



City of Parramatta	
File No:	DA/932/2021

SECTION 4.15 ASSESSMENT REPORT Environmental Planning & Assessment Act 1979

DA No:	DA/932/2021
Subject Property:	Lot 4 DP 1227281, 3 Farmhouse Road, WESTMEAD NSW 2145
Proposal:	Alterations and additions to the approved residential development including an additional 4 floors to Buildings D and F and internal and external facade changes.
Date of receipt:	7 October 2021
Applicant:	Combined Projects Westmead Pty Ltd
Owner:	Combined Projects (Westmead) Pty Ltd
Property owned by a Council employee or Councillor:	No
Political donations/gifts disclosed:	None disclosed on the application form
Submissions received:	Nil submissions
Recommendation:	Approval
Assessment Officer:	Darren Wan

LEGISLATIVE REQUIREMENTS

Relevant provisions considered under section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979	<ul style="list-style-type: none">• State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development• State Environmental Planning Policy (Biodiversity and Conservation) 2021• State Environmental Planning Policy (Resilience and Hazards) 2021• State Environmental Planning Policy (Transport and Infrastructure) 2021• Parramatta Local Environmental Plan 2011 (PLEP 2011)• Parramatta Development Control Plan 2011 (PDCP 2011)• Draft Parramatta Local Environmental Plan 2020 (DLEP 2020).
Zoning	B4 – Mixed Use
Bushfire Prone Land	No
Heritage	No
Heritage Conservation Area	No
Designated Development	No
Integrated Development	No
Clause 4.6 variation	Yes – Building Height and FSR
Delegation	Parramatta Local Planning Panel (PLPP) due to cl.46

1. Executive Summary

Development Application DA/932/2021 was lodged on 7 October 2021 for 'alterations and additions to the approved residential development including an additional 4 floors to Buildings D and F, expansion of basement 4 and internal and external facade changes'.

This application must be read in conjunction with DA/1271/2016, which is the consent issued for the overall building. During the assessment of the application, it was deemed that the proposed additional parking could not be supported for existing developments within the Westmead Precinct. Accordingly, the proposed amendments to the basement levels have been removed from the proposal and the basement configuration and number of parking spaces will be retained from DA/1271/2016.

In accordance with the Parramatta Notification Plan the Development Application was notified and advertised on 20 October 2021 to 10 November 2021. In response, no submissions were received.

In accordance with the Environmental Planning and Assessment Act 1979, Section 9.1 – Directions by the Minister, this application is reported to the Parramatta Local Planning Panel for determination as the proposed development proposal exceeds the maximum permissible building height 111.25% for Building D, 72.25% for Building F, and exceeds the maximum permissible FSR by 69% for the 4:1 portion of the site.

Section 4.15 Assessment Summary

The application has been assessed relative to section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls.

The proposed development is for alterations and additions to a residential flat building that has already been approved with variations to the building height and FSR development standards under DA/1271/2016. During that assessment, the variation was supported because it was deemed that the masterplan that informed the planning proposal was a result of a suboptimal concept plan. Since the adoption of the masterplan there has been multiple approvals within the site that depart from the building height and FSR development standards.

Whilst this proposal seeks to increase the extent of variations, a merit assessment has concluded it to be well founded given the significant investment in public transport infrastructure within the Westmead Precinct. The additional density can be achieved without additional adverse impacts on neighbouring properties, or the greater precinct.

The application was referred to a number of internal and external stakeholders for comment including the following:

- Endeavour Energy;
- Wind Consultant;
- Traffic Officer;
- Urban Design;
- Development Engineer;
- TfNSW;
- CASA;
- NSW Health Infrastructure;
- Air Ambulance; and
- Air Services Australia.

No objections to the overall development were received. Conditions of consent have been imposed where necessary.

Having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, it is recommended Development Application DA/932/2021 be approved. The recommended conditions of consent are within **Attachment 1**.

2. Site Description and Conditions

The subject site is known as 3 Farmhouse Road and is located within the former larger Western Sydney University Site. The site is currently under construction and is legally described as Lot 4 in DP 1227281.

The site is irregular in shape, falls toward the west and has a total area of 6,588m². The site is accessed from Darcy Road to the north and Hawkesbury Road to the east. The site is located in the vicinity of St Vincent's building and Farmhouse building, which are local heritage items located on the site to the south-east in the Western Sydney University precinct.

The site is approximately 175m north-west of Westmead Railway Station and is located to the south of Westmead Hospital. The site is also in the vicinity of a number of regionally significant land uses and features such as the Parramatta CBD, Parramatta Parklands and the Parramatta River.

Significant infrastructure investments are proposed by the State Government in proximity to the site including construction of Parramatta Light Rail (Stage 1) and the Sydney Metro West project.



Figure 1: Aerial of the subject site and surrounds (Nearmap)

3. Relevant Site History

Development Application
RZ/4/2011

Description

Proposal of 158 - 164 Hawkesbury Road and 2A Darcy Road

A Planning Proposal was approved in 2011 to rezone the land at 158 -164 Hawkesbury Road and 2A Darcy Road from SP2 Special Uses (Educational Establishment) to B4 Mixed Use. A site specific Development Control Plan was adopted by Parramatta Council during this time. Local Environmental Plan amendment relating to the site came into effect from 13 September 2013. The amendments permitted building height of 31 metres and 40 metres and a FSR of 4:1 and 3.5:1 on the subject site. See image below.

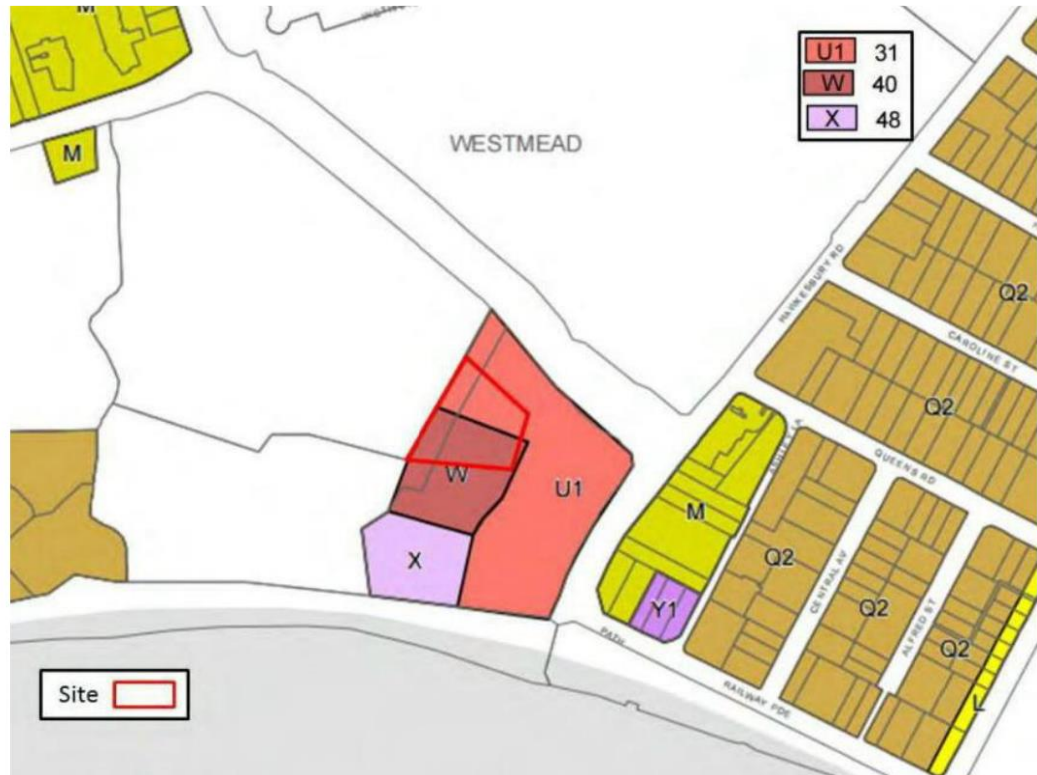


Figure 2: Max. Height for the Subject site under PLEP 2011.



Figure 3: Max. FSR for the Subject site under PLEP 2011.

DA/571/2014

Stage 1 Masterplan

Sydney Central City Planning Panel approved DA/571/2014 on land at 158-164 Hawkesbury for the demolition of five (5) buildings, tree removal, bulk earthworks, and construction of roads and Torrens title subdivision of the site into five (5) allotments. The approval also included a concept plan and building envelopes on each of the 5 lots.

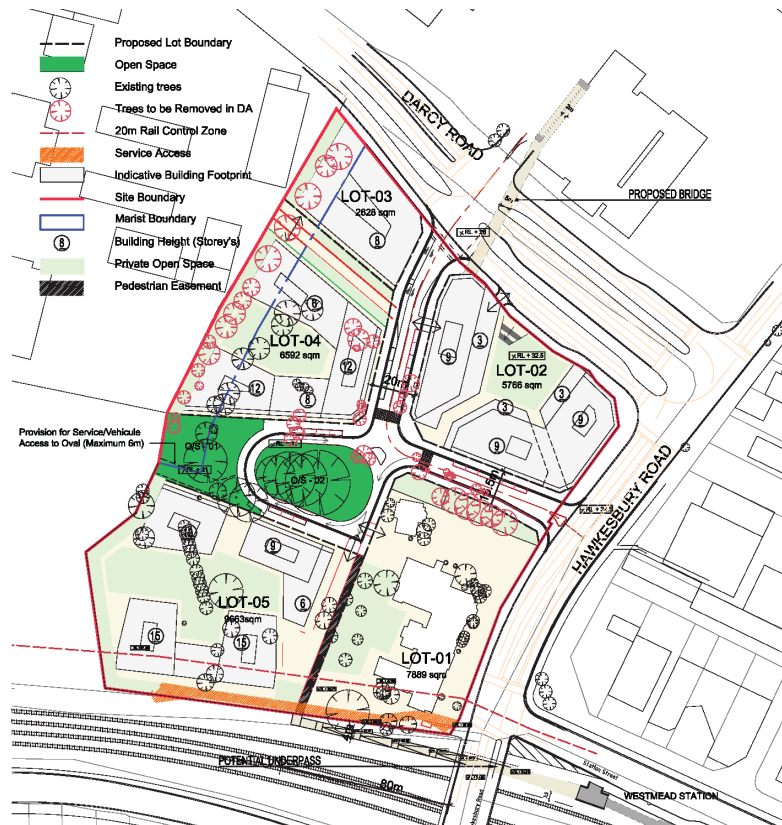


Figure 4: Approved Concept Plan demonstrating a U-Shaped development on Lot 4.

