



City of Parramatta	
File No:	DA/837/2022

SECTION 4.15 ASSESSMENT REPORT Environmental Planning & Assessment Act 1979

DA No:	DA/837/2022
Property:	Lot A DP 375159, 183 Macquarie Street, PARRAMATTA NSW 2150
Proposal:	Construction of a 12-storey mixed use building containing ground and first floor retail/commercial space and 76 Co-Living rooms over one level of basement storage
Date of receipt:	25 October 2022
Applicant:	PTI Architecture
Owner:	Rapisarda Holding Pty Limited
Is the property known to be owned by a Council employee or Councillor?	No
Political donations/gifts disclosed:	None disclosed on the application form
Submissions received:	8 submissions
Conciliation Conference Held:	No
Recommendation:	Refusal
Responsible Officer:	Paul Sartor

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 (Housing) 2021• State Environmental Planning Policy (Biodiversity and Conservation) 2021• State Environmental Planning Policy (Resilience and Hazards) 2021• State Environmental Planning Policy (BASIX) 2004• State Environmental Planning Policy (Transport and Infrastructure) 2021• Parramatta Local Environmental Plan 2011 (PLEP 2011)• Parramatta Development Control Plan 2011 (PDCP 2011)
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, to 69(1)(b) of the Housing SEPP minimum lot size for co-living development
Delegation	Parramatta Local Planning Panel (PLPP) due to variation to a development standard proposed more than 10%

1. Executive Summary

The Development Application is seeking approval for a 12-storey mixed use development containing a 76 room co-living component and 4 retail/commercial units on Lot A DP 375159 (183 Macquarie St, Parramatta).

The development application has been submitted with a clause 4.6 variation to clause 69(1)(b)(ii) of the Housing SEPP for the minimum lot size for co-living development. The subject site is 487.3sq.m, which represents a 39.1% variation to the 800sq.m minimum lot size.

This application was considered by the Local Planning Panel on the 15th May 2023 and was deferred for six weeks to allow the applicant to satisfy Transport for NSW issues and design issues. Amended plans were submitted on the 22nd June 2023. These plans included the following key changes:

- Reduction of co-living units from 96 to 73;
- Introduction of a ground floor vehicle servicing bay / seating area;
- Conversion of ground floor and 1st floor to retail/commercial use;
- Increase the depth of the building void (light well) from 3m wide to 6m; and
- Amended locations of common open space, with new space added on roof

The introduction of vehicular servicing has come at the expense of any active frontage; the entire frontage of the site will present as an open loading dock. The applicant's proposal to co-utilise this space as a seating area for the ground floor retail/commercial unit (i.e. for a café) is not considered to be safe or practicable as it would create conflict between pedestrians and vehicles. Regardless, Transport for NSW are not satisfied with the proposed vehicular access arrangements and have refused to grant concurrence.

Council officers query whether the application can legally be approved given the following:

- Concurrence has not been provided by Transport for NSW.
- Concurrence has not been provided by the Planning Secretary.

Notwithstanding, in summary, the amended application is recommended for refusal primarily on the basis that a variation to the minimum lot size is not appropriate as:

- It requires non-compliances with tower side setback controls resulting in unacceptable impacts on built form and amenity.
- The servicing requirements result in no active frontage and create conflict between pedestrians and vehicles.

Approval of the subject application would set a precedent for a patching building on the adjoining site of the same size. The two sites developed in accordance with the current proposal would result in less housing than if the two sites were developed together as one building.

2. Site Description and Conditions

The subject site is a single allotment legally described as Lot A DP 375159 and known as 183 Macquarie St, Parramatta. The allotment is regular in shape and is 487.3sq.m in size with a 10.6m frontage to Macquarie St. The lot is cleared with no known easements or impediments besides a sewer line traversing the back of the site. Under PLEP 2011 the site is zoned B4 Mixed Use and has a maximum building height limit of 145m.

The site is located on the under-construction Parramatta Light Rail route on the eastern periphery of the Parramatta City Centre, about 400m east of the Parramatta Railway station and 120m west of the future Robin Thomas Light Rail Station. It is located 270m southwest of the Parramatta River and 150 metres north of the Clay Cliff Creek, a Sydney Water asset which is defined by a concrete channel. The site currently does not benefit from vehicular access to Macquarie Street, having been removed as part of the light rail works.

Surrounding development comprises a mix of uses consistent with the locality's mixed-use zoning and fringe CBD location. The area is transitioning towards a higher proportion of high-density mixed-use developments. The adjoining site to the east at 189 Macquarie St is occupied by a 6-storey privately owned parking lot, with permission for two residential towers above the carpark up to 30 storeys. The site also adjoins a 2-storey commercial building at 12 Charles St and a 11-storey residential flat building at 6 Charles St to the west. This site has a 6-storey residential building at the rear of the site which is immediately adjacent to the subject site. The closest university buildings are the Western Sydney University Innovation Hub at 6 Hassall St and the Western Sydney University Parramatta City Campus at 169 Macquarie St, both being 350m walk (5 min).

The site has been cleared with a development application approved in mid-2020 for the demolition of the single storey brick cottage which was partially fire damaged and rear brick garage (DA/222/2020). Several development applications and prelodgement meetings have been lodged for the redevelopment of this site since 1993. Most recently the site was subject to two rezoning proposals to amend the maximum FSR and height to be consistent with the Parramatta CBD Planning Proposal, these were withdrawn by the applicant.

The subject DA was lodged on 25 October 2022 (prior to adoption of the Parramatta LEP 2023).



Figure 1 - Locality map, subject site is highlighted in yellow



Figure 2 - Aerial map, subject site highlighted in yellow



Figure 3 - Photo of subject site looking from Macquarie St (Source: Think Planners, 2022)

3. Relevant Site History

The table below provides details of existing applications relating to the site.

Application	Description
RZ/14/2018	Amending the incentive Maximum Floor Space Ratio Control to 8:1. Withdrawn
DA/222/2020	Demolition of remaining structures on the property. Approved 21 July 2022
RZ/5/2020	Height and Floor Space Ratio as per that Parramatta CBD Planning Proposal maps. Withdrawn

4. The Proposal

The development application proposes the construction of a 12-storey mixed use building.

The building would contain:

- 500.4.sq.m of retail/commercial premises within the ground and first floor with potential café seating fronting Macquarie St on the space proposed to be shared with a service vehicle and building manager parking space. One motorbike parking space is provided in this space.
- 10 storeys of co-living development above comprised of 76 rooms and indoor and outdoor communal spaces. The 76 rooms consist of 65 single occupancy rooms and 11 double occupancy rooms, each room is to be provided with full bathroom, kitchenette, sleeping and living area. The internal communal spaces are located on levels two and six. These spaces contain three study rooms, a lounge area, communal indoor area reception desk, mail room,

indoor communal kitchen and a study room. Two outdoor communal open spaces are located on level 6 facing Macquarie St and at rooftop level.

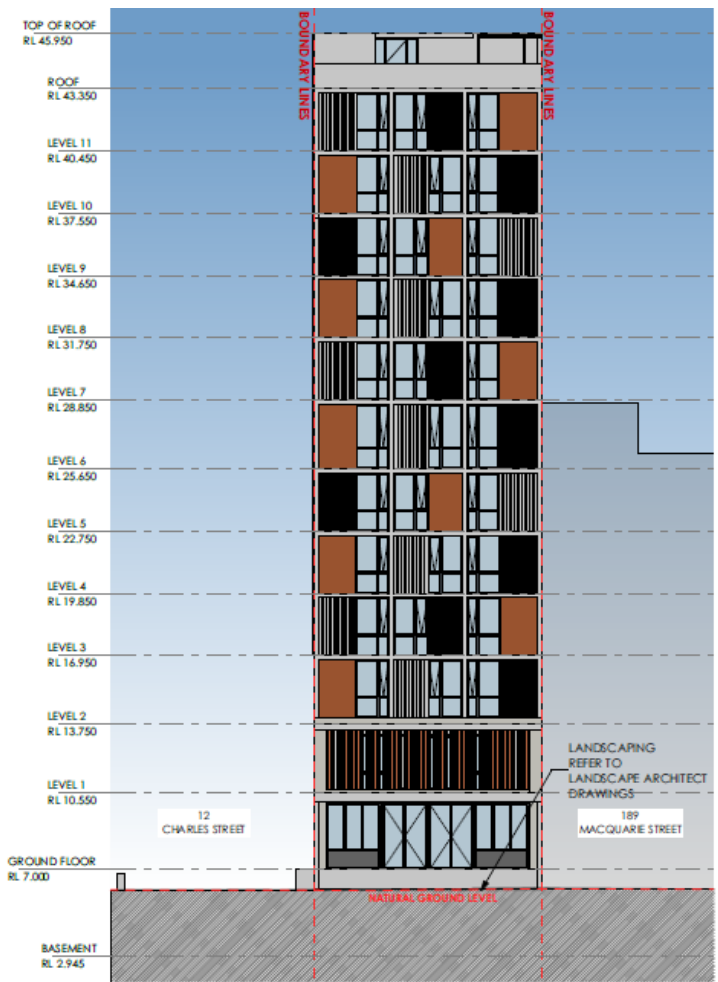
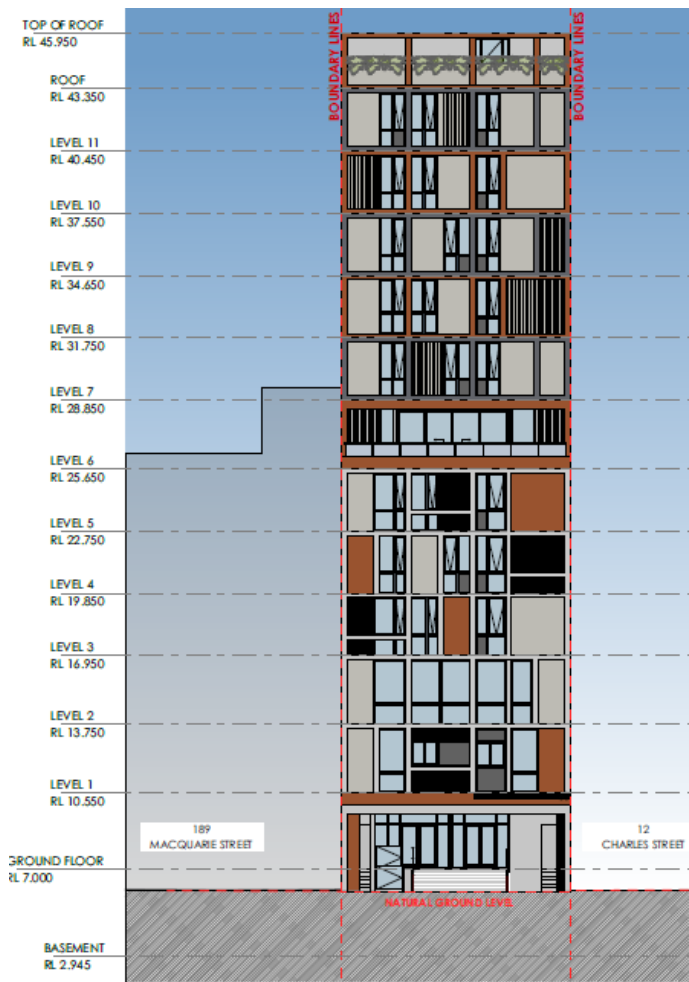
- 1 storey basement including waste storage, services and 85 bicycle parking spaces.



Figure 4 - Proposed 3D render from Macquarie St



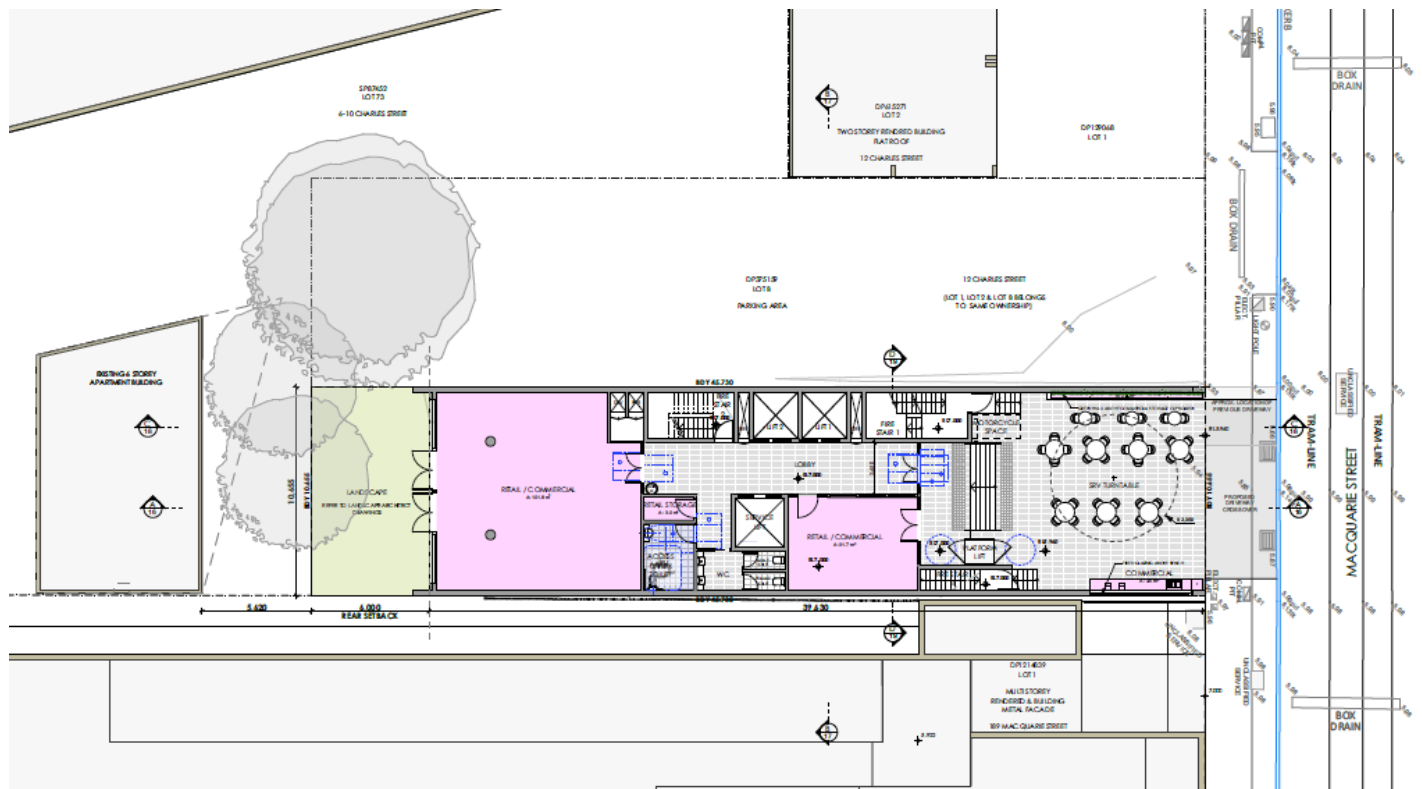
Figure 5 - Proposed 3D render of loading dock/cafe space



