identifiable water or iconic views to be affected as a result of the proposed alterations and additions.
- Bulk and scale, massing and form:
  - The approved building alignment to the street frontage has been maintained with sufficient setbacks, facade articulation to George Street, with greater than minimum required side setbacks for building separation to new floors at Building A and Building B on the south side adjoining 23A George Street.
  - Both Building B and Building C are significantly below the maximum height afforded under the Housing SEPP.
- Privacy and overlooking:
  - The location and outlook of additional apartments, their windows and balconies remain consistent with that approved under DA2020/0143.

- Required building separation has been provided in accordance with the ADG.
- Overlooking and noise transmissions from windows and balconies are minimised with required setbacks, building separation and siting of private balconies.
- Overshadowing:
  - Overshadowing as a result of the alterations and additions is reasonable given the orientation of the site (east-west) and the increased density afforded by the Housing SEPP.
  - The revised winter solstice shadow diagrams and studies (drawings DA404 to 411, revision I), demonstrate the extent of additional overshadowing beyond that caused by the approved building form under DA2020/0143, as reasonable.
  - Specifically, 66% of apartments at No. 23A George Street will retain 2 hours of solar access during mid-winter, which remains consistent with the originally approved development (DA2020/0143).
  - Solar access within the site over the communal open area remains consistent with the originally approved development (DA2020/0143).
- **Access and traffic** – The proposed development will retain the existing vehicular access from George St as approved under DA2020/0143.

On-site parking provisions for residents and visitors is compliant with the ADG. The provision of on-site car parking spaces is also compliant with requirements under the Housing SEPP for the affordable housing component, as indicated in the compliance table. Resident parking numbers have been kept to a minimum to minimise traffic impacts to the local road network. For further detail, refer to applicant's compliance tables in the Attachments to this report.

The required number of visitor parking spaces has been provided to minimise impacts on street parking. On-site bicycle parking provisions are compliant with requirements under the DCP to encourage a reduction in vehicle use.

The applicant's Traffic and Transport consultant has reviewed the revised proposal regarding impact on local traffic and parking and is summarised as follows:

- *The Transport Impact Assessment (TIA) Report (prepared by Stantec, dated 28 March 2024), shows a minor increase of trips (6 vehicles per hour). The TIA report uses a higher trip generation rate (0.25 vehicles per hour) compared to Sydney average trip rates of 0.19 vph and 0.15 vph during AM and PM peaks as a conservative approach.*
- *Reference is also made to the 'Draft Homebush TOD Rezoning Precinct Transport Statement' (prepared by ARUP, dated 3 July 2024) and 'Infrastructure Delivery and Implementation Plan Homebush State Led Rezoning' Report (by ARCADIS, dated 03 July 2024) prepared for Department of Planning, Housing and Infrastructure (DPHI). As part of the TOD program, the DPHI has reviewed the current planning controls for the Homebush precinct to determine areas of the precinct suitable to support more homes (with an increase of 16,100 dwelling) in the near future, along with road network improvements to key intersections in close proximity to the site, including the George Street/Pomeroy Street intersection, which is one of the primary issues raised in submissions from surrounding residents objecting to the proposal.*
- *Considering negligible increase vehicular trips, the proposed development is not anticipated to have any adverse impacts on the surrounding road network performance and on-street parking.*

- **Utilities** – All required utilities are available at the site. Relevant agencies have provided comments and have supported the proposal with conditions of consent.
- **Construction noise, vibration and waste** – Potential construction impacts raised as issues by objecting submissions have been mitigated with conditions related to construction times, operation of heavy machinery, noise and dust, and waste management, for example.
- **Economic impact** – The proposal provides additional general housing to the LGA as well as an additional 24 affordable housing apartments. The existing approved residential apartment building (DA2020/0143), the subject of alterations and additions under this application, also maintains the provision of 4 affordable housing apartments dedicated to Council under VPA.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

### **3.4 Section 4.15(1)(c) - Suitability of the site**

The proposed development has been assessed in relation to its environmental consequences, and in terms of *State Environmental Planning Policy (Housing) 2021* and *State Environmental Planning Policy (Resilience and Hazards) 2021*. Having regard to this assessment it is considered that the land is suitable for the intended development.