DA/968/2016

Construction of a Residential Flat Building ranging in height between 4 and 24 storeys

Sydney Central City Planning Panel approved DA/968/2016 on land at 158-164 Hawkesbury Road (Lot 5) for the 'tree removal and construction of two Residential Flat Buildings containing 556 apartments over 4 levels of basement car parking. Building A comprises a part 4, part 9 storey building and Building B comprises a part 8, part 15 and part 24 storey building'.

Under DA/968/2016, the SCCPP approved a height and FSR variation to the site as follows:

- Building A – 39.6m (Non-compliance of 8.6m or 27.7% variation to the 31m height control)
- Building B – 81.3m (Non-compliance of 33.3m or 69.3% to the 48m height control)
- Non-compliance of 4,914m² or 11.5% departure to the 4:1 FSR control.
- Non-compliance of 28,386.5m² or 66.8% departure to the 1.5:1 FSR control.



Figure 5: Approved Lot 5 Site Plan under DA/968/2016 demonstrating departure from the Concept Masterplan

DA/1271/2016

Construction of a Residential Flat Building ranging in height between 6 and 20 storeys

Sydney Central City Planning Panel approved DA/1271/2016 on land at 158-164 Hawkesbury Road (Lot 4) for 'tree removal, and construction of a Residential Flat Building containing 344 units over basement parking, associated site works, engineering works and landscaping'.

Under DA/1271/2016, the SCCPP approved a height and FSR variation to the site as follows:

- Building D – 72.15m (Non-compliance of 32.15m or 80.3% variation to the 40m height control)
- Building E – 37.1m (Non-compliance of 6.1m or 19.3% variation to the 31m height control)
- Building F – 38.35m (Non-compliance of 7.35m or 23.7% variation to the 31m height control)
- Non-compliance of 6,186m² or 46% departure to the 4:1 FSR control.
- There was no departure from the 3.5:1 FSR control.



Figure 6: Approved Lot 4 Site Plan under DA/1271/2016.

4. The Proposal

The proposal seeks consent for alterations and additions to the residential development approved under DA/1271/2016, and includes the following:

- Additional 4 floors to Building D resulting in a height increase from 72.15m to 84.5m (12.35m);
- Additional 4 floors to Building F resulting in a height increase from 38.35m to 53.4m (15.05m);
- Increase in Gross Floor Area from 28,825m² to 33,558m²;
- Refinement to the architectural expression of buildings;
- Increase in apartments from 344 to 405;
- Various changes to the layout and arrangement of previously approved apartments, resulting in the following unit mix:
 - Studio – 4 units
 - 1 Bedroom – 209 units
 - 2 Bedroom – 178 units
 - 3 Bedroom – 14 units
- Additional Communal Open Space areas at Level 10 on Building E and Level 14 on Building D.
- Expansion of Basement 4 to accommodate the additional carparking;
- Increase in car parking from 414 space to 469 spaces.

Please Note: During the assessment process, it was deemed that the Westmead Precinct is unable to accommodate additional parking for existing developments. Given that substantial investment into public transport infrastructure has occurred in the precinct, it is deemed appropriate for the additional density to be supported by public transport. In that regard, the proposed amendments to the basement level and increase in parking is not supported and will be conditioned to remain as approved under DA/1271/2016.

5. Relevant Application History

Date	Comment
7 October 2021	Subject Development Application lodged to Council.
20 October – 10 November 2021	In accordance with the Parramatta Consolidated Notification Procedures the Development Application was notified and advertised between 20 October 2021 and 10 November 2021. No submissions were received.
2 December 2021	A meeting was held between Council's Design Excellence Advisory Panel (DEAP), Council's Assessment Officer and the Applicant. The outcome of this meeting is discussed below.
11 February 2022	Amended plans in response to DEAP comments received.
10 March 2022	A second meeting was held between Council's DEAP, Council's Assessment Officer and the Applicant. The outcome of this meeting is discussed below.

6. Referrals

Design Excellence Advisory Panel

The application was initially considered by Design Excellence Advisory Panel (DEAP) at a meeting on 2 December 2021. The panel was generally supportive of the application in its current form, issuing an Amber light and provided the following advice:

- The Panel noted that since the original DA approval granted in 2016 two additional modes of public transport are currently under construction including the Metro Rail and Parramatta Light Rail. These additional modes of public transport in addition with the existing bus and Westmead heavy rail station and stops located within 500m from the site will significantly add to the accessibility of this site and aid in the applicants request for additional units.*
- The Panel were generally supportive of the proponent's additional units and revised Architectural expression and distribution of program across the lot. However, the Panel were of the view that the number of additional car spaces proposed should be reduced given that the site is so well serviced by public transport. It was noted that the Applicant's statement that there 'is no better site in Sydney for public transport', seems well-founded.*
- The Panel acknowledge that the Architectural team and Developer had fine-tuned this design proposition based on customer feedback from the recently completed Lot 5 to the South of Lot 4 (the item under consideration)*
- The Panel encourage the proponent to look at incorporating the proposed electrical substation (to be shared with lot 3) located on the attractive shared 6m access way into a unified, considered urban element in this important shared pedestrian space.*
- The Panel requested that the project team review the extent of proposed podium community open space allocation (noting that the current COS is 5% under the ADG requirement and was approved under the 2016 approval) and consider other podium spaces potentially located on level 3, 8 & levels 20-23 for open to sky appropriate community open space opportunities.*
- With regard to the additional heights/specific number of additional floors the Panel notes;*
 - The proposal will be similar to the number of storeys in the development on Lot 5 transitioning from 8-9-15-25 storeys with the proposed modifications to lot 4 transitioning from 6-9-15-25 storeys.*
 - The taller towers on both lots 4 and 5 will have very similar heights as follows; RL113,800 to the top of the plant rooms on both towers and RL110.800 (lot 5 tower) and RL110.750 (lot 4 tower) parapet heights.*
 - As a result there will no longer be a height transition between the towers on lot 5 and 4 however the transition between lot 4 and 3 will be strengthened as a result of the proposed modifications.*
 - Notwithstanding the above, the natural ground plane at the location of the towers on lots 4 and 5 are at similar RL's being at or close to the crest of the rise in the topography around Maple Tree Road, as demonstrated in the somewhat exaggerated height transition diagrams in the applicant's urban design report.*
 - The Panel suggest Councils Urban Design team consider the impacts of the proposed building heights and street wall heights on the public domain relative to the desired future character for the precinct.*
- Additional overshadowing is noted and considered acceptable with minor impact on the oval for a brief period in the morning, some additional shading of the railway line and main road to the south of lot 5 and additional shading of commercial and retail properties on Railway Parade to the south east of the site. Detailed analysis should be submitted showing any additional overshadowing of the light rail platform as the result of the additional height of the proposal.*

The application was considered a second time by Design Excellence Advisory Panel on 10 March 2022. The panel was more critical of the design, questioning the previous Panel's recommendations. However, an Amber light was still issued along with the following advice:

1. *This application was previously submitted to DEAP in December 2021.*
2. *The December Panel expressed general support for the proposal based on the site location in close proximity to a range of public transport services and subject to;*
 - a) *The provision of additional common open space using other podium spaces on levels 3,8, and 20-23*
 - b) *Additional shadow analysis relative to the light rail platform area.*
 - c) *Reduction in carparking provision with proximity to public transport services.*
 - d) *Incorporating the substation into a more unified urban element to minimise its impact on the shared pedestrian space.*
3. *In addition to the above, the Panel that saw the proposal in December suggested the Council Urban Design Team consider any impacts of the proposed building heights on the public domain relative to the desired future character for the area.*
4. *In response to the above, the applicant presented the following information and modifications to the Panel;*
 - a) *Additional common open space on level 10 (231sqm) and level 14 (130sqm). The proposal would increase the common open space to 33% of the site area. (The ADG requires a minimum 25% with 50% to achieve 2 hrs solar access between 9am and 3pm). Diagrams presented to the Panel suggest the common open space would achieve 64.2% solar access. Toilets are included on these levels.*
 - b) *Shadow analysis of the impact on the light rail platforms in Hawkesbury Road. The analysis shows that additional shadow would extend beyond the light rail platform eastward along Railway Parade at 3pm.*
 - c) *A reduction of 16 car parking spaces.*
 - d) *A revised design for the substation.*
5. *With regard to the additional common open space, the extent of the pergola on level 10 communal terrace should be reduced in area (especially its width) to focus more on areas where shade and or wind protection is needed. A solid overhang is suggested immediately adjacent to doors opening on to the balconies.*
6. *BBQ facilities should be provided where appropriate in the upper-level common open space.*
7. *Although it has prior approval, the Panel notes that the substation would be better embedded into the façade of the building. The applicant advised too that the substation and its right of access would be servicing Lot 3 as well.*
8. *The Panel queried the alignment of the middle single bed unit south of the courtyard, which protrude into the common circulation area. This unit should be reduced in size to align with the adjacent units so as to result in clear sightlines along the circulation path. Ideally, this circulation path would be covered. The Panel also note that the limited privacy is provided to this unit, as any screening provided would affect sunlight access. It must be demonstrated how visual privacy and solar access is being achieved.*
9. *The Panel query the orientation of the splayed window in the east wall of FG.07 and above, as it faces directly into a narrow common circulation space and a unit less than six metres to the north. It is recommended that the window be redesigned to face south to the courtyard, at least on the lowest four levels.*
10. *In the previous DEAP Report, the Panel recommended that the Council's Urban Design Team consider the impacts on the public domain in reference to the desired future character for the precinct; a substantial increase to height and density clearly impacts on the public domain, so it would typically only be justifiable in terms of improved public benefit, amenity and urban design quality. However, no such argument has been put forward in this case. For a proposal of this scale, this is not only highly unusual but also risky – especially considering the magnitude of the non-compliances already approved.*

While perspective views are shown of the approved and proposed massing for example, no improvements to proportion or language are indicated, or any modifications proposed to gracefully integrate the extra bulk. Even the height transition argument previously made is not verified at project scale, with adjoining built context simply not shown on plans, elevations or sections. Without a demonstrable argument, it is very difficult for the Panel - and a consent authority - to understand the proposal's merits, let alone justify further breaches of height and

density. It is therefore strongly recommended that a clear and substantial argument is provided to justify the proposal, especially in terms of:

- public benefit
- improved urban design quality
- improved relationship with the public domain, including contextual fit, streetscape, landscape, aesthetics, pedestrian comfort etc.