1 NORTH ELEVATION

2 SOUTH ELEVATION

Figure 6 - Proposed northern and southern elevations



1 GROUND FLOOR

Figure 7 - Proposed ground floor plan

5. Relevant Application History

Date	Comment
25/10/2022	Subject Development Application lodged with Council.
03/11/2022 – 24/11/2022	Notification period.
18/11/2022	TfNSW issues 'stop the clock' additional information request letter.
08/12/2022	DEAP meeting held.
13/01/2023	Request for Information (RFI) letter sent to applicant.
20/01/2023	Council issues withdrawal recommendation letter advising applicant that application is not supported.
03/03/2023	Applicant provided response to Council RFI with draft plans, electrolysis report and noise impact report to address TfNSW issues. As these plans were not formally submitted, they have not been considered in the assessment of this DA.
16/03/2023	Council advised applicant that draft plans are not accepted, and key issues have not been addressed, being site size and impacts on the overall planning of the building. Council advised applicant that DA will be recommended for refusal.
16/05/2023	DA referred to Local Planning Panel for refusal. The panel deferred the matter for the following reasons: <i>The Panel notes that the Council assessment of this application has been concluded swiftly; that the restriction proposed by Transport for New South Wales causes great difficulties for any development of this site; that this application for co-living is the first in Parramatta CBD; and that DEAP, Council's Design Panel, has advised that this is a site that could be developed for co-living with suitable design, and in those circumstances the Panel agrees it is reasonable to allow the deferral requested by the applicant's representatives. At the conclusion of that six-week period the Panel expects the applicant to supply all additional material within that time.</i> <i>The Panel decision was UNANIMOUS.</i>
31/05/2023	Applicant follows up with TfNSW seeking to address outstanding issues
21/06/2023	Amended plans and documentation received from applicant
26/06/2023	Additional information received from the applicant (architectural drawings)
10/07/2023	Additional information received from the applicant (analysis for TfNSW)

5.1 Plan amendments

Since the deferral of the application at the May Local Planning Panel the following key amendments have been made to the application:

- Reduction in Co-Living rooms from 93 rooms to 76 rooms;
- Rearrangement of co-living floor layouts;
- Relocation of communal areas for residents from ground/first floors to levels 2, 6 and the roof;
- Increasing retail/commercial space on the ground floor and level 1 from 52m² to 500.4m² within four separate tenancies (noting that level one has the potential to be divided into multiple tenancies);
- Introduction of a loading dock along the site frontage, containing a small rigid vehicle (SRV) space and turntable, motorcycle parking space and car parking space (for the building manager). The majority of the public domain in front of the site would need to be converted to a vehicle crossover.
- Potential activation of the loading dock through the provision of a potential outdoor café with outdoor seating located within the loading dock;
- Increasing the depth of the lightwell from level 2 and up from 3m to 6m; and
- The floor-to-floor heights of the residential floors have been reduced from 3.0m to 2.9m.

A number of supporting reports were also submitted to address the outstanding technical matters. These include Waste Management Plans, Flood Impact Assessment and Flood Emergency Response Plan.

6. Referrals

Internal Referral	Comment
Traffic	<p>Amended plans are not supported for the following reasons:</p> <ul style="list-style-type: none">• While an off-street parking space is provided for the building manager and deliveries and garbage collection this will not be able to operate properly with a commercial dining space and as such the two uses should be separate. A café that needs to shut down for deliveries/servicing for the business and for the rest of the building is unlikely to be viable or practical. The parking space should also be available for use 24/7 and not only out of business hours. It is unclear how the space could service visitors (such as cleaner and caretaker) and delivery vehicles (such as goods/furniture delivery vehicles, couriers and delivery vehicles associated with the retail component of the proposed development), which would also take place during the day.• Based on Clause 69(1)(h) of the SEPP (Housing) 2021, development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that the co-living housing will include adequate bicycle and motorcycle parking spaces. One motorbike parking space is provided within the café/loading dock space, which couldn't always be used and may conflict with garbage collection or during trading of the cafe. This is an inadequate location and an insufficient amount of motorbike parking. Motorbike parking spaces are to be designed in accordance with Clause 2.4.7 and Figure 2.7 of the Australian Standard AS 2890.1:2004.• A Construction Pedestrian and Traffic Management Plan has not been submitted as part of the DA process to demonstrate the construction activities of the proposed development on the vehicular and pedestrian movements on Macquarie St are acceptable and prove the impacts on the operation of the surrounding road network and PLR are minimised.
Urban Design – Built Form	<p>Amended plans are not supported for the following reasons:</p> <ul style="list-style-type: none">• The proposed 76 apartments are considered excessive for the small site and result in negative impacts to occupants (lack of solar access, compromised communal space, poor outlook, etc.). There are also concerns that the lack of tower setback to side boundaries will weaken the future streetscape character and may result in long, uninterrupted walls of development.• The site has a total site area of 487.3m² and does not currently achieve the minimum lot size of 800m² required by the Housing SEPP. Noting the justification provided for a 4.6 variation to this requirement, City Design recommend that further investigations into site amalgamation with 12 Charles Street (immediately west of the site) should be undertaken as it would:<ul style="list-style-type: none">○ Result in a compliant minimum lot size of 983m²,○ Provide sufficient space for appropriate setbacks and compliance with other built form provisions within PDCP 2011 which would in turn improve amenity for occupants,○ Increase the obtainable floorplate,○ Allow for vehicular circulation and basement parking,○ Ensure a consistent pattern of street walls, towers and building separation along Macquarie Street as it redevelops in the future. <p>The size of the site is not considered adequate for the massing and density proposed.</p> <ul style="list-style-type: none">• There are obvious conflicts between the dual use of the frontage space as a café and turntable/parking bay. There are significant safety issues that have not been addressed, and the use of the turntable/parking bay only after-hours does not guarantee that the space will be appropriately activated during the day. The site is identified in PLEP 2011 cl. 7.10 as requiring an active frontage for part of the ground floor of the building facing the street, river of public space. The proposed frontage is not certain to be adequately activated during the day nor guarantee pedestrian safety given the conflict of use. Therefore, a more permanent, retail frontage is considered a much better outcome, which cannot be balanced against the need for loading/parking for the small lot size.• Part 6 of the City Centre DCP clearly details street wall requirements for sites within the CBD area, that they are built to the boundary with an activated frontage. The current proposal is considered unacceptable from a safety and activation standpoint.

	<ul style="list-style-type: none"> ○ The location of commercial/retail spaces deep within the ground level site is unconvincing. These spaces lack connection and activation with the street. Similarly, it is unclear how the 'commercial' elements along the edges of the SRV turntable will work. ○ Entry sequence is disorganised and seems to have been developed around the turntable. It is also a conflict of use that the turntable space will be used for commercial use. ○ The co-living space should have a legible street address on Macquarie Street that is clearly differentiated from the commercial/retail uses on that floor. ○ The commercial/retail and co-living lobby space should be clearly defined and separate on the ground floor level. ○ The location of a motorcycle space within the area designated for café use during the day could be a safety issue. ○ Further information on security of the ground level after-hours should be provided, potentially within a CPTED report. ○ There are no bathrooms within the retail/commercial space on level 1. These should be added so that separate tenancies are possible. ● Adherence to PDCP 2011 building separation requirements (18m above street wall height between towers) would improve access to solar, natural ventilation and outlook for occupants while providing consistent and necessary breaks in development that help mitigate increased density. This would only be achievable via site amalgamation given the narrowness of the site. ● Floor to floor heights should comply with provisions in the PDCP 2011, especially at ground level. Application of the minimum floor to floor heights would still result in a proposal under the maximum height limit for the site but appears to have been done to avoid a design competition trigger of 40m building height.
Public Art	Supported the provided Public Art Strategy Report. Standard conditions were provided to ensure compliance with this report and the Parramatta Council Interim Guidelines for Public Art if approval was recommended.
Heritage	Acceptable subject to conditions.
Environmental Health (General)	<p>Not supported due to non-compliance with Australian Standards.</p> <p>The building next to the proposed development (189 Macquarie St, Parramatta) is an above ground car park. The exhaust vents from the carpark would be within 3.5 metres of some of the windows of the proposed development. This contravenes the requirement of AS1668.2-2012 The use of ventilation and airconditioning in buildings – 4.4.2 (d)(ii) <i>“The location of any relief-air openings, including vehicle entries and exits shall be more than 6m away from any outside air intake or natural ventilation opening not associated with the enclosure”</i>.</p> <p>The applicant has provided the following response in their RFI:</p> <p><i>The multi-level carpark is setback 3m from the shared boundary and impacts the first 6 levels of the building. The lower two levels of the proposed building are currently designed to comply with this criteria. The next four levels of the building will contain a total of 11 suites that will need to rely upon mechanical ventilation or an alternate air source to provide an appropriate level of amenity. Given that it is only 11 out of 76 suites, it is considered satisfactory, particularly noting that the constraint is a result of an inappropriate setback on the adjoining property. Revised plans accompany this resubmission that illustrate this alternate method of ventilation.</i></p> <p>The applicant has not addressed the residential rooms with windows on the south of the void but has sought to seal the windows on the north side of the void - being the management office, rooms 304, 404 and 504 - and provide mechanical ventilation with air conditioning. An Air Quality Assessment is required to prove that the mechanical ventilation can meet the required guidelines:</p> <ul style="list-style-type: none"> ● NSW Office of Environment and Heritage Approved Methods of Modelling and Assessment of Air Pollutants in New South Wales ● Technical Framework - Assessment and Management of Odour from Stationary Sources in NSW

	<ul style="list-style-type: none"> Compliance with the relevant Australian Standards, such as AS/NZS 4114 Parts 1 & 2, as well as any other Codes of Practice and NSW WorkCover Authority requirements.
Operational Waste Management	<p>Not supported.</p> <p>The supplied Waste Management Plan and Operational Plan do not comply with Appendix A8.1 Waste Management Guidelines.</p> <p>The application still proposes using chutes for both general waste and recycling. Council does not support the use of chutes for recyclables, as they often get clogged with larger items. Rather a recycling bin needs to be located adjacent to each garbage chute point and is to be replaced when full by the Building Manager or their authorised representative.</p>
Environmental Health (Waste)	No objection subject to conditions, for the safe operation and removal of waste during construction and maintenance of the waste areas within the basement.
Environmental Health (Acoustic)	No objection subject to implementation of Noise Impact Assessment recommendations. Satisfied that the provided Noise Impact Assessment recommendations will allow the required internal noise levels to be achieved.
Environmental Health (Contamination)	The applicant has provided a Preliminary Site Investigation as requested. This is acceptable subject to conditions of consent, if approval was recommended.
Landscaping	No objection to the amended landscape plan including green wall within the void. Standard conditions provided if approval was recommended.
Public domain	<p>Not supported.</p> <p>The updated plans propose a new driveway and other changes to the public domain area in front of the proposed development in Macquarie Street that has recently been upgraded as part of the Parramatta Light Rail 1 project. The proposed driveway access will also require work around the LR lines with approvals from TfNSW. The application has not submitted public domain alignment drawings which is required at DA stage to prove the proposed building levels can provide adequate Public Domain levels.</p>
Accessibility	<p>Not supported.</p> <p>The development does not indicate the Clear Path of Travel (cPot) which is the zone of pedestrian movement on the footway which complies to the access standard AS1428.1. The cPot needs to provide a clear shoreline, or other means, to assist people with vision impairment to navigate footpath areas safely. It is not evident how this could be provided given the loading dock.</p>
Catchment Engineer	<p>The flood modelling and Emergency Response Plan was accepted by Council's Catchment Engineer.</p> <p>Standard conditions are recommended, if approval was granted, including a condition for tanked basement construction.</p>

External Referral	Comment
Endeavour Energy	Supported, conditions provided in the event approval was recommended.
TfNSW	<p>TfNSW maintains their objection to the proposal.</p> <p>Given the proposed works proximity to the Parramatta Light Rail corridor, under clause 2.99 of the Transport and Infrastructure SEPP 2021, a concurrence role is triggered to ensure that the proposed works will not have an adverse impact on the Parramatta Light Rail infrastructure and operation. To ensure an acceptable impact TfNSW requested the following in November 2022:</p> <ul style="list-style-type: none"> Geotechnical/Structural Engineering Assessment Noise Impact Assessment Flood Risk Management Electrolysis Analysis

The applicant provided the above documents. However, TfNSW have the following outstanding concerns with the submitted documentation:

*Finite Element Analysis (also known as a Geotechnical/Structural Engineering Assessment)
– 183 Macquarie Street, Parramatta, NSW, dated 6 July 2023*