### **3.5 Section 4.15(1)(d) - Public Submissions**

These submissions are considered in Section 5 of this report.

### **3.6 Section 4.15(1)(e) - Public interest**

The proposed development is consistent with the objectives of the Environmental Planning and Assessment Act in so far as it promotes the co-ordinated and orderly, and economic use and development of the land, providing additional general housing as well as additional in-fill affordable housing. As a result, Council may be satisfied that the development subject to conditions is consistent with the public interest.

## **4. REFERRALS AND SUBMISSIONS**

### **4.1 Agency Referrals and Concurrence**

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 5.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
<b>Consultation &amp; Concurrence Requirements (s4.13 of EP&amp;A Act)</b>			
Transport for NSW (TfNSW) (Sydney Trains)	S2.99 - <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	Concurrence has been granted subject to recommended <b>operational conditions</b> in Attachment A of TfNSW letter dated 15 May 2024.	Y
<b>Referral/Consultation Agencies</b>			
Ausgrid	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	Ausgrid consents to the development subject to the <b>recommended conditions</b> of consent listed in Ausgrid letter dated 15 May 2024	Y
Sydney Water	S38 – EP&A Regulation 2021 (Amendment of a development application)	Preliminary assessment indicates that water and wastewater servicing should be available for the proposed development. Amplifications, adjustments, deviations and/or minor extensions may be required. Detailed requirements will be provided at the S73 application stage. Sydney Water advises that should Council decide to progress with the subject development application, conditions of consent should be applied as recommended in Attachment A in Sydney Water letter dated 14 May 2024	Y
Design Review Panel (DRP)	Housing SEPP Chapter 4 – Design of residential apartment development Section 145 Advice of the Design Review Panel ('DRP')	DRP comments included: <ul style="list-style-type: none"> <li>Concerns with the distribution of mass generally and the building separation of Building B to the southern boundary</li> <li>Development needs to demonstrate how an uplift in floor space can be accommodated with acceptable design amenity</li> <li>Provided CGIs or other information to demonstrate how the courtyard will now appear</li> </ul>	Y

		<p>The advice of the DRP has been responded to by the applicant with design revisions and considered in the assessment of the proposal. Design revisions include:</p> <ul style="list-style-type: none"> <li>• Revised plans increase southern setback to comply with ADG</li> <li>• Revised plans minimising massing with reduced building height as well as increased setbacks</li> <li>• CGIs have been provided demonstrating how the courtyard will now appear (see figure 4B above)</li> </ul> <p>Further discussion included in the Housing SEPP assessment and the Key Issues sections of this report.</p>	
<b>Integrated Development (S 4.46 of the EP&amp;A Act) – N/A</b>			

## 4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

**Table 6: Consideration of Council Referrals**

<b>Officer</b>	<b>Comments</b>	<b>Resolved</b>
Engineering	Council's Engineering Officer reviewed the original stormwater concept plan under DA2020/0143 with conditions imposed remaining applicable.	Y
Traffic	Council's Traffic Engineering Officer reviewed the proposal and raised no concerns in relation to traffic generation and car parking. Standard conditions apply.	Y
Health - Noise	Council's Environmental Health Officer reviewed the proposal and raised no concerns in relation to noise subject to conditions of consent. All recommendations contained in the approved acoustic assessment report prepared by Pulse White Noise Acoustics Pty Ltd, Ref No. 2410001-25, 20th March 2024 shall be adopted, implemented, and adhered to.	Y
Waste Management	Council's Waste Officer reviewed the proposal and required compliance with DCP. Condition to clarify waste room dimensions on plans recommended prior to CC. Requirements conditioned under approved DA2020/0143 remain applicable.	Y