Planner’s Comment

It is noted that the separate meetings were chaired by different Panel members, which accounts for the differing advice.

The additional storeys proposed in this application was looked at favourably by the first Panel, who was supportive of the increased density and Architectural expression. It was on this basis that the applicant proceeded with amended documentation to address the remaining concerns raised by DEAP.

Accordingly, although the second Panel raised additional issues and questioned supporting the increase in density and built form, Council has undertaken the proposed variations on its merits under the Clause 4.6 discussions under the PLEP2011 compliance table.

From Council’s perspective, the overall design of the development was assessed and satisfied the Design Excellence requirements of SEPP65 when DA/1271/2016 was approved.

Other Referrals

The following section outlines the response and conditions recommended from each of the internal and external referrals in relation to the subject application.

Referral	Comment
Endeavour Energy	Supported, subject to conditions.
Wind Specialist	Generally supportive, however had concerns that wind mitigation and shielding relied upon the construction of future stages (Lot 2 and Lot 3). Recommended a wind tunnel study to be undertaken to quantify the wind conditions against stated safety and comfort criteria. This has been imposed as a condition of consent.
Traffic	Unsupportive of additional parking spaces. Accordingly, the basement component was removed from the proposal.
Urban Design	No objections upon review.
Development Engineer	No objections upon review.
TfNSW	No objections upon review.
CASA	No objections upon review.
NSW Health Infrastructure	No objections upon review.
Air Ambulance	No objections upon review.
Air Services Australia	No objections upon review.

PLANNING ASSESSMENT

7. Environmental Planning Instruments

7.1 Overview

The instruments applicable to this application are:

- State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Parramatta Local Environmental Plan 2011 (PLEP 2011)
- Parramatta Development Control Plan 2011 (PDCP 2011)
- Draft Parramatta Local Environmental Plan 2020 (DLEP 2020).

Compliance with these instruments is addressed below.

7.2 STATE ENVIRONMENTAL PLANNING POLICY NO.65 – DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT

The provisions of SEPP 65 have been considered in the assessment of the original plans lodged with the development application. The applicant submitted a SEPP65 assessment of the proposed development along with a design verification statement, prepared by Nicolas Turner, verifying that the plans submitted were drawn by a Registered Architect. This document provides a statement about the design quality principles set out in Schedule 1 of SEPP 65.

An assessment of the design principles is addressed below:

PARAMETER	CONTROL	PROPOSAL	COMPLIANCE
PART 2 Building envelopes			
Separation - Building separation is measured from the outer face of building envelopes which includes balconies			
Separation	Nine storeys and above Required – 24m bw habitable rooms/balconies and 12m bw non-habitable rooms	Retains the existing building separations approved under DA/1271/2016	No, but acceptable
PART 3 Siting the development			
Communal open space			
<ul style="list-style-type: none"> COS should have a minimum dimension of 3m. Where COS cannot be provided at ground level, it should be provided on a podium or roof. 			
Communal open space	Required – 1647m ² (25% of the site) Provided – 1683.2m ² (25% of the site)	1321.9m ² of COS was approved under DA/1271/2016 with this application providing two additional communal areas on Level 10 and Level 14 respectively.	YES
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)	The additional communal open spaces are located on the roof and will achieve adequate solar access as required.	YES
Deep Soil	Required – 461.16m ² (7% of the site) Provided – 697.34m ² (10.3% of the site)	As approved under DA/1271/2016	YES
Visual privacy			
<ul style="list-style-type: none"> Separation between windows and balconies is provided to ensure visual privacy is achieved. Adjoining a different zone with a less density, add 3.0m. Retail, office spaces and commercial balconies, use habitable room separation. No separation is required between blank walls. 			
Visual privacy	Up to 12m (approximately 4 storeys): <ul style="list-style-type: none"> 6m between habitable and non-habitable rooms 3m between non-habitable Up to 25m (5-8 storeys): <ul style="list-style-type: none"> 9m between habitable and non-habitable rooms 4.5m between non-habitable 	The arrangement of units and privacy measures within the development approved under DA/1271/2016 has been replicated to the additional storeys and complies.	YES
Parking and Bicycle Storage	Minimum carparking prescribed by the Council	The Westmead Precinct prescribes a maximum car parking rate based on the GFA. Accordingly, the additional density is not required to provide additional parking spaces. Please refer to parking discussion under the DCP compliance table.	YES
PART 4 Designing the building			
Solar and daylight access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area.	288 units (71%) receive a min. of 2 hours direct sunlight.	YES
	A maximum of 15% of apartments in a building received no direct sunlight between 9am and 3pm at mid-winter.	60 units (14.6%) south facing single aspect apartments are proposed.	YES

Natural ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	A total of 157 units (60%) are cross ventilated on the first 9 storeys.	YES
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	No unit exceeds 18m in overall depth when measured from glass line to glass line.	YES
Ceiling Heights	Habitable rooms - 2.7m	Proposed – 2.7m	YES
Apartment size and layout			
Note: The minimum internal areas include one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each.			
Apartment size and layout	1 bedroom 50m ² 2 bedroom 70m ² 3 bedroom 95m ²	All units comply with the minimum areas required for the specified number of bedrooms.	YES
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.	Every habitable room has a window in an external wall with a minimum glass area of not less than 10% of the floor area of the room.	YES
	Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry	No kitchens are located in circulation spaces.	YES
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	All Apartments have strategically placed windows to comply.	YES
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	All master bedrooms have a minimum area of 10m ² .	YES
	Bedrooms have a minimum dimension of 3m.	All bedrooms are provided with a minimum dimension of 3 metres.	YES
	Living rooms or combined living/dining rooms have a minimum width of: - 3.6m for studio and 1 bedroom apartments. - 4m for 2 and 3 bedroom apartments.	All min. dimensions provided.	YES
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	The width of all apartments exceed 4m in width.	YES
Private open Space and balconies			
Note: Storage areas on balconies is additional to the minimum balcony size.			
Private open space and balconies	1 Bedroom = 8m ² minimum with 2m depth	All proposed units will have compliant balconies in regard to area and depth.	YES
	2 Bedroom = 10m ² with 2m depth		
	3+ Bedroom = 12m ² with 2.4m depth		
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	Ground level apartments have access to compliant terraces.	YES	
Storage			
Note: Storage is accessible from either circulation or living areas. Storage provided on balconies (in addition to the minimum balcony size) is integrated into the balcony design, weather proof and screened from view from the street.			
Storage	At least 50% of the required storage is to be located within the apartment. Left over space such as under stairs is used for storage	Adequate Storage is provided both within the units and within the basement.	YES
Common circulation and spaces	The maximum number of apartments off a circulation core on a single level is eight.	The circulation core for Building F will service 9 units between the ground floor and third floor and is considered a minor variation to this control. All other lift cores for remaining levels are compliant.	NO, BUT ACCEPTABLE

7.3 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021 – CHAPTER 2 VEGETATION IN NON-RURAL AREAS

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies to the site. The aims of the plan are to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of the non-rural areas of the State through the preservation of trees and other vegetation.

The proposal does not seek any additional tree removal than already approved under DA/1271/2016.

7.4 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021 – CHAPTER 10 SYDNEY HARBOUR CATCHMENT

The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment, and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.

The alterations and additions proposed in this Development Application do not impact the existing conditions imposed under DA/1271/2016.

7.5 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021 – CHAPTER 4 REMEDIATION OF LAND

The requirements of State Environmental Planning Policy (Resilience and Hazards) 2021 apply to the subject site. In accordance with Chapter 4 of the SEPP, Council must consider if the land is contaminated, if it is contaminated, is it suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed use.

The alterations and additions proposed in this Development Application do not impact the existing contamination conditions imposed under DA/1271/2016.

Therefore, in accordance with Clause 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021, the proposed alterations and additions are considered to be satisfactory.

7.6 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021 – CHAPTER 2 INFRASTRUCTURE

The relevant matters to be considered under Chapter 2 of the SEPP for the proposed development are outlined below.

Endeavour Energy

Clause 2.47: Excavation – corridors and transmission circuits

The application was referred to Endeavour Energy for comment, who stated that the comments provided for DA/1271/2016 remain valid. Further comments have also been included imposed as a condition of consent. Accordingly, the application is considered to satisfy the requirements of Clause 2.47.

Transport for NSW

Clause 2.18: Development with a frontage to a Classified Road

The application is not subject to Clause 2.118 of the SEPP as the site does not have frontage to a classified road.

Clause 2.121 Traffic Generating Development

Clause 2.121 applies to the development of a new premises of a relevant size or capacity. Schedule 3 of the SEPP defines Residential Accommodation with 75 or more dwellings within 90m of a classified road as Traffic Generating. In that regard, the proposed development is subject to the provisions of Clause 2.121.

The application was referred to TfNSW who responded with no comment.

Council's Traffic Engineer reviewed the proposal with regarding to traffic generation and noted:

Given that Westmead currently has congestion issues and any increase in the parking provision on site will significantly increase the congestion within the Westmead Precinct, it is recommended that the maximum parking provision be considered as what was approved previously under DA/1271/2016 (i.e. maximum 414 spaces). On this basis, the provision of 469 parking spaces is considered unacceptable.