- *This report is based on architectural concept level drawings only, with no input or verification by the project structural engineers.*
- *Details of allowance for accidental over excavation or reduction in passive resistance at the base of the excavation.*
- *Ground water levels assumed are (RL 2.0m ADH) inconsistent with the geotechnical report (Geotechnical Investigation 183 Macquarie Street, Paramatta NSW, dated 7 October 2022) which recommends a ground water level (RL 3.0m AHD) to account for seasonal variation. Furthermore, a more rigorous assessment of groundwater levels will be required for detailed design of the retention. This should be based on long term groundwater level monitoring to assess fluctuations in groundwater level with climatic conditions and consideration of accidental groundwater levels for other reasons due for example a failed service should also be assessed in line with WaterNSW requirements/guidance.*
- *The impacts of in situ stress relief have not been considered or commented on.*
- *Structural inputs will need to be verified by the project structural engineer and match those on the structural drawings. There is no consideration of the structural adequacy of the shoring. The Structural engineer will need to confirm / comment on the permanent propping arrangement and assumptions.*
- *The modelled displacements are likely to be acceptable in terms of impact on track geometry. This would need to be confirmed by a dilapidation survey and rail alignment survey prior to and post construction to determine acceptable and resultant deviation from top, alignment and twist. Future modelling reports should present predicted differential vertical and horizontal displacements both longitudinally and between tracks for comparison to relevant track geometry limits.*
- *As per Section 14.3.2 of T HR CI 12090 ST, a structural assessment of likely effects of displacements and stresses on the existing rail track slab needs to be provided. Certification that the proposed development will produce no adverse effects on the existing rail track slab needs to be provided.*
- *Justification of adopted vertical loading is to be provided.*
- *There is discrepancy between the shoring system recommended in the geotechnical report (Geotechnical Investigation 183 Macquarie Street, Paramatta NSW, dated 7 October 2022), which suggested an anchored or propped wall as compared to a temporary cantilevered wall which has been adopted in the analysis. Cantilevered walls are generally associated with larger movements. This needs to be justified by the developer to justify their decision to move away from a propped system.*

Monitoring Plan, 183 Macquarie Street, Parramatta, NSW, dated 11 July 2023

- *The geotechnical report (Geotechnical Investigation 183 Macquarie Street, Paramatta NSW, dated 7 October 2022) recommends vibration monitoring which has not been included in the monitoring plan.*
- *The report and monitoring criteria are not agreed. The comments above need to be addressed and outstanding documentation provided before they can be effectively considered.*

As such concurrence under section 2.99 of the Transport and Infrastructure SEPP remains outstanding.

	<p>Due to the introduction of the driveway, TfNSW has also advised that the application requires concurrence under Section 138 of the Roads Act 1993 as Macquarie Street is a classified road.</p> <p>TfNSW has reviewed the submitted application and is unable to provide concurrence under Section 138, Roads Act 1993 for proposed vehicular access onto Macquarie Street.</p> <p>The proposed vehicular crossing will provide direct vehicular access onto the Parramatta Light Rail tracks and will require consultation with Great River City Light Rail (GRCLR) for the construction phase of the proposed development and its end use state after construction. It is noted in the Traffic Report and Architectural drawings that their waste collection vehicles are proposed to traverse in and out of the property via the PLR tramway. This will not be permitted without prior consultation with and formal approval by GRCLR as it could cause rail safety and light rail operational concerns and impacts to GRCLR.</p> <p>Additionally, consultation with GRCLR is required regarding on-site parking provisions, noting only one vehicle is permitted to park on-site at any time. It is likely there would be a high risk of 2 vehicles wanting to gain access at one time that would result in delays to the PLR operations or obstructions to traffic lanes. The proposed chair/table setup in loading space may also inhibit free-flowing entry into the site.</p>
Sydney Water	<p>Supported the proposal, subject to the following conditions which would be applied if approval was recommended:</p> <ul style="list-style-type: none"> • Section 73 certificate • Tap-in Building Plan approval • Out of Scope Building Plan approval • Tree Planting • Trade Wastewater Requirements • Backflow Prevention Requirements • Water Efficiency Requirements • Contingency Plan Recommendations

PLANNING ASSESSMENT

7. Acts

7.1 Roads Act 1993

The proposal relies on reintroduction of a vehicular cross over in Macquarie Street. As Macquarie Street now forms part of a light rail route, this requires concurrence from TfNSW.

TfNSW required the applicant undertake further consultation with the Light Rail operator to ensure that the construction and operation of the proposed development would not have unacceptable impacts on operation of Parramatta Light Rail. The applicant has not provided evidence that this consultation has taken place.

As such, Transport for NSW is unable to provide concurrence under Section 138, Roads Act 1993 for the proposed vehicular access onto Macquarie Street.

7.2 Environmental Planning and Assessment Act 1979

Section 1.7 relates to impacts on threatened species, population, communities or habitats. The site is in an established urban area with low ecological significance. No threatened species, populations or ecological communities, or their habitats are impacted by the proposal.

Section 4.15 outlines environmental assessment requirements which are addressed below.

8. Environmental Planning Instruments

8.1 Overview

The instruments applicable to this application are:

- State Environmental Planning Policy (Housing) 2021
- 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)

Compliance with these instruments is addressed below.

8.2 STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

The application is made pursuant to State Environmental Planning Policy (Housing) 2021 (Housing SEPP).

The principles of this Policy are as follows

- a) *enabling the development of diverse housing types, including purpose-built rental housing,*
- b) *encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,*
- c) *ensuring new housing development provides residents with a reasonable level of amenity,*
- d) *promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,*
- e) *minimising adverse climate and environmental impacts of new housing development,*
- f) *reinforcing the importance of designing housing in a way that reflects and enhances its locality,*
- g) *supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,*
- h) *mitigating the loss of existing affordable rental housing.*

PLEP 2011 defines co-living housing as a building or place that:

- a) *has at least 6 private rooms, some or all of which may have private kitchen and bathroom facilities, and*
- b) *provides occupants with a principal place of residence for at least 3 months, and*
- c) *has shared facilities, such as a communal living room, bathroom, kitchen or laundry, maintained by a managing agent, who provides management services 24 hours a day,*

but does not include backpackers' accommodation, a boarding house, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

An assessment of the proposal against the applicable requirements of the Housing SEPP is provided in the following table:

Clause	Requirement	Proposal	Complies
Part 3 – Co-living Housing			
Clause 67 - Co-living housing may be carried out on certain land with consent	<i>Development for the purposes of co-living housing may be carried out with consent on land in a zone in which development for the purposes of co-living housing, residential flat buildings or shop top housing is permitted under another environmental planning instrument. Example— Co-living housing may be used as off-campus student accommodation.</i>	Under PLEP 2011 co-living housing, residential flat buildings and shop top housing are all permitted with consent in the B4 Mixed Use zone.	Yes
Clause 68 Non-discretionary development	<i>(1) The object of this section is to identify development standards for particular matters relating to development for the</i>	Noted, no more onerous restrictions have been recommended.	-

Clause	Requirement	Proposal	Complies
Part 3 – Co-living Housing			
standards—the Act, s 4.15	<i>purposes of co-living housing that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.</i>		
	(2) <i>The following are non-discretionary development standards in relation to development for the purposes of co-living housing—</i> <i>(a) for development in a zone in which residential flat buildings are permitted— a floor space ratio that is not more than—</i> <i>(i) the maximum permissible floor space ratio for residential accommodation on the land, and</i> <i>(ii) an additional 10% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of co-living housing,</i>	The GFA for this site under clause 7.3 of the PLEP 2011 is 6:1. Under clause (ii) this would allow a maximum FSR of 6.6:1 (3216.18sq.m). The proposal as submitted has 2,950sq.m of GFA and complies.	Yes
	<i>(b) for co-living housing containing 6 private rooms—</i> <i>(i) a total of at least 30m² of communal living area, and</i> <i>(ii) minimum dimensions of 3m for each communal living area,</i>	N/A	-
	<i>(c) for co-living housing containing more than 6 private rooms—</i> <i>(i) a total of at least 30m² of communal living area plus at least a further 2m² for each private room in excess of 6 private rooms, and</i> <i>(ii) minimum dimensions of 3m for each communal living area,</i>	The development proposes 76 rooms which requires a minimum 170sq.m of communal living area. A total of 179.6sq.m of communal living area is provided across multiple floors with sufficient dimensions.	Yes Yes
	<i>(d) communal open spaces—</i> <i>(i) with a total area of at least 20% of the site area, and</i> <i>(ii) each with minimum dimensions of 3m,</i>	A total of 129.5q.m (26.5%) of outdoor space is provided. Each open space has a minimum dimension of 3m	Yes Yes
	<i>(e) unless a relevant planning instrument specifies a lower number—</i> <i>(i) for development on land in an accessible area—0.2 parking spaces for each private room, or</i> <i>(ii) otherwise—0.5 parking spaces for each private room,</i>	One parking space within the loading dock is provided. This is also proposed to be shared with seating for the café. This defeats the purpose of the parking space which would only be available outside of business hours of the café. Council's Traffic engineers require the one space to service visitors (such as cleaner and caretaker) and delivery vehicles (such as goods/furniture delivery vehicles,	No, Council can refuse on this basis. See further assessment below.

Clause	Requirement	Proposal	Complies
Part 3 – Co-living Housing			
		couriers and delivery vehicles associated with the retail component of the proposed development), which would also take place during the day.	
	<i>(f) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,</i>	This site is zoned B4 Mixed use and does not apply	N/A
	<i>(g) for development on land in Zone R4 High Density Residential—the minimum landscaping requirements for residential flat buildings under a relevant planning instrument.</i>	This site is zoned B4 Mixed use and does not apply	N/A
69 Standards for co-living housing	<i>(1) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that— (a) each private room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, that is not more than 25m² and not less than— (i) for a private room intended to be used by a single occupant—12m², or (ii) otherwise—16m², and</i>	19 single rooms proposed are less than the required 12sq.m having a floor area between 11.6-11.9sq.m, excluding kitchen and bathroom facilities. A clause 4.6 variation request would be required to vary this standard. However, the applicant did not submit a clause 4.6 variation request as they claim the rooms comply.	No
	<i>(b) the minimum lot size for the co-living housing is not less than— (i) for development on land in Zone R2 Low Density Residential—600m², or (ii) for development on other land—800m², and</i>	The site is located in a B4 Mixed Use zone, therefore under (ii) the minimum lot size is 800sq.m. The subject site is 487.3sq.m, this is a 39.1% variation to the controls.	No – a clause 4.6 variation has been provided which is discussed further below.
	<i>(c) for development on land in Zone R2 Low Density Residential or an equivalent land use zone, the co-living housing— (i) will not contain more than 12 private rooms, and (ii) will be in an accessible area, and</i>	N/A – The subject site is zoned B4 Mixed Use	-
	<i>(d) the co-living housing will contain an appropriate workspace for the manager, either within the communal living area or in a separate space, and</i>	A 7.5sq.m management office and reception area are provided on level 2.	Yes
	<i>(e) for co-living housing on land in a business zone—no part of the ground floor of the co-living housing that fronts a street will be used for residential purposes unless another environmental planning instrument permits the use, and</i>	No part of the ground floor fronting Macquarie Street is for residential purposes.	Yes
	<i>(f) adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant, and</i>	A 15.4sq.m laundry room is provided within the basement level.	Yes

Clause	Requirement	Proposal	Complies
Part 3 – Co-living Housing			
		Each unit has its own kitchen and bathroom.	
	<i>(g) each private room will be used by no more than 2 occupants, and</i>	No room is proposed to house more than two residents. This would be ensured via a condition of consent if approval was granted.	Yes
	<i>(h) the co-living housing will include adequate bicycle and motorcycle parking spaces.</i>	<p>85 bike storage spaces are provided within the basement, which equates to approximately 1 space per/resident This is considered to be adequate.</p> <p>One motorcycle space is provided in the loading dock. Given that some future residents would likely to be employed in flexible gig economy jobs that rely on motorbikes for work, this is considered to be unacceptable.</p> <p>This motorbike space is also located in the loading dock and would cause a conflict during deliveries and when the café is in operation.</p>	No, insufficient motorbike parking provided.
	<i>(2) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority considers whether—</i>	N/A, the subject site is zoned B4 Mixed Use	-
	<p><i>(a) the front, side and rear setbacks for the co-living housing are not less than—</i></p> <p><i>(i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument, or</i></p> <p><i>(ii) for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument, and</i></p>		
	<p><i>(b) if the co-living housing has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide, and</i></p> <p>ADG: As per 2F/3F of the Apartment Design Guidelines the following building separations are required (to the boundary):</p>	<p>East:</p> <ul style="list-style-type: none"> • 0m (First 4 storeys) • 0m (5 storeys +) <p>West:</p> <ul style="list-style-type: none"> • 0m (First 4 storeys) • 0m (5 storeys +) <p>South (rear):</p> <ul style="list-style-type: none"> • 6m (GF + FF) • 9m (up to 8 storeys) • 9m (9 storeys +) 	<p>Yes(CBD context) No</p> <p>Yes(CBD context) No</p> <p>Yes Yes No</p>

Clause	Requirement	Proposal	Complies
Part 3 – Co-living Housing			
	Up to 12m (4 storeys): 3m (NH) – 6m (H) Up to 25m (8 storeys): 4.5m (NH) – 9m (H) Above 25m: 6m (NH) – 12m (H) (NH) = Non-Habitable (H) = Habitable,		Does not comply, discussed further below.
	<i>(c) at least 3 hours of direct solar access will be provided between 9am and 3pm at mid-winter in at least 1 communal living area, and</i>	The applicant has submitted shadow diagrams demonstrating that the communal living area on level 6 is will receive at least 3 hours of solar access.	Yes
	<i>(f) the design of the building will be compatible with— (i) the desirable elements of the character of the local area, or (ii) for precincts undergoing transition—the desired future character of the precinct.</i>	The Parramatta CBD is undergoing a rapid transition to a high-rise CBD. The application is constrained by the small site size, as a result of the design is not consistent with Council's CBD DCP controls. The amended design has been reviewed by Council's Urban Design Team against part 6 'Parramatta CBD' of the Parramatta DCP, who have concerns with the design which is discussed above and further below.	No
	<i>(3) Subsection (1) does not apply to development for the purposes of minor alterations or additions to existing co-living housing.</i>	Not applicable.	-
70	No <i>Development consent must not be granted for the subdivision of co-living housing into separate lots.</i>	No subdivision is proposed	Yes, this can be conditioned if approval was being considered.

