



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 building containing a retail shop and a 'Co-Living' development comprising 93 rooms with indoor and outdoor communal spaces over 1 level of basement.
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 co-living development containing 93 rooms and commercial spaces 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, as the subject site is 487.3sq.m, this represents a 39.1% variation to the 800sq.m minimum lot size. This variation has not been accepted.

The constrained size of the site has resulted in significant variations being proposed to the development standards including, but not limited to, the minimum setbacks to the eastern and western side boundaries, restricted ability for car access and the ability for garbage to be serviced onsite. The application also fails to address flood risk and does not comply with a number of controls within the Housing SEPP, Transport and Infrastructure SEPP (concurrence has not been provided), Parramatta LEP 2011 and Parramatta DCP.

The application is recommended for refusal for the reasons outlined in the recommendation section of this report.

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 through the back of the site. Under PLEP 2011 the site is zoned B4 Mixed Use and has a maximum height of 145m. The site currently does not benefit from access to Macquarie Street.

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 from the future Robin Thomas Light Rail Station. It is located 270m south west of the Parramatta River and 150 metres north of the Clay Cliff Creek, a Sydney Water asset which is defined by a concrete channel.

Surrounding development comprises a mix of uses consistent with the locality's mixed-use zoning given its 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 a former Council parking lot which has been sold and redeveloped as a seven storey privately owned parking lot, with permission for two towers up to 47 storeys. A Development Application and 8.3 review for this development has been refused by the Sydney Central City Planning Panel most recently in December 2022. The site also adjoins a two storey commercial building at 181 Macquarie St to the west and a 11 storey residential flat building at 6 Charles St. The closest university is the Western Sydney University Innovation Hub at 6 Hassall St or 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.