Also of note is the substantial investment into public transport infrastructure within the Westmead Precinct. Nearby options include Sydney Trains, Parramatta Light Rail, Sydney Metro West, and various bus routes.

It is therefore considered that the proposed increase in density can be captured by the public transport network, without the need to introduce additional car parking spaces that would increase private vehicle usage.

In that regard, a condition of consent has been imposed to ensure that the existing number of spaces approved under DA/1271/2016 is retained.

8. Parramatta Local Environmental Plan 2011

Clause 2.3 Zone objectives and Land Use Table

The site is zoned B4 Mixed Use. The aims and objectives for the B4 Mixed Use zone in Clause 2.3 – Zone Objectives are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To encourage development that contributes to an active, vibrant and sustainable neighbourhood.*
- *To create opportunities to improve the public domain and pedestrian links.*
- *To support the higher order Zone B3 Commercial Core while providing for the daily commercial needs of the locality.*
- *To protect and enhance the unique qualities and character of special areas within the Parramatta City Centre.*

The application proposes alterations and additions to an approved Residential Flat Building which is permitted with consent within the B4 Mixed Use zone. This redevelopment of an existing RFB will ensure the housing needs of the community are achieved which is high density in nature and close to major transport nodes and services and meets the objectives of the zone.

Standards and Provisions	Compliance
Part 4 Principal development standards	
Cl. 4.3 Height of buildings	Does not comply - Please see Cl.4.6 discussion below.
Cl. 4.4 Floor Space Ratio	Does not comply - Please see Cl.4.6 discussion below.
Part 5 Miscellaneous provisions	
Cl. 5.10 Heritage conservation	The site is not identified as a heritage item and is not located within a heritage conservation area.
Cl. 5.21 Flood Planning	The site is not identified as being flood prone.
Part 6 Additional local provisions	
Cl. 6.2 Earthworks	<p>The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p> <p>The proposal initially proposed the expansion of the Level 4 Basement, however as the additional carparking is not supported, the existing basement configurations under DA/1271/2016 will be retained.</p> <p>Accordingly, the earthwork conditions imposed under DA/1271/2016 continue to apply.</p>

Clause 4.6 Exceptions to Development Standards – Building Height and FSR

The proposal does not comply with the maximum 31m and 40m building height development standard prescribed under Clause 4.3. Building D is located within the portion of the site with the 40m height limit and Building F is located within the portion of the site with the 31m height limit. The proposal seeks a maximum height of 84.5m for Building D and 53.4m for Building F, which is an increase of 12.35m and 15.05m from the approved heights under DA/1271/2016, respectively.

A comparison of the previously approved and proposed new heights for Building D and Building F is provided below:

	Building D	Building F
Approved Height	72.15m	38.35m
Approved Variation to 31m control	N/A	7.35m or 23.7%
Approved Variation to 40m control	32.15m or 80.3%	N/A
Proposed Height	84.5m	53.5m
Proposed Variation to 31m control	N/A	22.4m or 72.25%
Proposed variation to 40m control	44.5m or 111.25%	N/A

The proposal also does not comply with the maximum 4:1 FSR development standard prescribed to the southern portion of the site under Clause 4.4. The development continues to comply with the 3.5:1 FSR prescribed to the northern portion of the site.

A comparison of the previously approved and proposed new FSR for the different FSR portions is provided below:

	3.5:1	4:1
Site Area	3,239m ²	3,349m ²
Approved GFA/FSR	9,244m ² / 2.85:1	19,582m ² / 5.85:1
Approved Variation %	N/A	46%
Proposed GFA/FSR	10,882m ² / 3.36:1	22,676m ² / 6.77:1
Proposed Variation %	N/A	69%

Clause 4.6 of PLEP 2011 allows Council to provide an appropriate degree of flexibility in applying certain development standards, where flexibility would achieve better outcomes.

Clause 4.6(1) – Objectives of Clause 4.6

In the absence of objectives for Clause 40(4) of the SEPP (Housing for Seniors and Persons with a Disability) 2004 the objectives of clause 4.6 of the PLEP 2011 are considered as follows:

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

Clause 4.6(2) – Operation of Clause 4.6

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

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

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

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

The applicant has submitted a written request justifying the variation to both the building height and FSR development standards. In the justification the applicant states:

Building Height

- *The height controls for the site were derived from the ARUP masterplan which informed the Planning Proposal for the site. However, this masterplan has more recently been considered by Council to be “suboptimal” and Council has approved a substantially different site layout and suggested arrangement of buildings under the infrastructure DA for the entire precinct DA/571/2014 which relied upon a Clause 4.6 request in relation to height. As a result, the height controls and boundaries no longer correspond with the approved site arrangement and configuration such that Council has effectively abandoned the height controls for the site. Notwithstanding this, the broad principles reflected by the height controls, with increasing height to the west and the south, are considered to remain relevant and the amended development adheres to these principles with the tallest component of the building located in the south western corner of the site.*
- *The amended proposal provides a high quality architectural solution that is responsive to the location of the site toward the southern edge of the Westmead precinct and will provide a clearly defined entry into Westmead from the south.*
- *The amended massing of the development results in a higher level of modulation with the building height decreasing toward the north and east to provide a transition in scale to the future anticipated buildings surrounding the site as well as the heritage significant buildings to the south east such that the proposed arrangement of heights is appropriate for the site and its context.*
- *The proposed variation to the height control allows for a slenderer built form and the proposed variation also facilitates a greater level of modulation in scale between the various built form elements of the building.*
- *The desired future character outlined for the overall site within section 4.3.4.1 of the PDCP indicates that the future built form on the site shall include taller, slender “statement” buildings located along the railway line to enable a strong visual relationship between the precinct and the CBD. Whilst the site is not directly adjacent to the railway line, the proposal appropriately responds to the desired future character, providing a 24 storey tower in the south western corner of the site. The proposed tower will complement the two towers on the southern adjacent site which are 15 and 25 storeys in height, satisfying the requirement that tall slender statement buildings be provided to enable a visual connection between the Westmead precinct and the Parramatta CBD located to the east.*
- *The design of the amended proposal involves a dynamic architectural language and a façade treatment with a high level of materiality that will compliment and improve the character of the area.*
- *A solar analysis prepared by Turner Architects accompanies the subject application and demonstrates that the amended proposal does not result in a significant adverse or non-complying impact to the surrounding properties.*
- *There are no unreasonable impacts in terms of overshadowing, views, visual and acoustic privacy impacts to adjacent sites resulting from the proposed variation to the height development standard which would warrant strict compliance, noting that strict compliance is no longer a relevant consideration given the variation to the building height standard that has already been approved on the site.*
- *Apartments within the development are provided with a high level of amenity. The proposal provides for open space and deep soil in accordance with the relevant ADG requirements and the increased height provides for a slimmer built form and improved residential amenity.*
- *The proposed variation allows the site to optimise the delivery of housing in an ideal location within the demonstrated environmental capacity of the site.*
- *Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public.*
- *Having regard to the planning principle established in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191 most observers would not find the proposed development offensive, jarring or unsympathetic to its location and the proposed development will be compatible with its context.*

Floor Space Ratio

- *The floor space ratio controls applicable to the site relate to a previous masterplan which has since been abandoned and so the FSR control is no longer relevant to the subject site. Evidence of this is the recent approval on the subject site which departed from the FSR control.*
- *Since the approval of DA 1271/2016 on the site, two additional rail infrastructure projects have been announced and construction commenced, such that the site is now exceptionally well located with immediate proximity to not just a single train station, but a train station, metro station and light rail station. In addition, the site is also within a precinct which is earmarked for significant jobs and student growth immediately around the site. Therefore, it is critically important to ensure that this significant landholding optimises the delivery of housing to support this growth, within the previously identified urban design framework for the site.*
- *The proposed distribution of built form and massing of the building across the site is the result of a further review and considered analysis of the context of the site and the desire to deliver a positive urban design outcome that will provide an appropriate curtilage to the heritage significant buildings located on the site.*

- *The proposal will deliver a high quality transit orientated development that will increase the vibrancy of the precinct.*
- *The proposal is consistent with the desired future character outlined within PDPC 2011 for the subject site and the Westmead precinct generally.*
- *The density proposed does not prevent achievement of the 9 principles of SEPP 65.*
- *There are no unacceptable adverse impacts in terms of shadow, view, visual and acoustic privacy impacts resulting from the proposed variation to the floor space ratio development standard which would warrant strict compliance, noting that strict compliance is no longer considered a relevant benchmark in any event.*
- *The proposed density will not result in an acceptable impact on local traffic conditions and in fact the Traffic and Parking Assessment prepared by JMP Consulting which accompanies the application provides an analysis of the existing traffic conditions as they relate to the subject site and finds that the significant improvement in public and active transport infrastructure planned for Westmead will result in small reduction in traffic generation under the proposed alterations and additions application when compared to the assumptions contained in the traffic assessment supporting the approved development application for the site. Accordingly, the proposed increase in density will not result in any increase in the generation of traffic beyond that which was anticipated to result from the previously approved development on the site under DA 1271/2016.*
- *The proposed variation allows the site to optimise the delivery of housing in an ideal location within the demonstrated environmental capacity of the site and the proposed variation therefore allows for the most efficient and economic use of the land.*
- *Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public.*
- *Having regard to the planning principle established in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191 most observers would not find the proposed development offensive, jarring or unsympathetic to its location and the proposed development will be compatible with its context.*

Comment: An assessment has been undertaken to determine whether compliance with the standard is ‘unreasonable and unnecessary’ and there are ‘sufficient planning ground’ as follows:

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

Wehbe v Pittwater Council

Case law in the NSW Land & Environment Court has considered circumstances in which an exception to a development standard may be well founded. In the case of *Wehbe v Pittwater Council [2007] NSWLEC 827* the presiding Chief Judge outlined the following five (5) circumstances:

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

Height of Buildings Objectives

- (a) *to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,*

Comment: The subject site is part of a multi-lot masterplan that already has approved development applications varying the building height and FSR development standards. Of note, neither Lot 4 or Lot 5 have direct frontage to Darcy Road or Hawkesbury Road, so will not have significant impact on the transition in built form for allotments outside of the masterplanned area.