8.2.1 Section 69(2)(b) - ADG Building Separation

The control requires consideration of the ADG separation control, as opposed to treating it as a development standard. The proposal does not comply with the control and as such a merit assessment against the objectives of the control are provided below. The ADG building separation controls relate primarily to built form and amenity. The following assessment has been undertaken to each adjoining property:

The ADG allows for zero lot side setbacks at podium level where it is characteristic of the area. The DCP sets out that mixed use building in the B4 zone may have zero lot side setbacks in locations where it is contextually appropriate. The adjoining building to the east, 189 Macquarie Street has been provided with nominal side setbacks, but includes wings near the street frontage which extend to the boundaries. The site also has an active frontage designation, which encourages maximisation of street activation. As such zero lot setbacks at podium level are considered to be appropriate for the site.

6-10 Charles St (Rear)

A 6m setback is provided to the rear for the first two floors which increases to 9m above, which complies with the separation requirements up to Level 8. While the upper 4 levels do not comply with the building separation requirements, the adjoining building is 6 storeys in height. As such the proposed separation, when combined with the existing setback at 6-10 Charles St, meets the ADG building separation requirements.

189 Macquarie St (East)

The first six storeys of the development to the east at 189 Macquarie St is a multi-storey carpark. The proposal includes 11 units with an outlook only into the proposed light well. Beyond the lightwell there would be 3m separation to the adjoining car parking air vents (see Figure 8 below). As discussed in more detail later in this report, this is considered likely to result in unacceptable outlook, solar access and air quality for these units. The proposal to use a void to provide light, air and outlook is not considered to be appropriate in a built-to-boundary environment.



Figure 8 - Photo of adjoining above ground carpark at 189 Macquarie St (Source: Think Planners, 2022)

An approval has been granted for a 30 storey multi tower development above the carpark (DA/852/2013). The approved tower would have a 9m setback to the shared boundary, which, whilst not the required 12m shared ADG setback (above level 8), was considered acceptable for a CBD setting (See Figure 9 below).

The proposed development still provides a zero-lot side tower setback except for the lightwell. The lack of a side setback results in the inability to provide side windows, which would increase natural cross ventilation and solar access. Further, the lack of setback and provision of a blank wall would result in unacceptable outlook impacts for several of the units at Levels 6 – 12 of the approved development (particularly those highlighted in yellow on the drawing).

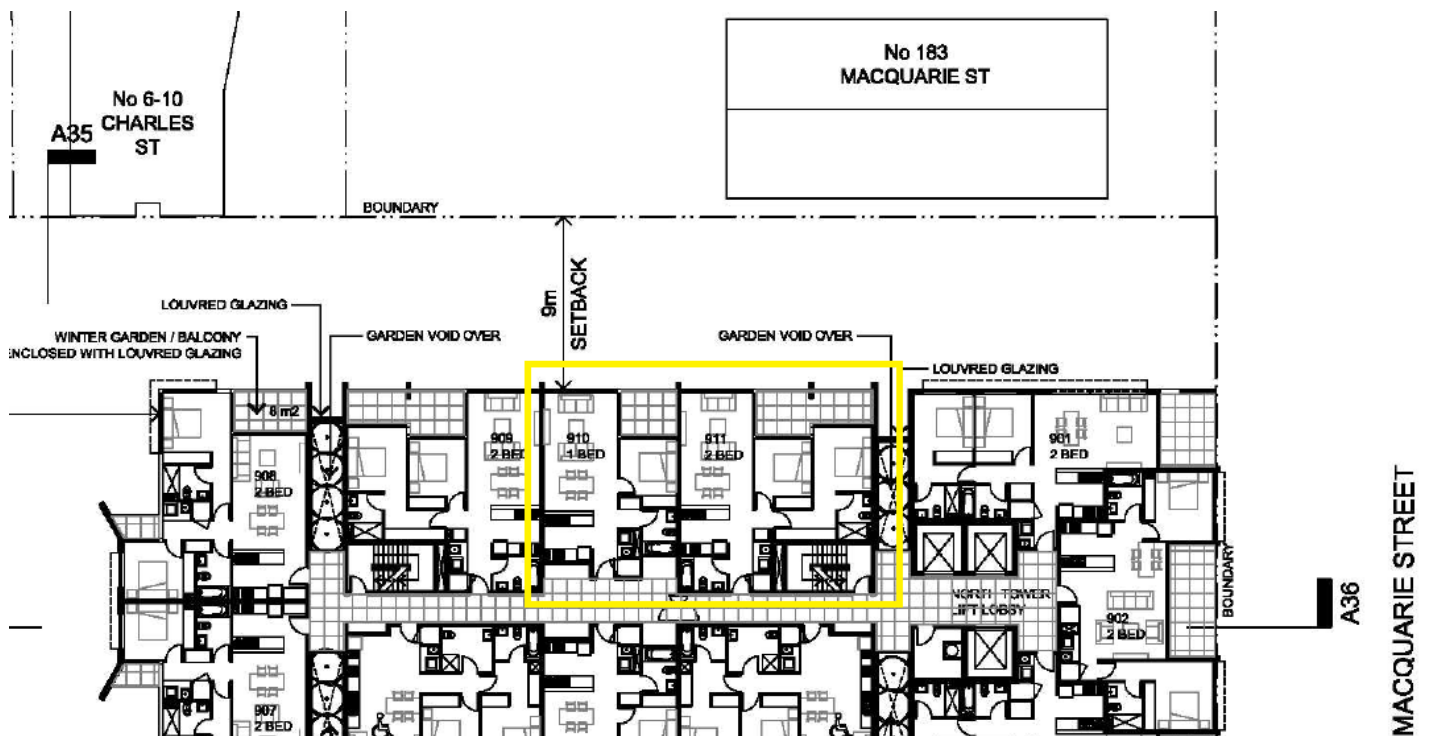


Figure 9 Screenshot of plans (levels 9-16) for 189 Macquarie St showing proposed tower setbacks to 183 Macquarie St (Source: CDA Architects, 2022)

12 Charles St (West)

The adjoining site contains a two-storey commercial building and an at grade carpark (see Figure 10 below), there are no plans for the redevelopment of this site currently. The subject DA proposes a 12-storey blank wall on the western boundary.

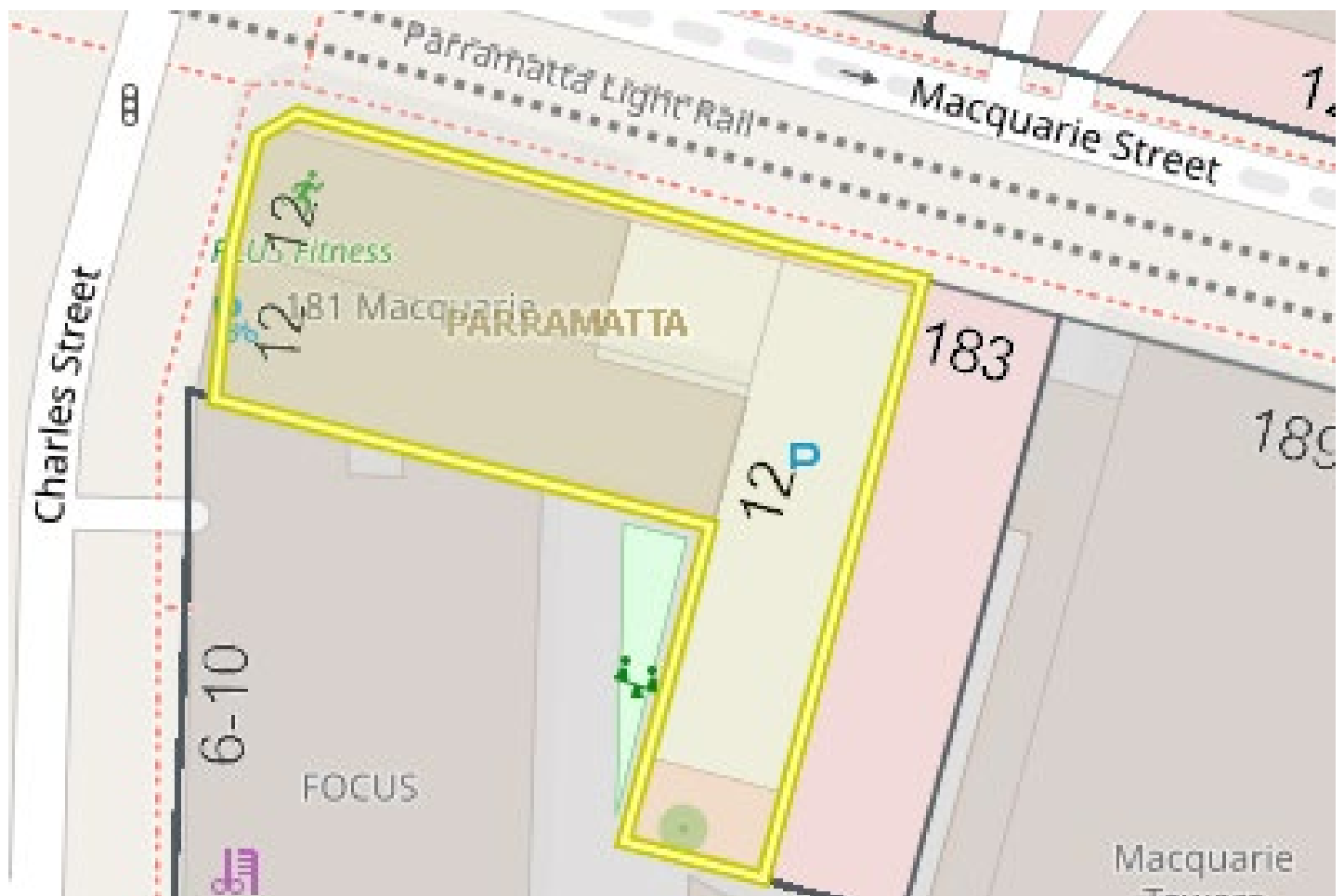


Figure 10 - Site map showing adjoining lot, highlighted in yellow

The applicant, as part of their draft RFI response on 3 March 2023, provided a concept for the adjoining site (see Figure 11 below). This concept shows the adjoining site providing the full 12m non-habitable to non-habitable separation. The applicant has not demonstrated that this floorplate would achieve the full FSR allowable for those lots (i.e. up to 11.5:1 per cl. 7.3(4) of the PLEP)). Given the high allowable density controls it is likely that the owner would seek to first develop the easternmost lot of 12 Charles St, being identical in size and dimensions to the subject site, in keeping with the subject proposal, while the 2 western lots would be developed separately. Given the shallow depth of the western lots (north-south), it is likely that they would seek to also provide no eastern setback, and potentially a reduced northern setback, resulting in an unbroken continuous and imposing tower form along this part of Macquarie Street. It would be more appropriate for the subject site to combine with the eastern lot of 12 Charles, and for the other 2 lots of 12 Charles to be developed independently, with an appropriate separation between the two towers.

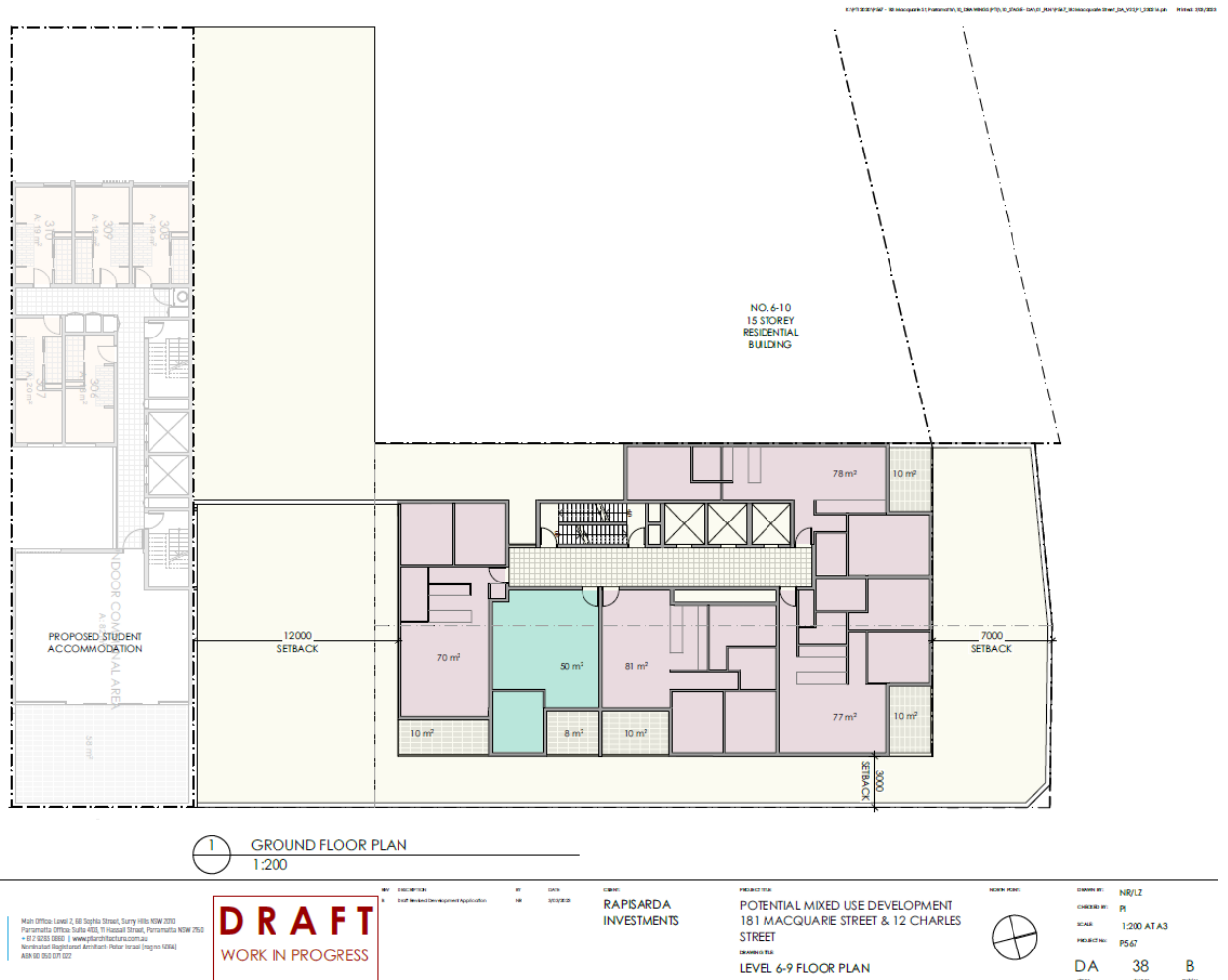


Figure 11 - Sample floor plan of concept provided for 12 Charles St property

The applicant stated at the last LPP meeting that they had offered to consolidate with all or part of 12 Charles St in 2018. Evidence of this offer was never provided to Council. Further, as this offer was from 6 years ago it is out of date, and no offers have been provided since to prove that this site is effectively isolated and cannot reasonably be developed as part of a larger site.