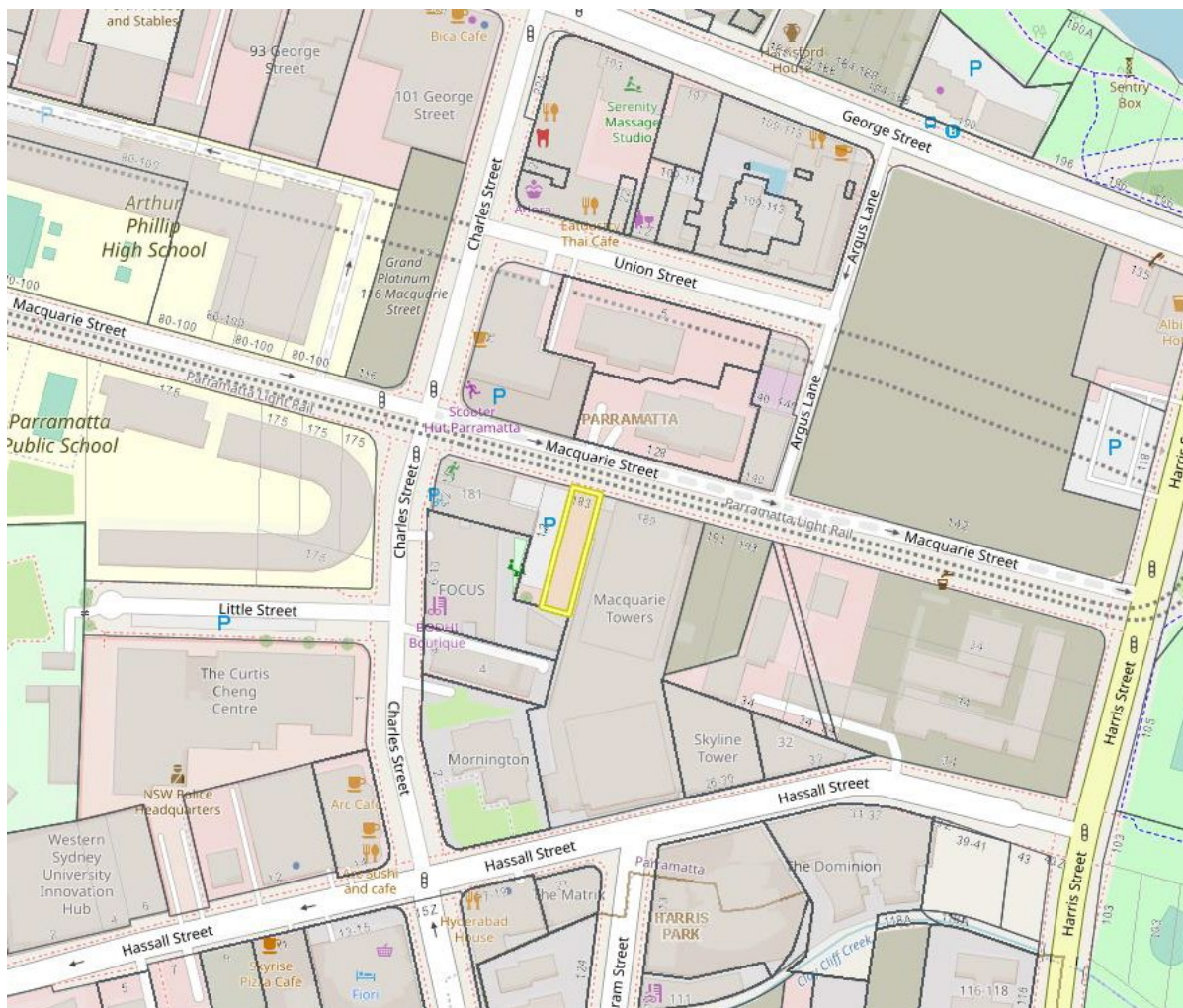


Figure 1 - Locality map, subject site is highlighted in yellow

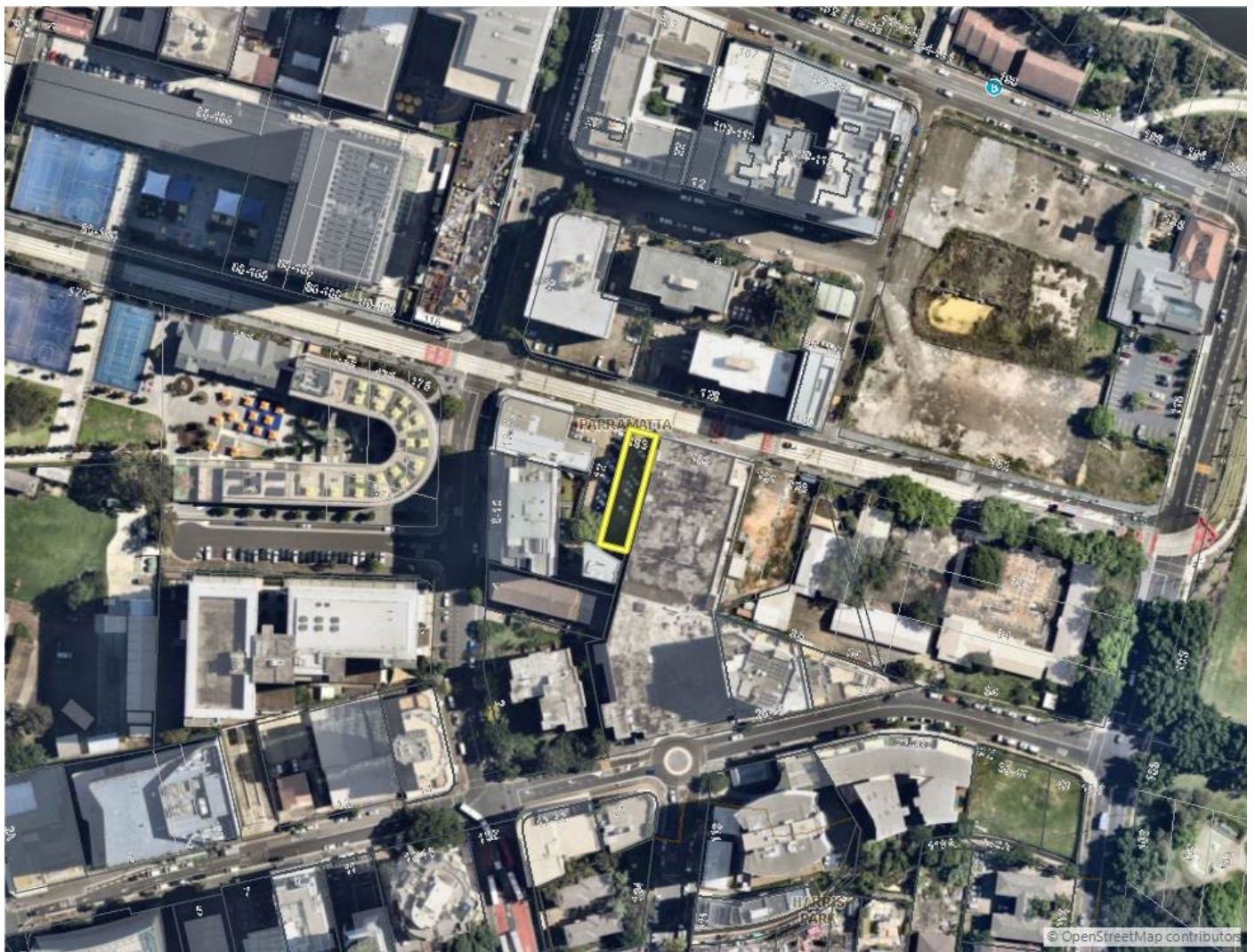


Figure 2 - Aerial map, subject site highlighted in yellow



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 building containing a retail shop and a 'Co-Living' development containing 93 rooms and indoor and outdoor communal spaces. The 93 rooms consist of 77 single occupancy rooms and 16 double occupancy rooms.