Property	Council's Property Officer reviewed the proposal and raised no concerns subject to Council's Environmental Health Officer reviewed the proposal and raised no concerns subject to location of Affordable Housing Units spread on a multi-level "salt and pepper" basis. (current VPA under DA2020/0143 remains applicable)	Y
----------	--	---

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

### 4.3 Community Consultation

The proposal was notified in accordance with the DCP from 17 April 2024 until 8 May 2024 and re-notified with a revised proposal from 2 August 2024 to 16 August 2024. The notifications included the following:

- A sign placed on the site;
- Notification letters sent to adjoining and adjacent properties; and
- Notification on the Council's website.

The Council received 73 submissions to the original notification, with 13 submissions received during the second notification, a total of **86** unique submissions, comprising 84 objections and 2 submissions in favour of the proposal. The issues raised in these submissions are considered in **Table 7** below.

**Table 7: Community Submissions**

Issue	No of submissions	Council Comments
<b>Building height / Bulk &amp; scale / View impact</b>	21	<p>The application as revised proposes an acceptable building height with a relatively minor variation of 8.6%.</p> <p>There are no identifiable view impacts as a result of the additional floors which are higher than any surrounding residential development.</p> <p><b>Outcome:</b> Revised proposal with reduced height (and increased setbacks) is supported with Clause 4.6 written request to vary the development standard.</p>
<b>Streetscape / Urban character</b>	28	<p>The application as revised increases upper floor street setback to Building A (where height non-compliance occurs), presenting the building to the street with height consistent with the 30% height bonus provisions in the Housing SEPP.</p> <p><b>Outcome:</b> Revised proposal with increased street setback is supported.</p>



<b>Overdevelopment / Density / Impact on infrastructure &amp; additional noise</b>	9	<p>The application is consistent with the 30% height and FSR bonuses afforded under the Housing SEPP.</p> <p><b>Outcome:</b> Revised proposal with reduced height and increased setbacks is supported.</p>
<b>Acoustic and visual privacy / Setbacks</b>	47	<p>The application is consistent with the original approval (DA2020/0143) regarding setbacks and location of balconies, as well as ADG compliance.</p> <p><b>Outcome:</b> Revised proposal with increased setbacks is supported.</p>
<b>Overshadowing</b>	38	<p>Overshadowing has been minimised as indicated on the applicant's shadow diagrams.</p> <p><b>Outcome:</b> Revised proposal with reduced height and increased setbacks is supported.</p>
<b>Traffic and Parking – street &amp; on-site – increased noise &amp; pollution from additional traffic</b>	71	<p>On-site parking has been reduced with increased to minimise local traffic, visitor parking has been increased to minimise impact on street parking and on-site bicycle parking has been increased to discourage use of vehicles. On-site parking provisions comply.</p> <p>Further, future residents will not be eligible for any Council Street parking schemes.</p> <p><b>Outcome:</b> Revised proposal supported.</p>
<b>Building safety – structural integrity of additional floors</b>	26	<p>Structural certification will be required to ensure compliance.</p> <p><b>Outcome:</b> As required by condition of consent prior to issue of construction certificate.</p>
<b>Construction Noise, safety &amp; waste</b>	6	<p>Recommended conditions of consent for protection of amenity during construction.</p> <p><b>Outcome:</b> Standard conditions apply</p>
<b>Insufficient community engagement consultation</b>	6	<p>The proposal is subject to community notification in accordance with the DCP.</p> <p><b>Outcome:</b> The initial proposal as well as the revised proposal has been notified in accordance with the DCP.</p>
<b>Flooding from new development</b>	1	<p>N/A</p> <p>The site is not subject to flooding as identified in the Biodiversity &amp; Conservation SEPP discussion in section 3 of this report. Further, stormwater management remains consistent with the originally approved development (DA2020/0143) on the subject site and the proposed alterations and</p>

		additions will not make any significant changes and approved stormwater management is a condition of consent.
<b>Property value</b>	2	N/A