For the mastplanned site itself, Lot 4 provides the transition between Lot 3 (max 7 storeys) to the north, and Lot 5 (max 25 storeys) to the south. Overall, the development will sit comfortably between the two lots and is considered to respect the existing and desired future character of the area. Potential adverse effects on the surrounding environment in respect to building height will be non-existent.

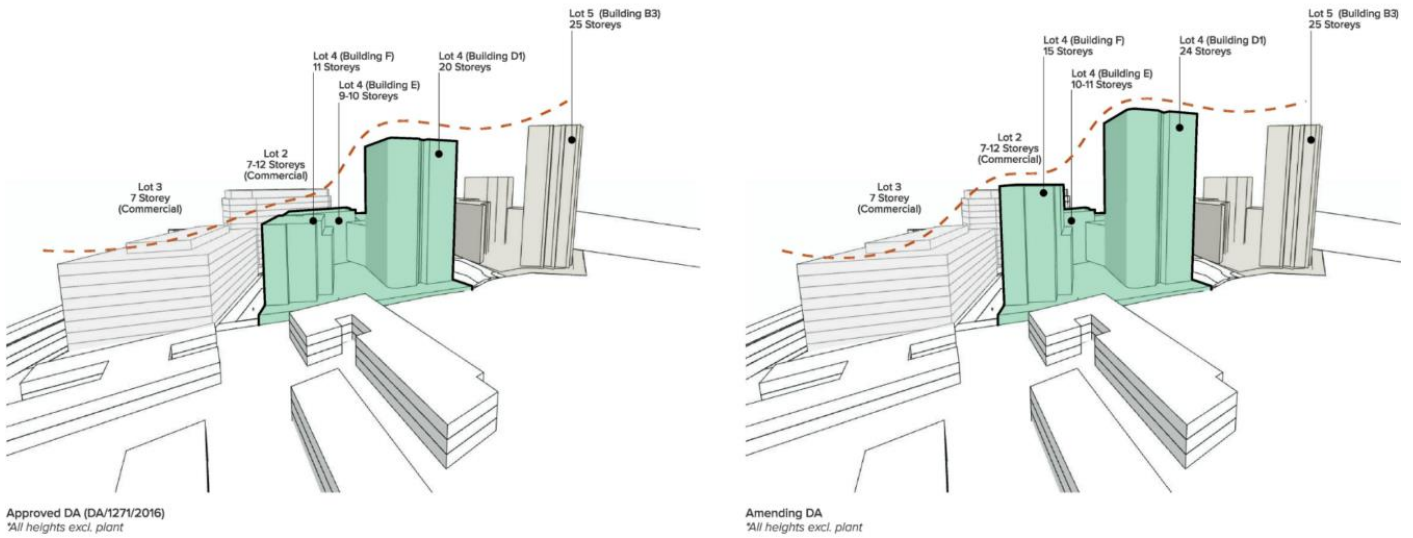


Figure 7: Transition of the approved development compared with the transition of the proposed development

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,

Comment: When referring to Figure 8 below, it is not considered that the additional 4 storeys for Building D and F will create additional visual impact compared to the approved development under DA/1271/2016.



Figure 7: Photomontage of approved development compared to proposed development

It has been established that there are no significant views to and from the sight that has been identified in Council's Planning Controls. Accordingly, the proposal is not considered to have any adverse impacts in that regard.

The arrangement of units and privacy measures within the development approved under DA/1271/2016 has been replicated to the additional storeys, and complies.

The most dominant portion of development will be Building D situated to the south-west corner of the subject site, which has ample building separation to the development on Lot 5 to the south. The applicant has provided solar studies which indicate the additional storeys will not impede on the solar access to the communal open space on Lot 5, nor the future Light Rail and Metro Stations to the east of the site.

(c) to require the height of future buildings to have regard to heritage sites and their settings,

Comment: The scale of the development will be larger than the current situation, but the changes are considered positive and will not result in adverse cumulative effects on heritage sites or their settings.

(d) to ensure the preservation of historic views,

Comment: It has been established that there are no significant views to and from the sight that has been identified in Council's Planning Controls. Accordingly, the proposal is not considered to have any adverse impacts in that regard.

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

Comment: There are no nearby low density residential areas in this part of the Westmead Precinct. The surrounding area has been envisioned to have a higher density to take advantage of the increase in investment of the surround public transport infrastructure.

(f) maintain satisfactory sky exposure and daylight to existing buildings within commercial centres, to the sides and rear of tower forms and to key areas of the public domain, including parks, streets and lanes.

Comment: the location of the tallest point of the development to the south-western corner of the site allows for the tower to be stand alone, with significant separation from surrounding towers of similar size.

Floor Space Ratio Objectives

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

Comment: Although the proposed additional parking is not supported as it would generate unsustainable vehicular movements, the increased density is considered to be able to be supported by the significant investment into public transport infrastructure within the Westmead Precinct.

(b) to provide a transition in built form and land use intensity within the area covered by this Plan,

Comment: The transition in height between Lot 3 to Lot 5 has already been discussed, and is also relevant to the transition in FSR. It is noted that the development is fully compliant with the portion of the site that is prescribed a 3.5:1 FSR. The bulk of the density is located on the south-western corner of the site, which is the area least likely to create overbearing built form impacts.

(c) to require the bulk and scale of future buildings to have regard to heritage sites and their settings,

Comment: The scale of the development will be larger than the current situation, but the changes are considered positive and will not result in adverse cumulative effects on heritage sites or their settings.

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

Comment: There are no nearby low density residential areas in this part of the Westmead Precinct. The surrounding area has been envisioned to have a higher density to take advantage of the increase in investment of the surround public transport infrastructure.

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

Comment: The applicant does not challenge that the underlying objectives are not relevant. However, the Applicant does note that the height control prescribed in the PLEP 2011 cannot be taken as the jurisdictional bar for development consent or refusal, in accordance with clause 4.15 of the EP&A Act, and that the proposed height breach should be assessed on its merit with regards to the LEP standard and its objectives.

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

Comment: As the assessment of DA/1271/2016 has already concluded there is merit for the variation of the building height and FSR development standard, there is no requirement that compliance be achieved.

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

Comment: As stated above, there is no requirement for compliance to be achieved as DA/1271/2016 has already approved a variation to the development standard. Nevertheless, further variation of the development standards can be assessed on merit.

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

Comment: The applicant does not challenge that the zoning is inappropriate.

Al Maha v Huajun Investments & Baron Corporation v Council of the City of Sydney

The proposal has been assessed on merit and having regard to the principles in *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245 and *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61.

Al Maha provides that the consent authority (or Commission in that instance) “*had to be satisfied that there were proper planning grounds to warrant the grant of consent, and that the contravention was justified*” [21].

Baron elaborates on *Al Maha* in that “*the consent authority's consideration of the applicant's written request, required under cl 4.6(3), is to evaluate whether the request has demonstrated the achievement of the outcomes that are the matters in cl 4.6(3)(a) and (b). Only if the request does demonstrate the achievement of these outcomes will the request have “adequately addressed the matters required to be demonstrated” by cl. 4.6(3), being the requirement in cl. 4.6(4)(a)(i) about which the consent authority must be satisfied. The request cannot “adequately” address the matters required to be demonstrated by cl 4.6(3) if it does not in fact demonstrate the matter*” [78].

Comment: In this instance, Council is satisfied that applicant's Clause 4.6 Statement adequately addresses the matters in Clause 4.6(3) of PLEP2011. It has provided a suitable argument as to why the standard is unreasonable and unnecessary in this case and demonstrates sufficient environmental planning grounds to justify contravening the Height of Building and FSR development standard.

Clause 4.6(4) - Consent Authority Assessment of Proposed Variation

Clause 4.6(4) of PLEP 2011 outlines that development consent must not be granted for development that contravenes a development standard unless:

- “a) *the consent authority is satisfied that:*
- i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- b) *the concurrence of the Secretary has been obtained.*”

Comment: The matters of clause 4.6(4)(a)(ii) and Clause 4.6(4)(b) have been dealt with in the preceding section.

Public Interest

Clause 4.6(4)(a)(ii) of PLEP 2011 states:

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

Comment:

The subject site can accommodate the increased density resulting from the four additional levels without causing further impacts on the amenity of surrounding properties and is ideally located close to public transport links, services and facilities.

The proposed development is consistent with the objectives of this standard and is in the public interest.

Concurrence

Clause 4.6(4)(b) of PLEP 2011 states:

“The concurrence of the Secretary has been obtained”.

Comment: Such concurrence is assumed (refer to the Planning Circular PS 20-002, 5 May 2020).

Conclusion: It is considered that the applicant’s written request has adequately addressed the matters required to be demonstrated and that the request to vary the building height and FSR development standard within Parramatta LEP 2011 can be supported. The proposal achieves the objectives of both standards and the zone, and there are sufficient site-specific reasons for the breach, providing additional density directly adjacent to an influx of public transport infrastructure. The additional density can be achieved without additional adverse impacts on neighbouring properties, or the greater precinct. In reaching this conclusion, regard has been given to the relevant Judgements of the LEC.

9. Draft Environmental Planning Instruments

The Draft Parramatta Local Environmental Plan 2020 was placed on public exhibition from 31 August 2020 to 12 October 2020. The draft LEP will replace the five existing LEPs that apply within the Local Government Area and will be the primary legal planning document for guiding development and land use decisions made by Council.

Whilst the draft LEP must be considered when assessing this application under Clause 4.15 (1) (a) (ii) of the Environmental Planning & Assessment Act 1979, the LEP is neither imminent nor certain and therefore limited weight has been placed on it.