The ground floor level contains 52sq.m of retail premises that fronts Macquarie Street with the remainder of the building including the area behind the retail shop utilised as co-living development providing a total of 93 rooms and associated indoor and outdoor communal space. Each room to be provided with full bathroom, kitchenette, sleeping and living area.

Communal facilities are provided for future residents include basement laundry containing washing machines and seating areas for residents. Ground level communal room incorporates a lounge area and 3 study rooms as well as ground level outdoor communal landscaped area at the rear of the site containing seating areas and landscaping.

Communal spaces are also provided on level one containing a kitchen, communal dining area, study areas, games room, residents' gym and an external rear facing terrace. 52 bike spaces are provided in the basement, no carparking or motorbike parking is provided.



Figure 4 - 3D render of the proposed development from Macquarie St

5. Relevant Application History

Date	Comment
25/10/2022	Subject Development Application lodged to Council.
03/11/2022 – 24/11/2022	Notification period
18/11/2022	TfNSW issues Stop the Clock letter
08/12/2022	DEAP meeting held
20/01/2023	Council issues withdrawal letter advising applicant that application is not supported and should be withdrawn
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	Applicant advised 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. Applicant advised that DA will be recommended for refusal.

6. Referrals

Internal Referral	Comment
Traffic	<p>Not supported due to lack of information.</p> <p>Traffic and Transport requested the following details:</p> <p>The proposed development does not provide any parking spaces on site. This is not acceptable. The proposed development is required to provide a minimum of one parking space for 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).</p> <ul style="list-style-type: none">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. However, the proposed development is not proposed to provide any motorcycle parking spaces. The applicant is to be required to provide adequate motorcycle parking spaces. Motorcycle 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 report shall be submitted as part of the DA process to demonstrate how the construction of the proposed development will be managed to ensure that the impact of the construction activities of the proposed development on the vehicular and pedestrian movements on Macquarie and the operation of the surrounding road network are minimised. <p>Due to the site size and the fact that it has a 10.6m frontage it is not possible to accommodate safe vehicular access and as well as the required services and an active frontage as required by section 7.8 of the PLEP.</p> <p>In the draft plans provided on the 3rd March 2023, the applicant showed the intent to provide this parking on a turntable with a single motorcycle space adjoining it, while Traffic and Transport were satisfied this would meet the car parking requirement, this would provide a poor street interface and would not comply with section 7.8.</p> <p>It is also noted that there is no current vehicular access to the site and TfNSW has indicated that one would not be forthcoming.</p> <p>A Construction Pedestrian and Traffic Management Plan report has not been provided to date.</p>

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	<p>The development site is not identified as a heritage conservation 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 study area does not contain heritage significance and is not expected to contain relics. Therefore, in relation to the redevelopment of the site, it can proceed without any further heritage assessment, monitoring, testing or salvage.</p> <p>Standard conditions were recommended that ensured the recommendations of the HAA and AAA are followed during excavation and construction.</p>
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) has an above ground car park with natural ventilation. 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>This was raised with the applicant who stated on March 3, 2023 <i>“that it is the responsibility of the adjacent building owner not to emit fumes that may impact our Client’s site.”</i> 189 Macquarie St development has provided compliant setbacks. If complaint setbacks were provided on this site, then this matter would be resolved. This is discussed further below, and forms part of the recommended reasons for refusal.</p>
Environmental Health (Waste)	Supported, conditions provided if approval was recommended, for the safe operation and removal of waste during construction and maintenance of the waste areas within the basement.
Environmental Health (Acoustic)	Supported the proposed development and satisfied that the provided Noise Impact Assessment recommendations will allow the required internal noise levels can only be achieved if the recommended construction details are included in the construction. Conditions were provided to maintain this if approval was recommended.
Environmental Health (Contamination)	<p>Not supported due to lack of information.</p> <p>The applicants have provided a Geotechnical Investigation Report prepared by EI Australia titled <i>Geotechnical Investigation, 183 Macquarie Street, Parramatta NSW</i> dated 7 October 2022, reference number E25770.G03.</p> <p>Previously a Preliminary Site Investigation (PSI) Report was prepared, with the reference E25770.E01_Rev0 dated 5 September 2022. This report must be read in conjunction with the Geotechnical Investigation report, this was not provided.</p> <p>Based on the recommendations provided in section four of the Geotechnical Investigation Report, there appears to be some issues in relation to potential slumping/collapse of soil, proximity of the proposed development to the surrounding buildings, as well as subsurface conditions and required excavation depth.</p> <p>Environmental Health cannot make a proper assessment without the Preliminary Site Investigation report and cannot support this development proposal without this information.</p>