## 5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

### 5.1 Bulk and Scale / Building height

The proposal is non-compliant with Clause 4.3(2) Height of buildings of the LEP and Clause 18 of the Housing SEPP. Pursuant to the LEP, the site has a maximum building height of 16m to the front portion of the site and 22m to the rear two-thirds of the site. A building height bonus is also afforded to the site under the provisions of the Housing SEPP including, 30% of the maximum LEP height of 16m (at the front portion of the site), allowing a **20.8m** height and 30% of maximum LEP height of 22m (at the rear portion of the site), allowing **28.6m** height. The proposal includes a height variation to the maximum allowable by 1.807m or 8.6%. The applicant has submitted a Clause 4.6 objection to vary the development standard which has been supported.

Resolution: The issue has been resolved with revised plans which are included in the draft conditions of consent. Design revisions include a reduced building height and increased setbacks to Building A and Building B. The applicant has also submitted a Clause 4.6 objection to vary the Height of buildings development standard which has been supported. The applicant's Clause 4.6 has been included in the Attachments to this report and is discussed in section 3.1 above.

### 5.2 Urban Design / Character

The revised proposal reduces the building height, its overall bulk and scale appearance as it presents within the streetscape and surrounding development, to be consistent with that envisaged by the Housing SEPP for desired future character of the area.

The approved building alignment to the street frontage has been maintained in this proposal, with sufficient setbacks, facade articulation to George Street, and compliant side setbacks / building separation in accordance with the ADG. The perceived bulk and scale as proposed with the uppermost storey setback, is considered compatible with the existing residential streetscape character, which comprises a variety of multi-level residential flat building development located on the east side of George Street, adjoining the site and in the vicinity of the site along the rail corridor. The west side of George Street is currently occupied by low density housing and in transition to significantly higher densities under evolving Housing SEPP and TOD provisions discussed throughout this report.

Resolution: The issue has been resolved with revised plans which are included in the draft conditions of consent. Design revisions include a reduced building height and increased setbacks to Building A and Building B.

### 5.3 Traffic & Parking

The proposed development retains existing vehicular access from George St as approved under DA2020/0143, with revised on-site resident and visitor parking provisions.

Resolution: The revised proposal provides on-site car parking spaces compliant with rate requirements under the Housing SEPP for apartments dedicated as affordable housing as well as apartments not dedicated as affordable housing.

Surrounding resident concerns related to impacts on the local road network and parking have been responded to by the applicant with provision of minimum required visitor parking spaces and a reduction in resident parking to minimise any impacts on street parking. On-site bicycle parking provisions have also been increased to encourage a reduction in vehicle use.

## 6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

It is considered that the key issues as outlined in this report have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment A**.

## 7. RECOMMENDATION

It is recommended that, the Sydney Eastern City Planning Panel determine:

- A. That the section 4.6 variation request relating to height of buildings satisfactorily demonstrates that compliance is unreasonable and unnecessary in the circumstances of this case, that there are sufficient environmental planning grounds to justify the non-compliance and that, notwithstanding the non-compliance, the proposed development will be in the public interest.
- B. That the Development Application DA2024/0064 for *Application under State Environmental Planning Policy (Housing) 2021 for three additional storeys to Building A (street facing) and an additional storey to both Building B and C with 41 units (24 units allocated to affordable housing) and amendments to internal basement layout to provide 50 additional car spaces. The additional units under this application will sit atop the building approved under DA2020/0143 at 25 George Street, North Strathfield* be APPROVED pursuant to Section 4.16(1)(a) or (b) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at **Attachment A**.

The following attachments are provided:

- Attachment A: Draft Conditions of consent/reasons for refusal
- Attachment B: Reports, Agency Responses, DRP Minutes, Relevant Documents, etc
- Attachment C: Tables of Compliance - Applicant

- Attachment D: Architectural Plans
- Attachment E: Clause 4.6 Request