8.3 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.

Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal, and any matters of general relevance (erosion control, etc) are able to be managed by conditions of consent, including one for a tanked basement construction.

8.4 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 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 site is not identified in Council's records as being contaminated. A site inspection reveals the site does not have an obvious history of a previous non-residential land use that may have caused contamination and there is no specific evidence that indicates the site is contaminated. A Preliminary Site Investigation (PSI) Report was submitted which concluded that the site was suitable for the proposed use. As such the proposal is considered to meet the section 4.6 requirements of the SEPP, subject to conditions.

8.5 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.

Transport for NSW

Section 2.99 - Excavation in, above, below or adjacent to rail corridors

The proposal was referred to TfNSW for concurrence as per clause 2.99, as it proposes excavation below 2m within 25m measured horizontally of a rail corridor (Parramatta Light Rail). TfNSW has not provided concurrence as there are inadequacies in the submitted Geotech report relating to its potential impact on PLR and inconsistencies between the report and the proposed plans. As such this forms reason to refuse the application.

Section 2.118 - Development with a frontage to a Classified Road

Support from TfNSW under 2.118 of the SEPP has not been provided (see more discussion below) and thus also form a reason for refusal.

Section 2.121 - Traffic Generating Development

With regards to requirements of Clause 2.121 and, Schedule 3 of the SEPP, the development does not have a capacity for 200 or more motor vehicles per hour. Therefore, the proposal is not considered a Traffic Generating Development and thus this control does not apply.

9. Parramatta Local Environmental Plan 2011

Parramatta LEP 2023 was gazetted on 2 March 2023. Clause 1.8 of the LEP now repeals the following planning instrument which previously applied:

- Auburn Local Environmental Plan 2010
- Holroyd Local Environmental Plan 2013
- Parramatta (former The Hills) Local Environmental Plan 2012
- Parramatta Local Environmental Plan 2011

Clause 1.8A Savings provision relating to development applications states:

If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.

The current DA was lodged before the commencement date and therefore shall be assessed under Parramatta LEP 2011.

Standards and Provisions	Compliance
Part 2 Permitted or Prohibited Development	
2.3 Zone Objectives and Land Use Table	<p>The use is permissible in the zone.</p> <p>The site is zoned B4 Mixed Use. The aims and objectives for the B4 Mixed Use zone are as follows:</p> <ul style="list-style-type: none"> • <i>To provide a mixture of compatible land uses.</i> • <i>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.</i> • <i>To encourage development that contributes to an active, vibrant and sustainable neighbourhood.</i> • <i>To create opportunities to improve the public domain and pedestrian links.</i> • <i>To support the higher order Zone B3 Commercial Core while providing for the daily commercial needs of the locality.</i> • <i>To protect and enhance the unique qualities and character of special areas within the Parramatta City Centre.</i> <p>The proposal would provide a compatible land use in an accessible location.</p> <p>However, the proposal does not provide an appropriately active frontage and as such would not contribute to an improved public domain or vibrancy.</p>
Part 4 Principal development standards	
4.3 Height of buildings Allowable: 145m Proposed: 39.94m	Complies
4.4 Floor space ratio	See clause 7.3 below.
4.6 Exceptions to Development Standards	Variation to section 69(b)(i) to the Housing SEPP sought, see below.
Part 5 Miscellaneous provisions	
5.10 Heritage conservation	<p>The development site is not identified as a heritage item and it is not located within a heritage conservation area.</p> <p>This Historical Archaeological Assessment (HAA) and Aboriginal Archaeological Assessment (AAA) has concluded that the site is unlikely to contain items of archaeological significance and is not expected to contain relics. Therefore, no further archaeological assessment, monitoring, testing or salvage, is required prior to determination.</p> <p>Standard conditions were recommended that ensured the recommendations of the HAA and AAA are followed during excavation and construction.</p>
5.21 Flood Planning	<p>The applicant has submitted a Flood Impact Assessment and Flood Emergency Response Plan. These plans adequately demonstrated that the proposed development would not have an unacceptable impact on the displacement of flood waters or increase flood levels on adjoining land.</p> <p>The Flood Modelling and Flood Emergency Response plan is supported by Council's catchment engineer subject to standard conditions if approval was granted.</p>
Part 6 Additional local provisions	
6.1 Acid Sulfate Soils	Does not comply.

	<p>The site is classified as subject to class 4 acid sulfate soil, which requires an Acid Sulfate Soils management plan if works are proposed more than 2m below the natural ground surface.</p> <p>No Acid Sulfate Soils management plan has been submitted. As such this forms reason to refuse the application.</p>
6.2 Earthworks	<p>Complies.</p> <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>Subject to implementation of the recommendations in the Geotechnical Report, the proposed earthworks are considered to meet these objectives.</p>
Part 7 – Parramatta City Centre	
7.3 Floor Space Ratio	<p>Complies.</p> <p>The maximum GFA allowable for this site under clause 7.3 of the PLEP 2011 is 6:1. Under clause 68(2)(a)(ii) of the Housing SEPP 2021 this is increased to a maximum FSR of 6.6:1 (3216.18sq.m).</p> <p>The proposal as submitted has 2,950sq.m of GFA and thus complies.</p>
<p>Allowable: 6:1 (sliding scale) or 2,982sq.m Proposed: 6.05:1 or 2,950sq.m</p>	
7.5 Sun Access	<p>Complies.</p> <p>The proposal complies with the sun access clause and does not overshadow the key public spaces identified in the clause.</p>
7.8 Active Frontages	<p>Does not comply.</p> <p>This development does not provide an adequate active frontage. The proposed commercial retail bench on both sides of the loading dock and outdoor seating does not adequately meet this requirement of the LEP.</p> <p>There are also evident operational conflicts between the requirement for the parking and loading space 24 hours a day and the use as an outdoor dining space.</p> <p>It is noted that sub-clause (4) provides exemptions for certain parts of a building. However, using the exemption to justify no active frontage would be antithetical to the objective of the clause.</p>
<p>Sub-clause (4) states:</p> <p><i>An active frontage is not required for the part of a building used for one or more of the following—</i></p> <p><i>(a) entrances and lobbies, including as part of mixed use development,</i></p> <p><i>(b) access for fire services,</i></p> <p><i>(c) electrical services,</i></p> <p><i>(d) vehicular access.</i></p>	
7.9 Floodplain Risk Management	Satisfactory, see 5.21 Flood planning
7.11 Design Excellence	<p>Does not comply.</p> <p>The proposal is not more than 40m in height and does not have a CIV of more than \$100m, therefore a design competition is not required.</p> <p>Regardless of this, the applicant must exhibit design excellence. The application is not considered to meet the following design excellence requirements:</p> <ul style="list-style-type: none"> <i>(iv) the location of any proposed tower, having regard to the need to achieve an acceptable relationship with other existing or proposed</i>

	<p><i>towers on the same site or on a neighbouring site in terms of separation, setbacks, amenity and urban form,</i></p> <p>This is not met as detailed in section 8.2.1 of this report. The development will lead to inappropriate building setbacks and will not comply with the requirements under the ADG.</p> <ul style="list-style-type: none"> • <i>(vii) environmental impacts,</i> Several proposed co-living units do not meet the Australian Standards minimum requirements for separation from the adjoining multi storey carpark. While mechanical ventilation is provided for some rooms, it has not been proven that they will meet the relevant standards. • <i>(xii) achieving appropriate interfaces at ground level between the building and the public domain,</i> The proposed loading dock/turning circle that utilises the entire front setback does not provide an adequate interface at the ground floor. The application has also not confirmed that public domain upgrades as per the DCP standards will be provided.
7.15 Car Parking	One car parking space is proposed, however co-living development is not captured by this standard and the DCP standard would apply. See DCP compliance table below.
7.21 End of journey facilities	Proposed commercial premises are not over 600sq.m and as such end of journey facilities are not required.
7.22 Dual Water systems	Can be conditioned if approval granted
7.23 High performing building design	Does not apply to co-living development
7.24 Commercial premises in Zone B4 Mixed Use >1:1 commercial GFA	Satisfactory 500.4sq.m of commercial GFA is proposed (1.03:1)
7.25 Concurrence of Planning Secretary	Does not comply. While the applicant has provided an offer to the Secretary, written Satisfactory Arrangements has not been confirmed at the time of writing.
8.2 Public Utility Infrastructure	The development site has adequate arrangements for water, electricity and gas infrastructure.

Clause 4.6 Exceptions to Development Standards

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. This includes development standard contained within State Environmental Planning Policies. The proposal does not comply with the minimum site area development standard in clause 69(1)(b)(ii) of the Housing SEPP.

Clause 4.6(1) – Objectives of Clause 4.6

The objectives of clause 4.6 of the PLEP 2011 are as follows:

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

Council officers do not consider that the proposed variation would achieve a better outcome.

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 minimum lot size standard. In the justification the applicant states:

In accordance with the provisions of this clause it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as there are sufficient environmental planning grounds to support the proposed departure to the minimum allotment size for a secondary dwelling given the following:

- *The Parramatta LEP does not contain a minimum allotment size for residential flat buildings, commercial buildings, or Mixed Use Development) and this development that does not require a vehicular crossover will appropriately activate the site by providing a commercial promises and co-living development that activates the entire frontage of the site;*
- *The control applies to sites in a suburban location where a co-living development in a garden setting is warranted. This CBD site where built to edge developments are encouraged is an appropriate size for the development;*
- *The existing allotment that creates the development site is undersized and is a result of historic subdivisions before the current SEPP came into effect.*
- *The main intent of the control is to ensure that an appropriately sized site is provided for co-living. The lodgement of a local development application allows Council to consider the merits of the application in terms of site coverage, building height etc;*
- *The development proposal remains compliant with all other provisions of the LEP (height, FSR), and which indicates the form of development is entirely appropriate for the allotment notwithstanding the departure from the numerical control pertaining to lot size. Therefore, the area and dimensions of the lot are able to accommodate a Mixed Use Development with a co-living component consistent with the key planning controls notwithstanding the proposed departure from the lot size control. The design and scale of the development is therefore site responsive and respects the reduced lot size to deliver an appropriate form of development on the site;*
- *The development proposes a modest development on an allotment that has been designed to minimise impacts on adjoining properties. The development will not have an unacceptable impact on surrounding properties;*
- *The proposal provides for an intensity of development that is capable of being serviced by the existing infrastructure;*
- *The proposal seeks to improve the presentation of the building to the street and have a positive impact in turn upon the character of the locality;*
- *The subject site is within proximity of local amenities including employment opportunities, educational establishments, public transportation, and recreational activities; and*
- *The proposed variation to the minimum lot size is not readily perceived when compared with the existing subdivision pattern within the locality.*

Underlying Objectives of the Standard - Compliance unreasonable or unnecessary

Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the underlying objectives of the control, and the objectives of the zone, are achieved despite the non-compliance to the numerical development standard as set out above, which satisfies Wehbe Test 1.

The objective of the clause is not identified but is assumed to relate to ensuring that an adequately sized allotment is provided for a co-living development.

Notwithstanding the numerical departure the development is considered to be consistent with the intent of the clause as:

- *The existing allotment is undersized and are a result of historic subdivisions before the current LEP came into force. A residential flat building could be constructed on the site and given this, it is inconsistent with the Housing SEPP that a diverse form of housing being ‘Co-Living’ would be unable to be constructed on the same lot area that a RFB or shop top housing development could be;*
- *The subdivision pattern of the locality is varied with a variety of allotment shapes and sizes existing currently; and*

- *The Parramatta LEP does not contain a minimum allotment size for residential flat buildings, commercial buildings, or Mixed Use Development) and this development that does not require a vehicular crossover will appropriately activate the site by providing a commercial promises and co-living development that activates the entire frontage of the site.*

The above discussion demonstrates that there are sufficient environmental planning grounds to justify the departure from the control, however we also note the following additional matters that demonstrate suitable environmental planning grounds exist to justify contravening the development standard and further demonstrates that the minimum lot size departure does not give rise to any environmental impacts, and therefore the proposal is an appropriate design response for the subject site.

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.”*

Assessment of written request

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

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.*

Council response: There are no objectives to section 69 of the Housing SEPP relating to minimum lot sizes. The most relevant objectives are the principles of the Housing SEPP itself. These principles and council’s respective response are outlined further below:

- (a) *enabling the development of diverse housing types, including purpose-built rental housing,*

Council does not have any in-principal objection to the delivery of co-living housing in the CBD given the presence of various university campuses. This application would meet this development principle.

- (b) *encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,*

This objective is being met via the delivery of the co-living housing model.