	This was requested on the 20 th Jan 2023 but was not provided by the applicant by the required request for information date.
Landscaping	Supported the provided landscape plan, no trees are currently on the site. Standard conditions provided if approval was recommended.
Public domain	Given that the Public Domain along Macquarie St was recently upgraded by the Parramatta Light Rail, the proposal was supported. Standard conditions are recommended be added requiring Public Domain to be fixed prior to the issue of an OC to the current standard required by PLR and Councils Public Domain Guidelines if damaged.
Accessibility	<p>The provided Access Report has been reviewed, the recommendations of this report are generally followed, with the exception of section 3.4.5.1 of the Parramatta DCP which requires a minimum of 10% or 9 units are to be accessible/adaptable.</p> <p>A number of other issues relating to the fitout of the space and ensuring the recommendations of the report are met can be conditioned to comply if approval was recommended.</p>
Catchment Engineer	<p>Not supported due to lack of information.</p> <p>The site is impacted by flooding up to and including the PMF (Probable Maximum Flood). The site is also inundated by frequent events such as the 5% AEP according to Councils flood enquiry information.</p> <p>The current flood information provided by Council does not consider local overland flooding it is limited to riverine/mainstream flooding. A flood study is required to determine the overland flow affectation. This was requested and not provided</p> <p>The proposed building footprint fully interferes with the flood extents and causes loss of flood storage, due to this loss it is likely that the excess floodwater will be diverted to neighbouring sites. Therefore, it is likely that there will be flood impacts as a result of the development. The flood study must calculate and consider the impacts and as per the requirements of section 6.7 of the Parramatta DCP, the flood study report to certify that the development will not increase flood affectation elsewhere, having regard to: (i) loss of flood storage; (ii) changes in flood levels, flows and velocities caused by alterations to flood flows; and (iii) the cumulate impact of multiple potential developments in the vicinity.</p> <p>As per 6.3.5.4 of the Parramatta DCP electricity substations critical services infrastructure that could be damaged by flooding such as electrical, lift, sewer and water are to be placed above the PMF level, or, where that cannot be achieved, effectively flood-proofed. The proposed pump room (Architectural Drawings DA, 03 Rev A) and other critical facilities such as lifts at the basement must be adequately protected from floods.</p> <p>The OSD has a completely drowned outlet and it should be designed accordingly, refer to section 6.4 Drowned Outlets for the OSD Handbook. The site storage requirement is to be increased as per the recommendation of the guideline which is likely to result in a significantly larger OSD size.</p> <p>A Flood Emergency Response Plan was also requested and not provided.</p>
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>

	It is also unclear how the waste will be managed and collected onsite without impacting Light Rail operations, 3.3.8 of Appendix A8.1 states that only developments with less than 8 dwellings can present their bins to the kerb for collection.
External Referral	Comment
Endeavour Energy	Supported, conditions provided if approval was recommended.
TfNSW	<p>Not supported.</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 this TfNSW has requested the following:</p> <ul style="list-style-type: none"> • Geotechnical/Structural Engineering Assessment • Noise Impact Assessment • Flood Risk Management • Electrolysis Analysis <p>In the applicant's response on the 3rd March 2023 an Electrolysis and Noise Impact Report was provided, TfNSW also reviewed the draft plans for reference only.</p> <p>TfNSW further reviewed these reports and confirmed that their RFI was not adequately addressed and that concurrence is not provided. Transport provided the following comments on the draft plans</p> <ul style="list-style-type: none"> - It is noted that the draft plans include a "car space B99 turntable" along the site's Macquarie Street frontage. The plans do not show a new driveway on Macquarie Street and it is not clear how the car space/turntable would be accessed. - TfNSW can advise that it <u>is highly unlikely an additional driveway or access point will be supported</u> due to the existing signalised driveway to Macquarie St as well as impact on the PLR interface and operations, including pedestrian and vehicle safety concerns. - The proposed development does not provide any loading and service parking on-site to support the operation of the proposed development. Additionally, the Statement of Environmental Effects prepared to support the development application does not identify how loading and service vehicles servicing the development would be accommodated. - The applicant has not considered or addressed waste collection or provided a detailed Waste Management document for consideration by TfNSW. - Applicant has yet to address a number of items sent in original STC letter uploaded to the NSW Planning Portal on 18 November 2022, including geotechnical matters.
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 • Tapin Building Plan approval • Out of Scope Building Plan approval • Tree Planting • Trade Wastewater Requirements • Backflow Prevention Requirements • Water Efficiency Requirements • Contingency Plan Recommendations

7. Environmental Planning Instruments

7.1 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.