Control	PLEP 2011	Draft LEP 2022
Zoning	B4 Mixed Use	B4 Mixed Use
Height	31m and 40m	31m and 40m
FSR	3.5:1 and 4:1	3.5:1 and 4:1

Nevertheless, there are no changes proposed under the draft LEP that amend key development standards applicable to the site.

10. Parramatta Development Control Plan 2011

The Parramatta DCP 2011 (PDCP 2011) does not contain specific controls relating to seniors housing developments. A consideration of the relevant sections of the PDCP 2011, which includes the controls for general residential development and residential flat buildings is provided below.

Development Control	Compliance
Part 2 Site Planning	
Views and Vistas	The site is not identified as having significant views and vistas.
Flood Affection	The site is not identified in Council’s database as being flood prone.
Protection of Waterways	As per DA/1271/2016.
Protection of Groundwater	As per DA/1271/2016.
Soil Management	As per DA/1271/2016.
Acid Sulfate Soils	An Acid Sulphate Soils Management plan is not required to be prepared.
Salinity	N/A
Land Contamination	As per DA/1271/2016.
Air Quality	As per DA/1271/2016.
Development on Sloping Land	As per DA/1271/2016.

Development on land abutting the E2 or W1 zone	The site does not abut land zoned E2 or W1.
Public Domain	As per DA/1271/2016.
Part 3 Development Principles	
Frontage	As per DA/1271/2016.
Front Setback	As per DA/1271/2016.
Side Setback	
Rear Setback	
Deep Soil	As per DA/1271/2016.
Building Form and Massing	Yes – The existing approved development has established a built form that is acceptable for Lot 4 of the precinct. As demonstrated in Figure 7 above and the subsequent Clause 4.6 discussions, the additional 4 storeys for Building D and Building F are considered to be compatible with the precinct and continues to be acceptable.
Building Façade and Articulation	Yes – The proposal seeks various changes to the external expression of the buildings, all of which were reviewed by DEAP and considered acceptable.
Streetscape	Yes – The development is located away from Darcy Road and Hawkesbury Road and the additional storeys do not significantly impact upon the streetscape presentation to those streets.
Landscaping	As per DA/1271/2016.
Private Open Space	Yes – Each dwelling has a compliant POS, that meets the minimum dimensions.
Common Open Space	Yes – 1683.2m ² of COS is provided in total and complies with the requirements of the ADG.
Visual Privacy	Yes – The arrangement of units and privacy measures within the development approved under DA/1271/2016 has been replicated to the additional storeys and complies.
Acoustic Amenity	As per DA/1271/2016.
Solar Access	Yes – The application was accompanied with solar analysis of the additional overshadowing impacts that the additional storeys would have to the south and south-east of the subject site. The shadow diagrams show that the communal open space to Lot 4 and Lot 5, the Marist Brother's school oval to the south, and the PLR platform to the south-east will continue to receive adequate sunlight.
Cross Ventilation	Yes – The proposal is compliant with the cross-ventilation requirements of the ADG.
Water Sensitive Urban Design	As per DA/1271/2016.
Access for People with Disabilities	As per DA/1271/2016.
Safety and Security	As per DA/1271/2016.
Housing Diversity and Choice	<p>No, but acceptable – The new proposal will have a unit mix as follows: Studio – 4 units (1%) 1 Bedroom – 209 units (52%) 2 Bedroom – 178 units (44%) 3 Bedroom – 14 units (3%)</p> <p>The approved unit mix under DA/1271/2016 has a similar ratio, with the bulk of units being 1br and 2br. As the site is located within a precinct that has strict maximum parking provisions, it is considered that a traditional unit mix would not be ideal. As no additional parking is supported under this application, 1 and 2 bedroom units are considered appropriate as the occupants would be more likely to take advantage of the public transport options supporting the Precinct. Please refer to parking provision discussion below.</p> <p>In addition, a condition of consent will be imposed to ensure 10% of the total apartments are built to be adaptable.</p>
Parking Provision	<p>Yes – the proposal sought to increase the parking numbers from 414 to 469. It is noted that Westmead Precinct provides a <u>maximum</u> parking rate based on a percentage of the total GFA. Since the proposal seeks to also increase the FSR of the development, the 469 parking spaces proposed complies with the control.</p> <p>However, Westmead Precinct is currently unable to accommodate additional parking for existing developments. This has been a consistent position that Council has had on similar applications within the Westmead Precinct. While an increase in GFA can be supported given proximity to extensive public transport options, it is also for this reason as well as the heavily congested existing and future traffic environment in this precinct, that Council requires less car parking than that proposed in this modification application. In that regard, as the majority of additional units proposed are within the 1 and 2 bedroom range, no additional parking is supported. A condition of consent has been imposed to restrict the parking numbers to the approved number under DA/1271/2016. With 414 total parking spaces currently approved, assuming all 3br units receive 2 spaces and all 2br units receive 1 space, it is estimated that 75 total 1br units will not receive parking spaces.</p>

Part 4.3.4.1 Westmead Precinct – 158-164 Hawkesbury Road and Part 2A Darcy Road, Westmead

It is noted that DA/1271/2016 was approved with a number of non-compliances with the site specific controls relating to the former WSU site. With the exception of the additional 4 storeys proposed in this application the overall built form of the Lot 4 development remains as approved under DA/1271/2016. The additional 4 storeys do not create any unacceptable non-compliances with the site-specific controls in regard to solar access, public domain, or car parking. Additionally, the proposal remains consistent with the overall desired future character and objectives of the strategic precinct.

11. Development Contributions

As this Development Application was lodged on 7 October 2021, the *City of Parramatta Council Section 94A Development Contributions Plan (Amendment No. 5)* that applied to DA/1271/2016 is no longer applicable.

In that regard, the contribution condition imposed under DA/1271/2016 continues to be valid, and only the additional units proposed under this application will be subject to the *City of Parramatta (Outside CBD) Development Contributions Plan 2021*. As such, a development contribution calculated to be \$1,021,594 is required to be paid.

A standard condition of consent has been imposed requiring the contribution to be paid prior to the issue of a Construction Certificate.

12. Bonds

In accordance with Council's Schedule of Fees and Charges, the developer will be obliged to pay Security Bonds to ensure the protection of civil infrastructure located in the public domain adjacent to the site. The standard condition of consent imposed requiring the Security Bond to be paid under DA/1271/2016 continues to apply.

13. EP&A Regulation 2021

Applicable Regulation considerations including demolition, fire safety, fire upgrades, compliance with the Building Code of Australia, compliance with the Home Building Act, PCA appointment, notice of commencement of works, sign on work sites, critical stage inspections and records of inspection have been addressed by appropriate consent conditions, refer to Appendix 1.

14. The likely impacts of the development

The assessment demonstrates that the proposal will not have any significant adverse impacts upon any adjoining properties or the environment through compliance with the applicable planning instruments and controls. All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report, including natural impacts such as tree removal and excavation, and built environment impacts such as traffic and build form. In the context of the site and the assessments provided by Council's experts, the development is considered satisfactory in terms of environmental impacts.

15. Suitability of the Site

The subject site can accommodate a development of this scale without causing further impacts on the amenity of surrounding properties and is ideally located close to public transport links, services and facilities.

Suitable investigations and documentation have been provided to demonstrate that the site can accommodate the additional density and the development is compatible with the other approved developments within the strategic precinct.

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

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

16. Public Consultation

In accordance with the Parramatta Notification Plan the Development Application was notified and advertised between 20 October 2021 and 10 November 2021. No submissions have been received.

17. Public interest

Subject to implementation of conditions of consent outlined in the recommendation below, no circumstances have been identified to indicate this proposal would be contrary to the public interest.

18. Conclusion

The application has been assessed relative to section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls.

The proposed development is for alterations and additions to a residential flat building that has already been approved with variations to the building height and FSR development standards under DA/1271/2016. During that assessment, the variation was supported because it was deemed that the masterplan that informed the planning proposal was a result of a suboptimal concept plan. Since the adoption of the masterplan there has been multiple approvals within the site that depart from the building height and FSR development standards.

Whilst this proposal seeks to increase the extent of variations, a merit assessment has concluded it to be well founded given the significant investment in public transport infrastructure within the Westmead Precinct. The additional density can be achieved without additional adverse impacts on neighbouring properties, or the greater precinct.

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

21. Recommendation

Pursuant to Section 4.16 of the Environmental Planning and Assessment Act, 1979:

- A. **That**, the Parramatta Local Planning Panel support the variation to Clause 4.3 and Clause 4.4 of Parramatta Local Environmental Plan 2011 under the provisions of Clause 4.6 for the following reasons:
- a) A written request to vary the building height has been received and is well drafted; and
 - b) The assessment of DA/1271/2016 concluded there is merit for the variation of the building height and FSR development standard. As such, compliance with the standards are unnecessary. Accordingly, Council believes that there are sufficient environmental planning grounds to justify the variation and finds that the application is satisfactory. Council is therefore satisfied that the Applicant's Clause 4.6 variation request has adequately addressed the matters required to be demonstrated in Clause 4.6 (3) of Parramatta LEP 2011 and that the proposed development will be in the public interest because it is not inconsistent with the objectives of the building height and floor space ratio controls and the objectives for development within the B4 zone in which the development is proposed to be carried out.
 - c) The additional variation of the development standards will not create additional adverse impacts in regard to overshadowing, bulk and scale, streetscape, or traffic generation;
 - d) The additional density will take advantage of the significant investment in public transport infrastructure within the Westmead Precinct; and
 - e) The proposal remains consistent with the aims, objectives, and desired future character of the Westmead Precinct.
- B. **That** the Parramatta Local Planning Panel, exercising the function of the consent authority, **approve** development consent to DA/932/2021 for *alterations and additions to the approved residential development including an additional 4 floors to Buildings D and F and internal and external facade changes* on land at 3 Farmhouse Road, Westmead for the following reasons:

- a) The development is permissible in the B4 zone pursuant to the Parramatta Local Environmental 2011 and satisfies the requirements of all applicable planning standards controls.
- b) The development will be compatible with the emerging and planned future character of the area.
- c) The development will provide housing and employment that accommodates the needs of the existing and future residents, workers and visitors of Parramatta.
- d) For the reasons given above, approval of the application is in the public interest.