- (c) *ensuring new housing development provides residents with a reasonable level of amenity,*

This objective is not being met. The small lot size results in the following unacceptable amenity impacts:

- The proximity of several residential windows to the carpark vents at 189 Macquarie St contravenes AS1668.2-2012 *The use of ventilation and airconditioning in buildings* – 4.4.2 (d)(ii) which requires the location of any relief-air opening be more than 6m away from any air intake not associated with the enclosure. This will result in poor amenity for at least 8 units, as well as potentially more units in the void above the car park levels.

- The small site size results in zero lot setbacks which necessitate a light well. The units on opposite sides of the light well then require privacy screens to avoid impact one another. These further limit already poor outlook due to the presence of the adjoining car park. The units in the light well will receive almost no sunlight and minimal daylight.
- The small site size results in zero lot setbacks which mean no side windows can be provided, limiting the ability to provide natural cross ventilation to the units.
- The small site size results in a need to provide the entire frontage as a loading dock. As such residents must enter via the loading dock, which is potentially unsafe and poor amenity. It is good practice for pedestrian entries and driveways to be separated by at least 3m (such as per the ADG).

(d) *promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,*

The location meets this objective as it is located within the Parramatta CBD along the route of the future Parramatta Light Rail (due to open in 2024) which will have direct connections to the Western Sydney University Rydalmere Campus and is 400m (5min walk) from both the Parramatta City and Hassall St Engineering Innovation Hub WSU campuses.

(e) *minimising adverse climate and environmental impacts of new housing development,*

The majority of ESD measures under section 6.8 of the PDCP 2011 can be met through conditions of consent.

Notwithstanding, the non-compliant site size results in zero lot setbacks which means that the design relies on the use of 24/7 mechanical ventilation for some of the rooms due to their proximity to the natural ventilation vents for the multi storey car park at 189 Macquarie St. Such an outcome cannot be said to be minimising the environmental impacts of the development.

(f) *reinforcing the importance of designing housing in a way that reflects and enhances its locality,*

As outlined above, the non-compliant site size results in zero lot side tower setbacks which is a form of development that is not in keeping with the desired future character of the area.

(g) *supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,*

Not applicable.

(h) *mitigating the loss of existing affordable rental housing.*

The proposal does not result in the loss of any existing affordable housing.

Summary: As such, the objectives of the standard are not considered to be met.

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

Council response: The underlying objectives of the control (being the principles of the Housing SEPP) are relevant to the development. The applicant does not contend the objectives are not relevant.

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

Council response: The underlying objectives would not be thwarted. The applicant does not contend the objectives would be thwarted.

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.*

Council response: This development standard is not abandoned as there are no examples within the Parramatta LGA of this requirement being varied for co-living housing to this extent. The applicant does not contend that the standard has been abandoned.

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.*

Council response: The mixed use zoning is considered to be appropriate for the site, as recently evidenced by its continued application to the land as part of PLEP 2023. The applicant does not contend that the zoning is unreasonable or inappropriate.

The proposal has been assessed on merit and having regard to the principles in *Four2Five v Ashfield Council [2015] NSWLEC 90*. The judgement suggests that 'sufficient environmental planning grounds' is more onerous than compliance with zone and standard objectives. The commissioner also established that the additional grounds had to be particular to the circumstances of the proposed development, and not merely grounds that would apply to any similar development.

Council response: As outlined in this report, the proposal is not consistent with the zone or standard objectives. It has also not been demonstrated that any site-specific environmental planning grounds exist to justify contravening the development standard.

The applicant's reasoning in their 4.6 application is not particular to the circumstances of the proposed development and are general arguments for reasoning that could apply for any undersized lot in the CBD.

The applicant has not demonstrated, for example, that the site could not be amalgamated with the adjoining site to the west, which would be a site-specific circumstance.

It is considered that the applicant's written request has not adequately addressed the matters required to be demonstrated and as such the request to vary the minimum lot size for co-living housing within the Housing SEPP cannot be supported. In reaching this conclusion, regard has been given to the relevant Judgements of the LEC.

Public Interest

As outlined in this report, the proposed development is inconsistent with the objectives of the Housing SEPP and the zoning and hence is not in the public interest. Further, a number of written objections have been made from the adjoining sites, and the proposed variation is not in the interest of future residents of this site and future residents at 189 Macquarie St and 12 Charles St.

Concurrence

Concurrence of the Planning Secretary is assumed (refer to the Planning Circular PS 20-002, 5 May 2020).

10. Parramatta Development Control Plan 2011

Parramatta DCP 2011 (PDCP 2011) does not contain specific controls relating to co-living developments. A consideration of the relevant sections of the PDCP 2011, which includes the controls for general residential development and development within the Parramatta CBD is provided below.

Development Control	Comment	Comply
Part 2 Site Planning		
2.4.1 Views and Vistas	The site is not identified as containing significant views.	Yes
2.4.2 Water Management	The proposal can meet the requirements of the water management part of the DCP subject to conditions.	Yes
2.4.3 Soil Management	Adequate sediment and erosion control measures are proposed as part of this development and can be conditioned.	Yes

2.4.4 Land Contamination	Refer to assessment under SEPP Resilience and Hazards 2021 – Chapter 4 Remediation of Land. This has been satisfactorily met and can be conditioned appropriately if approval was granted.	Yes
2.4.5 Air Quality	The proposal is not expected to create any further air quality issues.	Yes
2.4.6 Development on Sloping Land	The development responds to the topography of the site which is generally flat.	Yes
2.4.7 Biodiversity	There are no trees on the subject site.	Yes
2.4.8 Public Domain	Due to the conflict between the café use and the loading dock, the proposal will result in a subpar active street frontage that will not encourage pedestrian movement and pedestrian access which connects to and addresses the public domain. While the proposal would be generally accessible to the street, it is unclear how an accessible path of travel would be possible via the loading dock in the front setback of the building while it is being used. Public Domain plans have not been provided.	No
Part 3 Development Principles		
3.1 Preliminary Building Envelope		
Not applicable. See ‘Parramatta City Centre’ controls below.		
3.2. Building Elements		
<ul style="list-style-type: none"> • Building Form and Massing • Building Façade and Articulation • Roof Design • Energy Efficient Design • Streetscape 	The building elements of this design are not acceptable due to the non-compliant side tower setbacks and ground floor street wall presentation. See part 6 Parramatta City Centre DCP assessment below.	No
3.3 Environmental Amenity		
3.3.1 Landscaping	No trees are on the subject site. The provided landscape plan has been reviewed by Council’s Trees and Landscaping Officers, see referrals section above. The basement does not extend beyond the building footprint.	Yes
3.3.2 Private and Communal Open Space	Private and communal open space meets Housing SEPP requirements.	Yes
3.3.3 Visual Privacy 3.3.4 Acoustic Amenity	The application includes an acoustic report which recommends construction methods, materials and treatments to be used to meet the acceptable noise criteria for the site, given both internal and external noise sources. A condition would be included in any consent requiring implementation of the report’s recommendations. The location of the commercial spaces is unlikely to diminish the acoustic amenity of the proposed co-living units or any nearby residential uses.	Yes
3.3.5 Solar Access and Cross Ventilation	There are no quantitative controls for provision of sunlight to co-living units. The controls require provision of daylight to rooms with the objective of improving amenity and energy efficiency. Of the 76 units proposed, 41 receive no direct sunlight (54%), 9 receive 0-2 hours sunlight and 26 receive 2 or more hours sunlight. This is partly due to the lack of side setbacks, which results proximity to adjoining buildings and inability to provide side windows. Given a larger site would allow for side setbacks, side windows and separation from adjoining buildings, the level of solar amenity is not considered to be acceptable.	No

	<p>As outlined in this report, the applicant has not demonstrated that the units off the light well will receive adequate mechanical ventilation. Further, the lack of side setbacks denies the opportunity to provide the units with natural cross ventilation.</p> <p>The controls require that adjoining residential flat units receive at least 2 hours of solar access at mid-winter.</p> <p>The adjoining site to the south, 6-10 Charles, includes 5 units near the shared boundary which have their primary outlook over, and receive their solar access from, across the subject site. These units are highly vulnerable to any development on the subject site. The shadow diagrams provided demonstrate that the living areas and outdoor space of these units will continue to receive approximately 2 hours of sunlight between 11:30am – 1:30pm. However, a similar development on the adjoining lot to the west would obliterate all daylight to these units. A combined development would bifurcate solar access to the 5 adjoining units to a time in the morning and a time in the afternoon.</p> <p>Sunlight to the low-level east facing units at 6-10 Charles Street is primarily affected by other development and as such the proposal results in only a minor increase in overshadowing to these units.</p>	<p>No</p> <p>Yes</p>
<p>3.3.6 Water Sensitive Urban Design</p> <p>Water Efficiency Stormwater Drainage Grey Water</p>	<p>Water Sensitive Urban Design Provisions have been considered as part of the landscaping plan and the Flood Risk Management Plan. Water Efficient Stormwater and grey water requirements can be conditioned appropriately.</p>	<p>Yes</p>
<p>3.3.7 Waste Management</p>	<p>A waste storage space is provided within the basement; however, this basement cannot be accessed by a waste vehicle. The development is proposing to have waste vehicles service the site via the turntable at the front setback.</p> <p>The location of the waste collection area in the front setback is not considered to be acceptable as it occupies almost the entire frontage and thus conflicts with the urban design requirements for an active frontage in the Parramatta LEP/DCP.</p>	<p>No</p>
<p>3.4 Social Amenity</p>		
<p>3.4.1 Culture and Public Art</p>	<p>The proposal includes a draft public art plan which outlines how public art would be developed for the site. This is an on-going process which would be coordinated post-approval with Council's City Animation team. Appropriate conditions can manage this post consent.</p>	<p>Yes</p>
<p>3.4.2 Access for People with Disabilities</p>	<p>The proposal includes an access report which outlines access provisions for people with disabilities.</p> <p>The development does not indicate a Clear Path of Travel (cPot). The cPot needs to provide a clear shoreline, or other means, to assist people with vision impairment to navigate footpath areas safely. It is not evident how this could be provided given the open loading dock.</p>	<p>No</p>
<p>3.4.4 Safety and Security</p>	<p>The development proposes a building entry through a loading dock space in the front setback. The planning of this space and location of the building entry creates trap points where possibilities for crime to increase.</p>	<p>No</p>
<p>3.4.5 Housing Diversity and Choice</p>	<p>As per 3.4.5.1 of the Parramatta DCP a minimum of 10% or 8 units are to be accessible/adaptable. This complies.</p>	<p>Yes</p>
<p>3.5 Heritage</p>		

3.5.1 General 3.5.2 Archaeology 3.5.3 Aboriginal Cultural Heritage	See PLEP Heritage assessment.	Yes
3.6 Movement and Circulation		
3.6.1 Sustainable Transport		
Car Share <i>1 car share if over 50 units</i> Total required = 0	Co-living units are not 'residential units' as such and as such this control does not apply.	-
Green Travel Plan <i>Required for development within 800m radial catchment of a railway station</i>	Not provided, can be conditioned prior to OC.	Yes
3.6.2 Parking and Vehicular Access		
Car Parking 0 parking spaces required	<p>Section 7.15 of the Parramatta LEP does not prescribe a parking rate for this use, so the DCP rates are to be considered. Boarding Houses are the nearest and closest use listed under the parking rates in the Parramatta DCP.</p> <p>Boarding Houses require a minimum of 1 space per 10 boarding rooms; plus 1 space per resident manager / caretaker (where applicable); 1 space for any vehicle operated by the facility; plus 1 motorcycle space per 5 boarding rooms. This is a total of 9 spaces car spaces and 15 motorbike spaces.</p> <p>Council's Traffic and Transport Engineers consider a minimum of one parking space for loading/unloading/site caretaker should be provided and compliant motorbike parking be provided. The parking space has been provided, but will not be available when the café is in operation and as such is of limited utility. The proposal includes only 1 motorcycle parking space.</p>	No
3.7 Residential Subdivision		
3.7.2 Site Consolidation and Development of Isolated Sites	The proposal would result in the effective isolation of 12 Charles Street, an L-shaped lot of approximately 1,350sqm. As discussed in Section 8.2.1, the	
6 Strategic Precinct - Parramatta City Centre		
6.1.2 General Objectives	<p>The proposal does not promote urban and architectural design quality through its design. Nor does the development foster design excellence nor enhance the quality of the public domain and private property in the City Centre, as detailed above.</p> <p>Therefore, it cannot meet all of the section's objectives.</p>	No
6.2 Design Quality	The proposal does not require a Design Competition as per the PLEP controls.	N/A
6.3 Built Form		
6.3.1 Guiding principles	While the proposal does provide an appropriately scaled street wall with the tower setback from the street above, the lack of side tower setbacks do not ensure sufficient separation from future development with the associated impacts on the amenity of residents and the public domain.	No
6.3.2 Minimum Site Frontage	<p>The proposal has a 10.6m street frontage, a significant variation to the 35m minimum street frontage requirement.</p> <p>The proposal does not meet the objective of the control as detailed below:</p> <ul style="list-style-type: none"> The development does not provide an acceptable standard of amenity in relation to privacy, solar access, ventilation and outlook. The development does not provide the minimum building separations to 189 	No