7.2 STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

The application is made pursuant to State Environmental Planning Policy (Housing) 2021 (Housing SEPP), which permits co-living housing 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.

The principles of this Policy are as follows

- enabling the development of diverse housing types, including purpose-built rental housing,*
- 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,*
- ensuring new housing development provides residents with a reasonable level of amenity,*
- promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,*
- minimising adverse climate and environmental impacts of new housing development,*
- reinforcing the importance of designing housing in a way that reflects and enhances its locality,*
- 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,*
- mitigating the loss of existing affordable rental housing.*

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

- has at least 6 private rooms, some or all of which may have private kitchen and bathroom facilities, and*
- provides occupants with a principal place of residence for at least 3 months, and*
- 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.

The proposal compares to the requirements of the Housing SEPP in the following manner:

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—</i>	Under PLEP 2011 shop top housing is permitted in the B4 Mixed Use zone.	Yes

Clause	Requirement	Proposal	Complies
Part 3 – Co-living Housing			
	<i>Co-living housing may be used as off-campus student accommodation.</i>		
Clause 68 Non-discretionary development standards—the Act, s 4.15	<i>(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of co-living housing that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.</i>	Noted, no more onerous restrictions have been recommended.	-
	<i>(2) 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 2,982sq.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 93 rooms which requires a minimum 204sq.m of communal living area. A total of 509sq.m of communal living area is provided across multiple floors.	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 104sq.m (21.4%) of outdoor space is provided	Yes
	<i>(e) unless a relevant planning instrument specifies a lower number—</i>	No parking proposed, one parking space, one car share space is required as per	No

Clause	Requirement	Proposal	Complies
Part 3 – Co-living Housing			
	<i>(i) for development on land in an accessible area—0.2 parking spaces for each private room, or (ii) otherwise—0.5 parking spaces for each private room,</i>	Parramatta DCP 2011. This has not been provided.	
	<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>	Excluding bathrooms and kitchens all rooms do not exceed 22sq.m and all private rooms are not less than 12sq.m and shared rooms are not less than 16sq.m	Yes
	<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 10sq.m management office and reception area are provided on the ground floor	Yes

Clause	Requirement	Proposal	Complies
Part 3 – Co-living Housing			
	<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 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 48sq.m laundry room is provided within the basement level	Yes
	<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 will be ensured via a condition of consent if approval was sought.	Yes
	<i>(h) the co-living housing will include adequate bicycle and motorcycle parking spaces.</i>	<p>52 bike storage spaces are provided within the basement. This is adequate.</p> <p>No motorcycle spaces are provided, given the lack of parking onsite this is considered necessary to be provided given the lack of car parking on site and the prevalence of flexible gig economy jobs for students who may rely on motorbikes for work. It is unclear how motorbike parking can be provided that is not in the front setback due to the sites size and the fact there is no basement carpark.</p> <p>A set of draft plans were provided that showed one possible motorbike parking space within the front setback, this wouldn't be an acceptable amount given the fact there is 93 rooms and that would result in the removal of the active frontages.</p>	No, insufficient motorbike parking provided.