DRAFT CONDITIONS OF CONSENT

Upon the signature of the applicable delegate, the conditions in this Appendix will form the conditions of development consent.

Development Consent No.: DA/932/2021
Property Address: Lot 4 DP 1227281
3 Farmhouse Road, WESTMEAD NSW
2145

PART A – GENERAL CONDITIONS

PA0001 #Approved Plans & Support Doc(DIEP Mandatory Cond)

1. Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressively require otherwise:

Architectural Drawings (Project No. 20036)

Drawing No.	Issue	Plan Title	Dated
DA-100-020	01	Site Plan	10/09/21
DA-110-001	01	Lower Ground Floor	10/09/21
DA-110-002	01	Ground Floor	10/09/21
DA-110-010	01	Level 01	10/09/21
DA-110-020	01	Level 02	10/09/21
DA-110-030	01	Level 03	10/09/21
DA-110-040	01	Level 04	10/09/21
DA-110-050	01	Level 05	10/09/21
DA-110-060	01	Level 06	10/09/21
DA-110-070	01	Level 07	10/09/21
DA-110-080	01	Level 08	10/09/21
DA-110-090	01	Level 09	10/09/21
DA-110-100	02	Level 10	11/02/22
DA-110-110	02	Level 11-12	11/02/22
DA-110-130	02	Level 13	11/02/22
DA-110-140	02	Level 14	11/02/22
DA-110-150	02	Level 15	11/02/22
DA-110-160	01	Level 16-17	10/09/21

Drawing No.	Issue	Plan Title	Dated
DA-110-180	01	Level 18-19	10/09/21
DA-110-200	01	Level 20-22	10/09/21
DA-110-230	01	Level 23	10/09/21
DA-110-240	02	Level 24 Plant and Roof	11/02/22
DA-110-250	02	Roof Plan	11/02/22
DA-210-001	02	North Elevation	11/02/22
DA-210-002	02	East Elevation	11/02/22
DA-210-003	02	South Elevation	11/02/22
DA-210-004	02	West Elevation	11/02/22
DA-310-001	02	Section A-A	11/02/22

Landscape Drawings (Project No. 2021060)

Drawing No.	Issue	Plan Title	Dated
LD_DA100	1	Ground Floor Plan	31/02/22
LD_DA111	1	Ground Floor Details Plan	31/01/22
LD_DA200	1	Level 10 Communal Open Space	31/01/22
LD_DA300	1	Level 14 Communal Open Space	31/01/22

Specialist Reports

Document	Ref No.	Issue	Prepared By	Dated
Finishes Schedule	DA-990-002	01	Turner	10/09/21
BASIX Certificate No.778242M_03	-	-	Windtech Consultants	15/09/21
Wind Report	WC963-12F02	Rev3	Windtech Consultants	16/09/21
Access Report	Access Review	V2	Morris Goding Access Consultant	14/09/21
BCA Report	V210052-03BCA	C	VPL Consulting	14/09/21
Fire Report	162073_DA_04-	-	Affinity Fire Engineering	14/09/21
Aviation Report	-	-	Thompson GCS	07/09/21

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of consent, the condition prevails.

Note: An inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development

PANSC Non-standard - General Matters

2. This development consent is to be carried out in conjunction with the terms and conditions of DA/1271/2016.

Reason: To ensure the development is carried out in conjunction with the approved development consent for the building.

PA0003 Construction Certificate

3. Prior to commencement of any construction works associated with the approved development (including excavation if applicable), it is mandatory to obtain a Construction Certificate. Plans, specifications and relevant documentation accompanying the Construction Certificate must include any requirements imposed by conditions of this Development Consent.

Reason: To ensure compliance with legislative requirements.

PA0004 No encroachment on Council and/or Adjoining proper

4. The development must be constructed within the confines of the property boundary. No portion of the proposed structure, including footings/slabs, gates and doors during opening and closing operations must encroach upon Council's footpath area or the boundaries of the adjacent properties.

Reason: To ensure no injury is caused to persons and the building is erected in accordance with the approval granted within the boundaries of the site.

PA0013 #LSL Payment Const> \$25,000 (DIEP Mandatory Cond)

5. Before the issue of a construction certificate, the applicant is to ensure that the person liable pays the long service levy as calculated at the date of this consent to the Long Service Corporation or Council under section 34 of the Building and Construction Industry Long Service Payments Act 1986 and provides proof of this payment to the certifier.

Note: The Long Service Levy is to be paid directly to the **Long Service Corporation** at www.longservice.nsw.gov.au. For more information, please contact the Levy support team on 13 14 41.

Reason: To ensure that the long service levy is paid.

PA0015 #Payment of Sec7.11 Contrib. (DIEP Mandatory Cond)

6. Before the issue of a construction certificate, the applicant must pay the following contributions to Council for:

Contribution Type	Amount
Open space and outdoor recreation	\$ 665,262
Indoor sports courts	\$ 60,785
Community facilities	\$ 79,684
Aquatic facilities	\$ 18,491
Traffic and transport	\$ 187,565
Plan administration	\$ 9,807
Total	\$ 1,021,594

The total contribution payable to Council under this condition is \$1,021,594 as calculated at the date of this consent, in accordance with *City of Parramatta (Outside CBD) Development Contributions Plan 2021*.

The total amount payable may be adjusted at the time the payment is made, in accordance with the provisions of the *City of Parramatta (Outside CBD) Development Contributions Plan 2021*.

Reason: To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development

PANSC Non-standard - General Matters

7. All roof water and surface water is to be connected to an approved drainage system in accordance with the conditions imposed under DA/1271/2016.

Reason: To ensure satisfactory stormwater disposal.

PANSC Non-standard - General Matters

8. The applicant is to ensure compliance with the requirements provided in Endeavour Energy's letter dated 18 October 2021.

Reason: To ensure compliance with the energy provider requirements.

PART B – BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

(Note: Some conditions contained in other sections of this consent (including prior to occupation/use commencing) may need to be considered

when preparing detailed drawings/specifications for the Construction Certificate.)

PBNSC Non-standard - Prior to the issue of a CC

9. Prior to the issue of the Construction Certificate, a wind tunnel study, to the satisfaction of the PCA, is to be undertaken to quantify the wind conditions against the stated safety and comfort criteria and, if required, develop and quantify the effectiveness of wind mitigation strategies.

Reason: To ensure the wind impacts generated from the development is satisfactorily mitigated.

PBNSC Non-standard - Prior to the issue of a CC

10. Prior to the issue of the Construction Certificate, an amendment is to be made to the Lower Ground Floor Plan – DA-110-001 rev01 – dated 10 September 2021, showing a reduction in parking spaces to 44 to the satisfaction of the PCA.

Reason: To ensure the total number of parking spaces for the subject site remains as approved under DA/1271/2016.

PB0008 No external service ducts for multi-unit develop

11. Service ducts, plumbing installations and plant servicing the development must be concealed within the building to keep external walls free from service installations. Details are to be included within the plans and documentation accompanying the Construction Certificate to the satisfaction of the Certifying Authority.

Reason: To ensure the quality built form of the development.

PB0012 Single master TV antenna

12. A single master TV antenna not exceeding a height of 3.0m above the finished roof level must be installed on each building to service the development. A connection is to be provided internally to each dwelling/unit within the development.

Details of these connections are to be annotated on the plans and documentation accompanying the Construction Certificate to the satisfaction of the Certifying Authority.

Reason: To protect the visual amenity of the area.

PB0028 SEPP 65 verification

13. Design Verification issued by a registered architect is to be provided with the application for a Construction Certificate detailing the construction drawings and specifications are consistent with the design quality principles in State Environmental Planning Policy No-65. Design Quality of Residential Flat Development.

Note: Qualified designer in this condition is as per the definition in SEPP 65.

Reason: To comply with the requirements of SEPP 65.

PB0030 Infrastructure & Restoration Adm. fee for all DAs

14. An Infrastructure and Restoration Administration Fee must be paid to Council prior to the issue of a Construction Certificate. The fee will be in accordance with Councils adopted 'Fees and Charges' at the time of payment.

Note: Council's Customer Service Team can advise of the current fee and can be contacted on 9806 5524.

Reason: To comply with Council's adopted Fees and Charges Document and to ensure compliance with conditions of consent.

PB0032 Constr. Noise Managt. Plan for townhouses & above

15. A noise management plan must be prepared in accordance with the NSW Department of Environment, Climate Change and Water 'Interim Noise Construction Guidelines 2009' and accompany the application for a Construction Certificate. The Certifying Authority must be satisfied the Construction Noise Management Plan will minimise noise impacts on the community during the construction of the development.

The Construction Noise Management Plan must include:

- (a) Identification of nearby residences and other sensitive land uses.
- (b) Assessment of expected noise impacts.
- (c) Detailed examination of feasible and reasonable work practices that will be implemented to minimise noise impacts.
- (d) Community Consultation and the methods that will be implemented for the whole project to liaise with affected community members to advise on and respond to noise related complaints and disputes.

Reason: To prevent loss of amenity to the area.

PB0039 #Adaptable Dwellings for Multi-unit and RFB's

16. The development must incorporate 40 adaptable dwellings. Plans submitted with the Construction Certificate must illustrate that the required adaptable dwellings have been designed in accordance with the requirements of AS 4299-1995 for a class C Adaptable House.

Reason: To ensure the required adaptable dwellings are appropriately designed.

PB0053 Construct. Site Manage. Plan (DIEP Mandatory Cond)

17. Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:
- location and materials for protective fencing and hoardings to the perimeter on the site
 - provisions for public safety

- pedestrian and vehicular site access points and construction activity zones
- details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site
- protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- details of any bulk earthworks to be carried out
- location of site storage areas and sheds
- equipment used to carry out all works
- a garbage container with a tight-fitting lid
- dust, noise and vibration control measures
- location of temporary toilets.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

Reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction

PB0055 Waste Management Plan (DIEP Mandatory Cond)

18. Before the issue of a construction certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:

(a) Council's Waste Management Development Control Plan

OR

(b) Details the following:

- the contact details of the person(s) removing the waste
- an estimate of the waste (type and quantity) and whether the waste is expected to be reused, recycled or go to landfill
- the address of the disposal location(s) where the waste is to be taken

The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.