	<p>Macquarie St and 12 Charles St.</p> <ul style="list-style-type: none"> • Street activation is not provided as per the LEP requirements. There is a clear conflict between the ability to provide an active street frontage and the ability to service the site and provide off street parking. • The development has not demonstrated that there would be safe and efficient access and servicing. There is a clear conflict between the use of the space as a loading dock and as a café seating area. 	
6.3.3 The Building Envelope	<p>6.3.3.1 Street Setbacks The proposal has an acceptable street wall height, being a total of 20.4m.</p> <p>6.3.3.2 Building Separation Building separation is assessed in Housing SEPP assessment against ADG controls.</p> <p>6.3.3.3 Tower Slenderness The maximum floorplate is below the 800sq.m requirement.</p> <p>6.3.3.4 Floor Heights The commercial floor to floor heights on the ground floor and Level 1 is proposed to be 3.5m. This does not comply with the 3.8m requirement and will not provide adequate amenity for the building occupants. The proposed residential floor to floor heights, at 2.9m, do not comply and with the required 3.1m. This variation will also lead to inadequate building amenity, especially given the small size of the rooms.</p> <p>It appears that the subpar floor-to-floor height have been proposed to ensure that the building remains under 40m height and thus doesn't trigger the requirement for a design competition. The floor-to-floor heights have been decreased from the first set of plans to allow for the introduction of the rooftop terrace space without increasing the overall height.</p>	<p>Yes</p> <p>No</p> <p>Yes</p> <p>No</p>
6.3.4 The Street Wall	The proposed street interface, with the proposed loading dock/café, is not built to the street alignment. As outlined in this report, the proposed dual use of the space will not result in sufficient vibrancy. The DCP explicitly does not permit under crofts or interruptions to the street wall.	No
6.3.5 Ground Floor	<p>6.3.5.2 Flood affected Site The transition between street level and ground floor level happens in the loading dock and as such there will be no habitable floor space below the flood planning level.</p> <p>6.3.5.2.3 Floodwater Management Design Elements The amended design is considered to meet the floodwater management requirements, subject to conditions.</p> <p>6.3.5.4 Services and Utilities The services and plant area are located on the roof, no services are located on the ground floor.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
6.3.6 Above Ground Parking	N/A	-
6.3.7 Residential Apartment Design Quality	The proposal generally complies with these controls.	Yes
6.3.8 Wintergardens	No wintergardens proposed	N/A
6.3.9 Dwelling Mix and Flexible Housing	Co-living housing mix must be compliant with the development standards in the Housing SEPP	N/A

<p>Studio / 1 Bedroom - 20% of total dwellings</p> <p>2 Bedroom - 70% of total dwellings</p> <p>3 Bedrooms - 20% of total dwellings</p> <p>4 Bedrooms -10% of total dwellings</p>		
6.4 Public Domain		
6.4.1 Solar access to significant parks and spaces	The proposal will not cause any overshadowing of Ollie Webb Reserve, Rosella Park, Robin Thomas and James Ruse Reserve or St Johns Cemetery at the protected times.	Yes
6.4.2 Awnings and Trees on Streets	<p>6.4.2.1 Awnings have priority Awnings are not required under this control but are proposed under this DA which is acceptable.</p> <p>6.4.2.2 Street trees have priority Street trees are required under this DCP control but cannot be provided due to the PLR route minimising any space for street trees along this side of Macquarie St.</p>	Yes
6.4.3 Design of Awnings	The awning design has adequately considered these controls considering existing infrastructure.	Yes
6.4.4 Pedestrian lanes, shared zones and service lanes	A pedestrian arcade was provided within the property at 189 Macquarie St and there is no laneway requirement on this property.	N/A
6.4.6 Vehicle Footpath Crossings	<p>A vehicle footpath crossover is proposed under the amended plans.</p> <p>The applicant has provided evidence that prior to PLR public domain upgrades that this property had a vehicle crossover, as such this is not a new vehicle entry point.</p> <p>The applicant has also not obtained concurrence from TfNSW under the Transport and Infrastructure SEPP and the Roads Act 1993 for this crossover. If the site were amalgamated with the adjoining site it would reduce the total number of cross overs to Macquarie Street which would reduce impacts on the light rail network</p>	<p>Yes</p> <p>Yes</p> <p>No</p>
6.4.7 Views	The proposal will not impact any identified view corridors.	Yes
6.5 Special Areas – Not applicable		
6.6 Heritage		
6.6.1 Guiding Principles	<p>The subject site is not a heritage item.</p> <p>A detailed heritage assessment, pertaining to archaeology, has been conducted under the heritage controls in the LEP.</p>	Yes
6.7 Flood Risk Management		
6.7 Flood Risk Management	A Flood Risk Management plan was submitted.	Yes
6.7.1 Assessment and minimisation of flood hazards, risks and potential for harm	<p>Most of the site would be occupied by the proposed footprint of the building. However, according to the Applicant's Tuflow flood modelling, this does not appear to have a significant effect on either displacement of flood waters, obstruction of overland flow, or increases in flood levels in adjoining land.</p> <p>There is one basement level proposed but this is intended for non-habitable, low</p>	Yes

	<p>occupancy rooms such as for plant, utilities, deliveries, low-value storage etc. As such this is considered to be acceptable</p> <p>Council's Catchment Engineer has agreed with the conclusions of the applicant's flood impact assessment.</p> <p>These recommendations can be conditioned appropriately, if approval was granted.</p>	
6.7.2 Land Use and building levels	<p>The proposed ground floor level of the building is set at the flood planning level (1% AEP flood level plus 0.5m which is RL 6.9m AHD). Habitable rooms at ground level are commercial/retail, this is considered satisfactory.</p> <p>Level 1 is at RL 10.3m AHD. The Probable Maximum Flood RL for this site is 9.7m AHD and so Level 1 is above the PMF and is suitable for a shelter in place with adequate facilities. Residential units are located at Level 2 and above which is at RL 14.100m AHD and well above the PMF.</p>	Yes
6.7.3 Sensitive and Critical Uses	Co-living is not defined as a sensitive or critical use as per table 2.4.2.1.1 of the PDCP	Yes
6.7.4 Flood Warning and Emergency Response Planning	A Flood Emergency Response Plan has been submitted which is supported by Council's Catchment Engineer.	Yes
6.7.8 Car park basements in flood prone areas	The proposed basement is not for car parking	N/A
6.8 Environmental Sustainability		
6.8.1 High Performing Buildings	The proposal is not seeking the High Performing Building target and as such a NABERS Commitment Agreement has not been submitted.	Yes
6.8.2 Dual Water Systems	A dual water system can be conditioned appropriately.	Yes
6.8.3 All Electric Buildings	All electric energy can be conditioned appropriately.	Yes
6.8.4 Electric Vehicle Charging Infrastructure	No resident car parking proposed	N/A
6.8.5 Urban Cooling	<p>6.8.5.1 Roof Surfaces Satisfactory, can be conditioned to comply.</p> <p>6.8.5.2 Facades Satisfactory.</p> <p>6.8.5.3 Heating and Cooling Systems – Heat Rejection A central heat rejection unit is provided on each floor, which has been architecturally designed into the building and is not located on the street wall frontage or balconies.</p> <p>6.8.5.4 Green Walls or Roofs Green Walls or roofs are not proposed.</p>	Yes
6.8.6 Solar Light Reflectivity (Glare)	The proposal is not considered likely to cause any unacceptable solar reflectivity given its size relative to the much larger average building size in the CBD and non-reflective and/or shielded side elevations.	Yes
6.8.7 Natural Refrigerants in Air Conditioning	All new air-conditioning and refrigeration equipment can be conditioned to use refrigerants with a GWP of less than 10	Yes
6.8.8 Bird Friendly Design	Satisfactory	-
6.8.9 Wind Mitigation	The proposal is not considered to impact wind conditions given its small size in the context of the area.	Yes

6.9 Vehicular Access, Parking and Servicing		
6.9.1 Vehicle Driveways and Maneuvering	No public domain plans have been submitted so it has not been demonstrated that the driveway crossing will be in accordance with the Parramatta Public Domain Guidelines. Further, no approval has been granted by TfNSW under s138 of the Roads Act 1993.	No
6.9.2 On Site Car Parking	Bicycle parking is provided as per the Housing SEPP requirements.	Yes
	Insufficient motorbike parking has been proposed as outlined previously.	No
6.9.3 Bicycle Parking and End of Trip Facilities	6.9.3.1 Bicycle Parking Refer to Housing SEPP requirements which only requires 'adequate' bike parking. 85 spaces has been provided which has been assessed as adequate by Council's Traffic and Transport Officer.	Yes
	9.3.2 End of Trip Facilities No end of trip facilities have been provided. Given that there is less than 600sq.m of commercial FSR proposed, such facilities are not required per section 7.24 of the PLEP.	
5 Other Provisions		
5.5 Signage	No signage proposed.	N/A

11. Design Excellence Advisory Panel (DEAP)

This item was considered at the DEAP meeting on 8th December 2022. The Parramatta DEAP comments are provided to assist both the applicant in improving the design quality of the proposal, and the City of Parramatta Council in its consideration of the application.

It is noted that the previous LPP decision was deferred to allow for the applicant to further address the design concerns raised by DEAP. However, this application has not been re-referred to DEAP as the revised proposal has not addressed all of DEAP's concerns and has made changes that have made the development less consistent with the Council's DCP requirements. Also, as the applicant submitted amended plans six weeks following the previous deferral, there was not sufficient time to refer this application to a DEAP meeting given their busy schedule within the deferral time granted by the Panel.

Given this, the amended design has been considered by Council's Urban Design Team, and their comments are given in the referrals section above.

Council staff have given a further response below to address how the application has not considered the DEAP panel's original comments:

DEAP Comments	Council officer response
The Panel supports boarding houses in principle in the LGA to address the needs of vulnerable members of the community (including students). It is understood that local provider, Unilodge is interested in managing the student accommodation if the proposal were to proceed.	Noted, no issue is raised in principle with the proposed use which is permissible.
It appears that the proposal has a complex history; the Applicants advised at the meeting that due to Council's decision NOT to amalgamate the subject site with properties to the west (when they were sold to private developers) the subject site has a 10.65m frontage - significantly less than the 35m width required by the PDCP, 2011. Numerous unsuccessful proposals have since been made for the site, including a mixed use development of 23 storeys in 2016 and a 13 storey mixed use development in 2017.	The subject site may be amalgamated with the property at 12 Charles St, it is irrelevant that the site was not purchased by Council when development discussions were undertaken for 189 Macquarie St. This site is not isolated and can be developed with the adjoining property.
The site and context analysis provided fails to provide basic information regarding the site, its streetscape and local context. Much of the information needed to assess the proposal was only gained in response to the Panel's questions. Despite clear separation issues and other challenges created by the site's non compliant width, scant information	Noted

<p>is provided regarding adjacent development and little contextual information is provided on plans and sections. Clearly, this is not acceptable for a building of this scale.</p>	
<p>To the east of the site is a six storey existing building mainly comprising car parking; a setback residential tower above this building is currently being assessed by Council. To the west of the site is a vacant irregular shaped site; it was advised at the meeting that the applicants have prepared a compliant development for this site (including towers); this ought to be verified by Council and forwarded to the Panel for review.</p>	<p>The undetermined application DEAP refer to in this comment was subsequently refused. However, an existing approval for towers above the car park is still in force.</p> <p>The proposed building separation from the approved 189 Macquarie St tower does not comply and is one of the reasons sought for refusal.</p> <p>As outlined in this report, the concept design for 12 Charles is not considered to be realistic as it depends on that site providing all required setback, which would likely result in an inability for that site to achieve the allowable GFA.</p>
<p>The Applicants advised that they have restricted building height and foregone a 15% density bonus so as to avoid mandating to a Design Competition.</p>	<p>Noted.</p>
<p>Despite its noncompliant frontage width, the Panel can support the principle of a slim line student housing development on the subject site. However, the built form currently proposed raises a number of significant amenity and urban design issues that must be addressed to become an acceptable proposal :</p> <ul style="list-style-type: none"> - A new site and context analysis must be prepared in accordance with ADG part 3A and Appendix 1, comprehensively describing the context and demonstrating how key objectives have been conceived and how the proposal responds to its opportunities and constraints. - Existing and anticipated future built form context must be shown on all plan, elevation and section drawings and 3D street views would also assist in assessment of the public domain impacts - The proposal must be shown in the context of all adjacent existing and future towers, demonstrating compliant separation, solar access and adequate privacy measures - To provide adequate separation and primary source of light and air to individual rooms the light well must be redesigned to establish minimum dimensions of 9m x 6m. At a minimum, this will require the removal of unit 105 (and above) and a realignment of unit 106 (and above) with Unit 107 on lower levels; and the removal of Unit 704 (and above) and a realignment of unit 705 (and above) with Unit 706 on upper levels. - To ensure that visual and acoustic privacy is maintained between lobby and individual rooms across the light well, considered screening is required. - To enhance the visual and physical amenity of the light well, well considered landscape measures must be introduced to its courtyard at level 01 (OI) - The rear façade is too sheer, non compliant with the ADG above level 7 and liable to adversely impact on the existing residential building to the south. It is therefore recommended that a 3m setback be introduced at level 8 with suitable landscape treatment to the resultant terrace. - The lobby appears to be completely open and liable to become a CPTED issue after hours; an elegant and solution to securing the lobby space (compatible with the retail doors) is therefore required. 	<p>DEAP's recommendations have not been actioned by the applicant.</p> <p>Council officers are not convinced that the site is isolated or that DEAP's design solutions can overcome the predominant issue being the small size of the site.</p>

<p>In addition, it is recommended that the following measures be undertaken to improve the proposal's internal amenity :</p> <ul style="list-style-type: none"> - to take advantage of the north facing terrace, the level 1 indoor communal area should be relocated to level 5, with north facing uses to prioritise dining, living and other day common uses - to enhance natural ventilation and reduce reliance of air conditioning, ceiling fans must be provided to all rooms - to contain noise and other distracting impacts, the planning of the indoor communal space should include space dividing elements, such as quiet rooms, enclosed kitchen block, etc. - a roof top terrace should be considered with associated shade structures, bathroom, storage and kitchette/bbq facilities, and the composition of this as a part of a 5th elevation should be considered. 	<p>These design changes have not been made.</p>
<p>Landscape The opportunities to introduce greenery around in and around the perimeter of the building and the site should be maximised eg. the addition of climbers up the light well, planting and screening to add to the amenity of the ground floor and Level 5 terraces.</p> <p>Discussions should be held with Council in relation to enhancing the adjacent laneway through paving and planting improvements.</p>	<p>These design changes have not been made.</p>
<p>While the Panel supports the Mondrian like approach to façade composition and language, it notes the following :</p> <ul style="list-style-type: none"> - the exclusive reliance on painted surfaces is of concern - it would be preferable to use materials with an integrated durable quality such as brick or prefabricated and coloured concrete panels - screening should be designed to perform environmentally rather than for decorative purposes - the south elevation and light well elevations should consider their impacts on adjacent residential units and rooms across minimal separation distances - a subtle distinction between base and setback elements would improve the building's expression 	<p>These design changes have not been made</p>
<p>Fire boosters and other services, such as the location of downpipes, hot water systems etc, should be shown on the drawings.</p>	<p>These design changes have not been made.</p>
<p>The Panel notes that there are further opportunities for including sustainability initiatives in a revised proposal, such as solar energy generation, rain water harvesting, increased provision of landscape (large trees to rear garden for example), etc.</p>	<p>No changes have been made. ESD requirements have been assessed against the CBD DCP.</p>
<p>Once these changes and additional information has been incorporated into amended and supplementary drawings, the proposal should be returned to the Panel for discussion.</p>	<p>These design amendments have not been made. Given this, the application has not been resent to the panel.</p>

12. Development Contributions

As this Development Application was lodged on 25 October 2022, the Parramatta City Centre Local Infrastructure Contributions Plan 2022, which commenced on 14 October 2022, applies to the subject site. As such, a development contribution of 5% based on the cost of the proposed development would be required to be paid. This results in a contribution of \$891,725.65.