Clause	Requirement	Proposal	Complies																											
Part 3 – Co-living Housing																														
	<p>(2) <i>Development consent must not be granted for development for the purposes of co-living housing unless the consent authority considers whether—</i></p> <p>(a) <i>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>(ii) <i>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>	N/A, the subject site is zoned B4 Mixed Use	-																											
	<p>(b) <i>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 3F of the Apartment Design Guidelines the following building separations are required and proposed:</p> <p>Up to 12m (4 storeys)</p> <table><tr><th>Side</th><th>Required</th><th>Proposed</th></tr><tr><td>East</td><td>3m (NH), 6m (H)</td><td>3m - 6m (H)</td></tr><tr><td>West</td><td></td><td>0m (H)</td></tr></table> <p>Up to 25m (5-8 storeys)</p> <table><tr><th>Side</th><th>Required</th><th>Proposed</th></tr><tr><td>East</td><td>4.5.m (NH), 9m (H)</td><td>8.6 - 11.6m (H)</td></tr><tr><td>West</td><td></td><td>0m (H)</td></tr></table> <p>Over 25m (9+ storeys)</p> <table><tr><th>Side</th><th>Required</th><th>Proposed</th></tr><tr><td>East</td><td>6m (NH), 12m (H)</td><td>8.6m - 11.6m (H)</td></tr><tr><td>West</td><td></td><td>0m (H)</td></tr></table> <p>(NH) = Non-Habitable</p>	Side	Required	Proposed	East	3m (NH), 6m (H)	3m - 6m (H)	West		0m (H)	Side	Required	Proposed	East	4.5.m (NH), 9m (H)	8.6 - 11.6m (H)	West		0m (H)	Side	Required	Proposed	East	6m (NH), 12m (H)	8.6m - 11.6m (H)	West		0m (H)	Does not comply, discussed further below.	No
Side	Required	Proposed																												
East	3m (NH), 6m (H)	3m - 6m (H)																												
West		0m (H)																												
Side	Required	Proposed																												
East	4.5.m (NH), 9m (H)	8.6 - 11.6m (H)																												
West		0m (H)																												
Side	Required	Proposed																												
East	6m (NH), 12m (H)	8.6m - 11.6m (H)																												
West		0m (H)																												

Clause	Requirement	Proposal	Complies
Part 3 – Co-living Housing			
	(H) = Habitable, (c) <i>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 subject development has not proven that either communal living area will receive a minimum of 3 hours direct solar access. While this is hard to achieve given the sites CBD location, it is considered essential given the lack of private balconies and the size of the rooms for the amenity of the residents.	No
	(f) <i>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. This design is considered constrained by the small site size which is not consistent with Council's CBD DCP controls. The proposal has also been reviewed by Design Excellence Advisory Panel, who have concerns with the design which is discussed further below.	No
	(3) <i>Subsection (1) does not apply to development for the purposes of minor alterations or additions to existing co-living housing.</i>	Noted	-
70 No subdivision	<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.

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

Given the sites B4 Mixed Use zoning and Parramatta CBDs emerging future character envisioned under the Parramatta LEP (Amendment 56), it is difficult to strictly apply the building separation provided in section 3F of the ADG. The following assessment has been undertaken to each adjoining property:

189 Macquarie St (East)

As per DA/852/2013 the first five storeys of the eastern development at 189 Macquarie St is a multi-storey carpark. As per the ADG design guidance the non-habitable room distances have been used for these levels. The proposal would then comply given that the windows are all set in 3m from the boundary or are facing towards the void on the lower levels.

It is noted however, that while this complies with the ADG standards, this above ground car park has natural ventilation vents along its eastern elevation, see figure 7 below. The exhaust vents from the carpark would be within 3.5 metres of some of the windows of the proposed development within the void. This contravenes the requirement of AS1668.2-2012 *The use of ventilation and airconditioning in buildings* – 4.4.2 (d)(ii) “*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*”. This has been recommended for a reason for refusal and is due to the sites reduced size.



Figure 7 - Photo of adjoining above ground carpark at 189 Macquarie St (Source: Think Planners, 2022)

An approval has been granted for a 47 storey multi tower development above the carpark. The tower for this site has an 8.6m setback to the boundary, which, whilst not quite the required 9m-12m shared ADG setback, is considered acceptable for a CBD setting. .

The proposed development provides a zero lot setback with the exception of a small void that is 3m deep. This removes any opportunity for windows at the boundary and cross ventilation which will provide a sustainable design practice that will reduce the requirement for air conditioning and increase natural light to the rooms that only face the void. This again is due to the site size.