Reason: To ensure resource recovery is promoted and local amenity protected during construction.

PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK

BC0001 Toilet facilities on site

19. Prior to work commencing, adequate toilet facilities are to be provided on the work site.

Reason: To ensure adequate toilet facilities are provided.

PC0001 #Appointment of PCA

20. Prior to commencement of work, the person having the benefit of the Development Consent and Construction Certificate approval must:
- (a) Appoint a Principal Certifying Authority (PCA) and notify Council in writing of the appointment (irrespective of whether Council or an accredited private certifier) within 7 days; and
 - (b) Notify Council in writing a minimum of 48 hours prior to work commencing of the intended date of commencement.

The Principal Certifying Authority must determine and advise the person having the benefit of the Construction Certificate when inspections, certification and compliance certificates are required.

Reason: To comply with legislative requirements.

PC0002 Enclosure of the site

21. The site must be enclosed by a 1.8m high security fence erected wholly within the confines of the site to prevent unauthorised access. The fence must be installed to the satisfaction of the Principal Certifying Authority prior to the commencement of any work on site.

Reason: To ensure public safety.

PC0003 Site Sign

22. A sign must be erected in a prominent position on any site involving excavation, erection or demolition of a building in accordance with Clause 98 A (2) of the Environmental Planning and Assessment Regulations 2000 detailing:
- (a) Unauthorised entry of the work site is prohibited;
 - (b) The name of the principal contractor (or person in charge of the work site), their telephone number enabling 24hour contact; and
 - (c) The name, address and telephone number of the Principal Certifying Authority;
 - (d) The development consent approved construction hours;
 - (e) The sign must be maintained during excavation, demolition and building work, and removed when the work has been completed.
 - (f) This condition does not apply where works are being carried out inside an existing building.

Reason: Statutory requirement.

PC0005 Public liability insurance

23. Public risk insurance in the amount of not less than \$20 million or such other amount as Council may require by notice) must be obtained and furnished to Council before any works authorised by this consent are conducted:

- (a) Above;

- (b) Below; or
- (c) On

Any public land owned or controlled by Council. The public risk insurance must be maintained for the period during which these works are being undertaken.

The public risk insurance must be satisfactory to Council and list Council as an insured and/or interested party.

A copy of the insurance policy obtained must be forwarded to Council before any of the works commence.

Note: Applications for hoarding permits, vehicular crossing etc. will require evidence of insurance upon lodgement of the application.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works authorised by this consent conducted above, below or on any public land owned or controlled by Council.

PC0007 Footings and walls near boundaries

24. Prior to the commencement of work, a registered surveyor is to undertake a set out survey to identify the location of all footings, slabs, posts and walls adjacent to a boundary. This is to ensure the development when complete, will be constructed wholly within the confines of the subject allotment. This set out survey showing the location of the development relative to the boundaries of the site, is to be forwarded to the Principal Certifying Authority prior to pouring of any footings or slabs and/or the construction of any walls/posts.

Reason: To ensure that the building is erected in accordance with the approval granted and within the boundaries of the site.

PC0010 Compliance with Home Building Act (If Applicable)

25. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

Reason: Prescribed condition EP&A Regulation, clause 98(1)(b).

PART D – WHILE BUILDING WORK IS BEING CARRIED OUT

DD0005 Erosion & sediment control measures

26. Works are not to result in sedimentation and or run-off from the approved works onto the adjoining properties and or public lands. The person having the benefit of this consent must ensure sediment is not tracked out from the development site.

Reason: To ensure no adverse impacts on neighbouring properties.

DD0006 Damage to public infrastructure

27. Any damage to Council assets that impacts on public safety during construction is to be rectified immediately to the satisfaction of Council with all costs to be borne by the person having the benefit of the Development Consent.

Reason: To protect public safety.

DD0011 Nomination of Engineering Works Supervisor

28. During construction of all public area civil and drainage works a qualified civil engineer must supervise the work to ensure it is completed in accordance with Council's "Guidelines for Public Domain Works". Certification is required to be provided with the Occupation Certificate.

Reason: To ensure Council's assets are appropriately constructed.

PD0006 Hours of work and noise (DPIE Mandatory Condition)

29. The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

- **7am to 5pm on Monday to Friday**
- **8am to 5pm on Saturday**

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

Council may permit an extension to the approved hours of work in extenuating or unforeseen circumstances subject to an application and approval by City of Parramatta Council (CoPC) in accordance with the 'After Hours Works for Approved Development Applications Policy' (Policy).

A copy of this Policy and associated application form is available on the CoPC website. A fee will apply to any application made in accordance with this Policy.

The matters of consideration of any extension sought would include, but not be limited to the following aspects and should be detailed in any application made:

- Nature of work to be conducted;
- Reason for after-hours completion;

- Residual effect of work (noise, traffic, parking);
- Demographic of area (residential, industrial);
- Compliance history of subject premises;
- Current hours of operation;
- Mitigating or extenuating circumstance; and
- Impact of works not being completed.

Reason: To protect the amenity of the surrounding area.

PD0008 Construction Noise (DPIE Mandatory Cond)

30. While building work is being carried out, and where a noise and vibration management plan is approved under this consent, the applicant must ensure that any noise generated from the site is controlled in accordance with the requirements of that plan.

OR

While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

Reason: To protect the amenity of the neighbourhood.

PD0020 Building Work Compliance BCA (DIEP Mandatory Cond)

31. All building work must be carried out in accordance with the current provisions of the Building Code of Australia (National Construction Code).

Reason: To comply with the Environmental Planning & Assessment Act 1979, as amended and the Environmental Planning & Assessment Regulation 2000.

PD0021 Implement. of BASIX Commit. (DPIE Mandatory Cond)

32. While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.

Reason: To ensure BASIX commitments are fulfilled in accordance with the BASIX certificate (prescribed condition under clause 97A(2) EP&A Regulation).

PD0022 Uncover Relics/Aboriginal Obj(DPIE Mandatory Cond)

33. While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed

by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:-
 - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - (b) is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

Reason: To ensure the protection of objects of potential significance during works.

TD0001 Road Occupancy Permit

34. Occupation of any part of the footpath or road at or above (carrying out work, storage of building materials and the like) during construction of the development shall require a Road Occupancy Permit from Council. The applicant is to be required to submit an application for a Road Occupancy Permit through Council’s Traffic and Transport Services, prior to carrying out the construction/restoration works.

Reason: To ensure proper management of Council assets.

TD0002 Oversize vehicles using local roads

35. Oversize vehicles using local roads require approval from the National Heavy Vehicle Regulator (NHVR). The applicant is required to submit an application for an Oversize Vehicle Access Permit through NHVR’s portal (www.nhvr.gov.au/about-us/nhvr-portal) prior to driving through local roads within the City of Parramatta LGA.

Reason: To ensure maintenance of Council’s assets.

PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

BE0001 Record of inspections carried out

36. In accordance with Clause 162B of the Environmental Planning and Assessment Regulation 2000, the Principal Certifying Authority responsible for the critical stage inspections must make a record of each inspection as soon as practicable after it has been carried out. The record must include:
- (a) The development application and Construction Certificate number as registered;
 - (b) The address of the property at which the inspection was carried out;

- (c) The type of inspection;
- (d) The date on which it was carried out;
- (e) The name and accreditation number of the certifying authority by whom the inspection was carried out; and
- (f) Whether or not the inspection was satisfactory in the opinion of the certifying authority who carried it out.

Reason: To comply with statutory requirements.

DE0006 Section 73 Certificate

37. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained prior to the issue of any Occupation Certificate. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at www.sydneywater.com.au then the “e-developer” icon or telephone 13 20 92.

Reason: To ensure the requirements of Sydney Water have been complied with.

PE0001 Occupation Certificate

38. Occupation or use of the building or part is not permitted until an Occupation Certificate has been issued in accordance with Section 6.9 of the Environmental Planning and Assessment Act 1979.

Reason: To comply with legislative requirements of the Environmental Planning and Assessment Act 1979.

PE0007 #BASIX Compliance

39. Under Clause 97A of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all design measures identified in the BASIX Certificate No. 778242M_03, will be complied with prior to occupation

Reason: To comply with legislative requirements of Clause 97A of the Environmental Planning & Assessment Regulation 2000.

PE0008 Completion of Public Utility Services

40. Before the issue of the relevant occupation certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, is completed to the satisfaction of the relevant authority.

Before the issue of the occupation certificate, the certifier must request written confirmation from the relevant authority that the relevant services have been completed.

Reason: To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation

PE0025 SEPP 65 verification statement OC stage

41. Design Verification issued by a registered architect is to be provided with the application for a Occupation Certificate verifying that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development.

Note: Qualified designer in this condition is as per the definition in SEPP 65.

Reason: To comply with the requirements of SEPP 65.

PE0026 PE25 –Adaptable dwellings Multi-unit and RFB’smodi

42. Certification must be provided prior to the issue of an occupation certificate that the required adaptable dwelling(s) have achieved a class C design in accordance with the requirements of AS 4299 -1995.

Reason: To ensure the requirements of DCP 2011 have been met.

PENSC Non-standard - Prior to issue of Occ/Sub Cert.

43. An occupation certificate shall not be issued for the works the subject of this application until such time as an occupation certificate has been issued for the works the subject of DA/1271/2016.

Reason: To ensure the building is suitable for occupation.

PART F – OCCUPATION AND ONGOING USE

PF0004 External Plant/Air-conditioning noise levels

44. Any external plant/air-conditioning system must not exceed a noise level of 5dBA above the background noise level when measured at the boundaries of the property.

Reason: To minimise noise impact of mechanical equipment.

Date: 22 July 2022

Responsible Officer: Darren Wan