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

As this is not affordable housing to be delivered on behalf of a social housing provider or public authority, this is not exempt from Contributions.

13. Bonds

In accordance with Council's Schedule of Fees and Charges, the developer would be obliged to pay Security Bonds to ensure the protection of civil infrastructure located in the public domain adjacent to the site. A standard condition of consent would be imposed requiring the Security Bond to be paid prior to the issue of a Construction Certificate if approval was granted.

14. 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 can be addressed by appropriate consent conditions if approval was granted.

15. The likely impacts of the development

The assessment demonstrates that the proposal will have significant adverse impacts upon future residents, adjoining future development and the character of the area. All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report, including natural impacts and built environment impacts such as traffic and built form. In the context of the site and the assessments provided by Council's experts, the development is not considered satisfactory in terms of environmental impacts.

16. Suitability of the Site

While the location is ideal for co-living development – the site being near university campuses, in the Parramatta CBD and close to Light Rail - the physical constraints of the site limits its suitability for this development when assessed against the Housing SEPP and Parramatta LEP and DCP.

The extremely narrow frontage does not allow for the provision of appropriate servicing, pedestrian access and street activation at ground level and does not allow for appropriate side tower setbacks which result in amenity impacts on future occupants, adjoining sites and the public domain.

For the reasons outlined in this report, the site is not considered to be suitable for the proposed development.

17. Public Consultation

In accordance with the Parramatta Consolidated Notification Requirements within the Community Engagement Strategy the Development Application was notified and advertised for a period of 21 days between 3 November and 24 November 2022. During this period 8 unique submissions were received, all of which were from the property at 6-10 Charles St (rear of subject site). The key concerns raised in the submissions are addressed below.

The amended plans did not necessitate the readvertisement of the proposal under the Consolidated Notification Procedures.

Issue	Response
Security/Privacy impacts	<p>The proposed use would be subject to a plan of management, which has been submitted with the DA which includes the requirement for a manager who would remain onsite 24 hours a day.</p> <p>The required setbacks to the rear of the site to 6 Charles St meets the ADG privacy requirements as there is a 9m setback provided to the rear of the site.</p>

Solar Access	The shadow diagrams demonstrate that the adjoining units to the south will continue to receive the minimum required solar access.
Traffic	No occupant parking is proposed on site and it is considered servicing vehicles would have a minimal impact on traffic congestion. Construction traffic would be managed by way of a Construction Traffic Management Plan which would be reviewed and approved by Council and TfNSW before construction commences.
Construction Noise	Construction noise would be managed by standard construction noise conditions.

18. Public interest

The proposal is not considered to be in the public interest for the reasons outlined in this report.

On the 22 August 2023 Council received a further letter from the adjoining property owner to the west, 12 Charles Street, objecting to the development. As per the findings of *Filetron Pty Ltd v Innovate Partners Pty Ltd atf Banton Family Trust 2 and Goulburn Mulwaree Council [2023] NSWLEC 45* this is not considered as a 'public objections' under the EP&A Act (within the public notification/exhibition framework), but rather as matters of public interest under section 4.15(1)(e) of the EP&A Act.

The issues raised in this letter of public interest are summarised further below for the panel's consideration:

Concerns	Council Officer Comment
The proposal remains inconsistent with the Desired Future Character of the area and general site amalgamation principles.	This is agreed and forms reason to refuse the application.
Non-compliance with prescribed setbacks, which are critical to the delivery of the proposal, have a significant adverse impact upon the optimum and reasonable future development outcomes of adjoining sites.	This is agreed. If this site is developed as proposed, building separation would have to be accommodated entirely on the objector's site or alternatively be used as justification for no setback on the objector's site. This is due to the sites small size and inability to accommodate the minimum building separation as required in the ADG. Amalgamation would likely resolve this issue.
Concern on impact on light rail operations to access the waste	This is noted and addressed in this report.
Mechanical ventilation is considered contrary for the underlying principles of BASIX and sustainability	This is noted and addressed in this report.
Concern over the magnitude and number of clause 4.6 variation sought to severely challenge the veracity and appropriateness of the Proposal.	This is agreed. The proposed 4.6 variation to the minimum lot size is not supported.
Concern that the proposed amalgamation option presented in Nov 2019 was below market value. The representation states that this was not a genuine attempt to negotiate a commercial amalgamation for the two adjoining sites.	This is agreed and forms reason to refuse the application.
The applicant notes that the setbacks were not agreed between the properties as states in the June 2023 cover letter from PTI architecture.	This is noted.

19. 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.

Whilst the site is well located for co-living development - given proximity to services and university campuses - this does not negate the need for an appropriately designed development. The significant non-compliance with the site size development standard results in knock-on non-compliances with tower setbacks and other standards resulting in a poor built form, substandard accommodation for future residents and impacts on adjoining occupants. The inability to provide the required loading dock and an appropriately active street frontage result in significant poor outcomes including but not limited to poor street wall, unsafe and unclear pedestrian access, limited servicing availability and potential impacts on the operation of the light rail.

Amalgamating with the adjoining lot to the west would result in a compliant site size, while also allowing for a more appropriate form of development at the remaining 12 Charles Street lots. As proposed, the development isolates 12 Charles Street and would set a precedent for an unacceptable form of development on those lots. Consolidating the sites would also minimise crossovers and thus impacts on the operation of light rail.

Further, the development does not comply with many planning requirements of the Housing SEPP, PLEP and PDCP as detailed in the recommendation below.

For these reasons, it is considered that the proposal is not satisfactory having regard to the matters of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979 and is recommended for refusal for the reasons detailed in the recommendation of this report.

20. Recommendation

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

- A. **That**, the Parramatta Local Planning Panel does not support the Clause 4.6 variation request to the site size development standard under section 69(1)(i) of the State Environmental Planning Policy (Housing) 2021. There are insufficient environmental planning grounds to amend the development standard and it is not in the public interest as the proposed variation is inconsistent with the objectives of the Housing SEPP. Of largest concern is the development's inability to ensure new housing development provides residents with a reasonable level of amenity and reinforcing the importance of designing housing in a way that reflects and enhances its locality.

REASONS FOR REFUSAL

- B. **That** the Parramatta Local Planning Panel, exercising the function of the consent authority, **refuse** development consent to DA/837/2022 for the Construction of a 12-storey mixed use building containing ground and first floor retail/commercial space and 76 Co-Living rooms over one level of basement storage on land at 183 Macquarie St, Parramatta for the following reasons:

1. Unsuitable Site –

- a. **Site Size** – The site does not meet the minimum lot size development standard for co-living housing in section 69(1)(b)(ii) of the Housing SEPP 2021. Specifically, the proposed variation is excessive, leads to further development non-compliances and sets a poor precedent.
- b. **Site Frontage** – The development does not comply with Section 6.3.2 of the Parramatta Development Control Plan 2011 regarding the minimum site frontage for sites in the CBD. Specifically, the development has provided a 10.6m frontage rather than the 35m required which does not allow for achievement of the objectives.
- c. **Site Isolation** – The development does not comply with Section 3.7.2 of the Parramatta Development Control Plan 2011. Specifically, the proposal would isolate the adjoining site to the west, compromising its ability to accommodate a development of the allowable density while complying with the relevant controls. No evidence has been provided to demonstrate the applicant made a reasonable attempt to amalgamate the subject site with the adjoining lot.
- d. **Suitability of the site** – The site is not considered suitable for this development as per 4.15(1)(c) of the Environmental Planning and Assessment Act 1979. Specifically, the proposed utilization of an undersized site results in unacceptable impacts on built form and amenity.

2. Unacceptable Standard of Accommodation –

- a. **Unit Size** – Several of the proposed units do not provide the minimum room sizes as prescribed by the development standard in section 69(1)(a) of the Housing SEPP 2021. No variation request has been submitted under clause 4.6 of the PLEP for this proposed variation.
- b. **Solar Access** – A majority of the proposed units would not receive any direct sunlight at mid-winter which is contrary to the provision of Clause 3.3.5 of the Parramatta DCP 2011.
- c. **Ventilation** – The applicant has not demonstrated that the units off the light well will receive adequate mechanical ventilation. Further, the lack of side setbacks denies the opportunity to provide the units with natural cross ventilation.

- d. **Outlook** – The privacy screens to the windows off the light well and the proximity to the adjoining built form result in poor outlook for those units which is contrary to the requirements of clause 6.3.2 of the Parramatta DCP 2011.
- e. **Floor to floor heights** – The development does not comply with Section 6.3.3.4 of the Parramatta Development Control Plan 2011 regarding floor-to-floor heights. Specifically, the development has not provided the required 3.1m floor to floor heights for residential levels nor the required 3.8m floor to floor heights for the commercial levels.
- f. **Motorcycle Parking** - The development has not provided adequate motorcycle parking spaces as per Section 69(1)(h) of the Housing SEPP 2021. Specifically, the one proposed space is insufficient and will conflict with the use of the space as a café and a loading dock at other times. This provision also does not comply with 6.9.2 of the Parramatta Development Control Plan 2011.
- g. **Safety** – The development does not comply with section 3.4.2 and 3.4.4 of the Parramatta Development Control Plan 2011. Specifically, the development does not demonstrate that it can provide adequate safe and obvious access for residents via the loading dock.
- h. **CPTED** – The development does not comply with Section 3.4.4 of the Parramatta Development Control Plan 2011 regarding appropriate security and safety for residents. Specifically, the open loading dock provides concealment and entrapment points.
- i. **Car Parking** – The development is inconsistent with Section 3.6.2 of the Parramatta Development Control Plan 2011 relating to minimum car parking requirements. Specifically, the proposal does not provide adequate and safe parking space for use by the building manager at all times as it will be used as a café for part of the day.

3. Unacceptable Built Form –

- a. **Building Separation** – The design of the building does not comply with the separations requirements under Section 69(2)(b) of the Housing SEPP 2021. Specifically, the setbacks to both the eastern and western boundaries do not comply with sections 2F/3F of the Apartment Design Guidelines and result in unacceptable impacts on, and set a poor precedent for, built form.
- b. **Active Street Frontage / Waste Management** – The proposal does not comply with section 7.8 of the Parramatta Local Environmental Plan 2011 and Section 3.3.7 and 6.3.4 of the Parramatta Development Control Plan 2011 as the development does not provide an appropriate active street frontage and a loading dock. Specifically, the proposed loading dock/café does not meet the requirements of the controls and the uses conflict with each other.
- c. **Desired Future Character / General Design Objectives** – The design of the building is not consistent with the desired future character of the precinct as required under Section 69(2)(f) of the Housing SEPP 2021. Specifically, the setbacks and street wall are not as per the requirements of Parts 6.1 and 6.3 in the Parramatta DCP 2011.

4. Unacceptable Impacts on Public Domain and Adjoining Properties –

- a. **Outlook** – The lack of side setbacks will result in unacceptable loss of outlook for residents of the adjoining approved dwellings at 189 Macquarie Street, contrary to the requirements of clause 6.3.2 of the Parramatta DCP 2011.
- b. **Shore Lining**– The open loading dock does not define the street edge for vision impaired users of the public domain, contrary to clause 3.4.2 of the Parramatta Development Control Plan 2011.

5. Insufficient Approvals and Concurrence –

- a. **Transport for NSW (TfNSW) Concurrence** – As required under Section 2.99 of the SEPP (Transport and Infrastructure) 2021 concurrence has not been provided from TfNSW. This is required as the development proposes excavation below 2m within 25m measured horizontally of a rail corridor (Parramatta Light Rail).
- b. **Transport for NSW (TfNSW) Support** – As required under section 2.118 of the SEPP (Transport and Infrastructure) 2021 support has not been given by TfNSW. This is required for all development with a frontage to a Classified Road. Further, approval has not been granted from TfNSW as per section 138 of the Roads Act 1993. This is due to potential conflicts with the operation of the Parramatta Light Rail on Macquarie St.
- c. **Planning Secretary Concurrence** – The development does not comply with section 7.25 of the Parramatta Local Environmental Plan 2011 as concurrence has not been provided from the Planning Secretary for state infrastructure.

6. **Insufficient Information**

- a. **Public Domain** – The development does not comply with section 2.4.8 of the Parramatta Development Control Plan 2011. Specifically, the applicant has not been submitted detailed public domain plans as per Council requirements.
- b. **Acid Sulfate Soil** - The development does not comply with section 6.1 of the Parramatta Local Environmental Plan 2011. Specifically, the applicant has not submitted an Acid Sulfate Soil management plan and has not adequately addressed the provisions within this section.

7. **Impacts on built environment** – The development will lead to environmental impacts to the surrounding built environment and does not meet 4.15(1)(a)(i) or (ii) of the Environmental Planning and Assessment Act 1979 as detailed in this report.

8. **Public Interest** – The development is not suitable as it is not in the public interest as per 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

C. **That Council advise those who made a submission of the determination.**