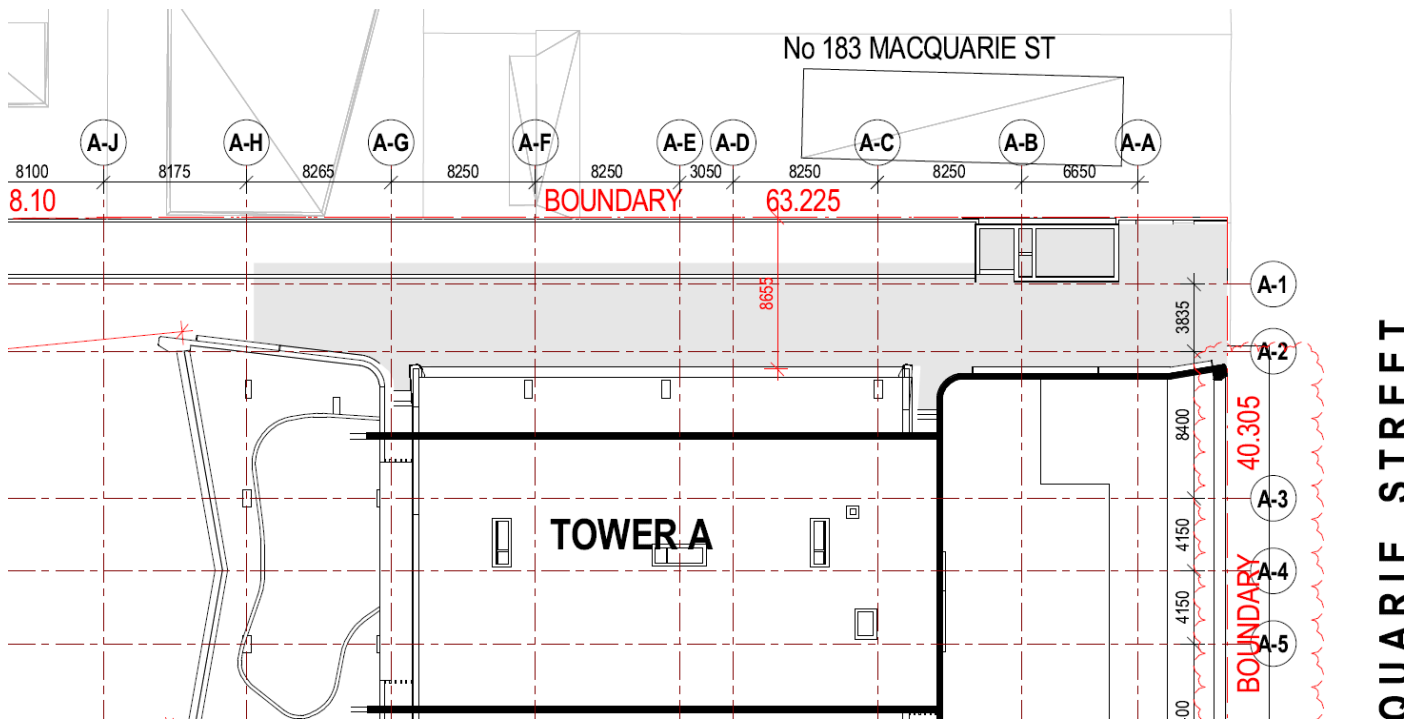


Figure 8 Screenshot of plans for 189 Macquarie St showing proposed tower setbacks to 183 Macquarie St (Source: CDA Architects, 2022)

6-10 Charles St (Rear)

A 9m setback is provided to the rear, this when combined with the existing setback at 6-10 Charles St, meets the ADG building separation requirements.

12 Charles St (West)

The adjoining site contains a two-storey commercial building and an at grade carpark, there are no plans for the redevelopment of this site at this time. Under PLEP 2023, and noting the size of the site, there is a development potential of 7.6:1FSR with a 145m height limit. The subject DA proposes a 12-storey blank wall on the boundary on the western elevation. Zero lot setbacks are acceptable in the CBD in circumstances where there are adjoining podiums.

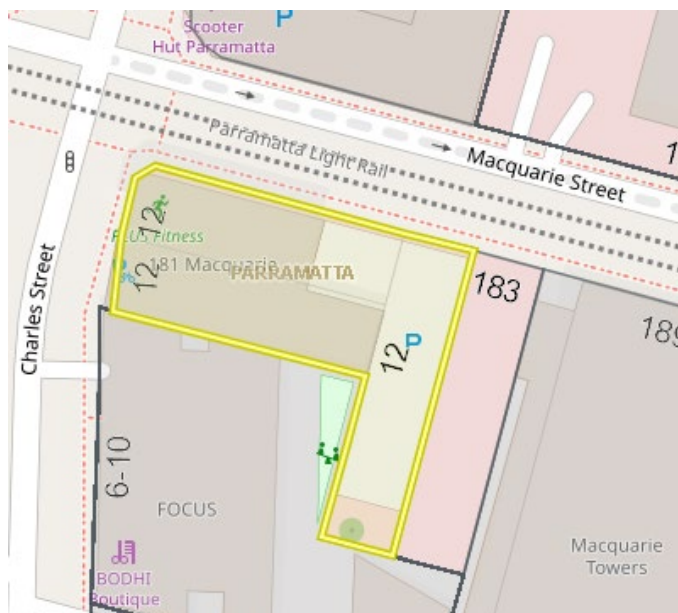


Figure 9 - Site map showing adjoining lot, highlighted in yellow

The applicant as part of their draft RFI response on 3 March 2023 provided a concept of what the redevelopment of the adjoining site could result in. This concept shows a sub optional relationship between the subject site and 12 Charles Street which is at odds with desired built form outcomes of the CBD which includes a defined street wall with shared tower setbacks.

The provided concept of the redevelopment of 12 Charles St is inadequate and does not demonstrate that if 183 Macquarie St is redeveloped as proposed that this would be a better development than if it included 183 Macquarie St. An amalgamated outcome would resolve many of the problems associated with the constrained nature of the site.

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

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

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.

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

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

The 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 Geotechnical Investigation was conducted and submitted with recommendations however this report relied on a Preliminary Site Investigation (PSI) Report. This report must be read in conjunction with the Geotechnical Investigation report, this was not provided and Councils Environmental Health Team cannot confirm that the property can meet the requirements of clause 4.6 of the SEPP.

This is a recommended reason for refusal.

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

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

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 requested that the following documents are to be provided before concurrence can be issued:

- Geotechnical/Structural Engineering Assessment
- Noise Impact Assessment
- Flood Risk Management
- Electrolysis Analysis

On 3 March 2023 an Electrolysis and Noise Impact assessment report was submitted and reviewed by TfNSW. A further RFI was issued on March 31, which confirmed the following:

- It is noted that the draft design of the development includes a "car space B99 turntable" along the site's Macquarie Street frontage. The plans do not show a new driveway on Macquarie Street and it is not clear how the car space/turntable would be accessed.
- TfNSW can advise that it **is highly unlikely an additional driveway or access point will be supported** due to the existing signalised driveway to Macquarie St as well as impact on the PLR interface and operations, including pedestrian and vehicle safety concerns.

- The proposed development does not provide any loading and service parking on-site to support the operation of the proposed development. Additionally, the Statement of Environmental Effects prepared to support the development application does not identify how loading and service vehicles servicing the development would be accommodated.
- The applicant has not considered or addressed waste collection or provided a detailed Waste Management document for consideration by TfNSW.
- Applicant has yet to address a number of items sent in original STC letter uploaded to the NSW Planning Portal on 18 November 2022, including geotechnical matters.

Concurrence has since not been issued and is recommended as a reason for refusal.

Section 2.118 - Development with a frontage to a Classified Road

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

Section 2.121 - Traffic Generating Development

The proposal is not considered a 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 SEPP does not apply in this respect.

8. 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 applies to the land:

- 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 this date and therefore shall be assessed under Parramatta LEP 2011.

This Development Application is not made pursuant to the Parramatta LEP 2011 (LEP 2011), however, any inconsistencies between the SEPP (Housing) 2021 and the Parramatta LEP 2011 are noted. The relevant matters considered under the PLEP 2011 and pursuant to Clause 8 of the Housing SEPP for the proposed development are outlined below.

The subject site is not of sufficient size and location to provide required services and facilities to enable efficient and safe operation of the use without causing further impacts on the amenity of surrounding properties and is ideally located close to public transport links, services and facilities.

Clause 2.3 Zone objectives and Land Use Table

The site is zoned B4 Mixed Use. The aims and objectives for the B4 Mixed Use zone are as follows:

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

- To protect and enhance the unique qualities and character of special areas within the Parramatta City Centre.

Standards and Provisions	Compliance
Part 4 Principal development standards	
4.3 Height of buildings Allowable: 145m Proposed: 39.94m	Complies
4.4 Floor space ratio	See section 7.3
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 site is not identified as a heritage item and is not located within a heritage conservation area.</p> <p>The DA has been submitted with a Historical Archaeological Assessment which has concluded that the study area does not contain heritage significance and is not expected to contain relics. Therefore, in relation to the redevelopment of the site, it can proceed without any further assessment, monitoring, testing or salvage.</p> <p>The DA has satisfied the Heritage requirements subject to standard conditions if any unexpected finds are found during construction.</p>
5.21 Flood Planning	<p>Council's Senior Catchment and Development Engineer has reviewed the proposal and is not satisfied that this clause has been met due to the following:</p> <p>The site is impacted by flooding up to and including the PMF (Probable Maximum Flood). The site is also inundated by frequent events such as the 5% AEP according to Councils flood enquiry information.</p> <p>The current flood information provided by Council does not consider local overland flooding and it is limited to riverine/mainstream flooding. A flood study is required to determine the overland flow affectation. This was requested and not provided.</p> <p>The proposed building footprint fully interferes with the flood extents and causes loss of flood storage, due to this loss it is likely that the excess floodwater will be diverted to neighbouring sites. Therefore, it is likely that there will be flood impacts as a result of the development. The flood study must calculate and consider the impacts and as per the requirements of section 6.7 of the Parramatta DCP, the flood study report to certify that the development will not increase flood affectation elsewhere, having regard to: (i) loss of flood storage; (ii) changes in flood levels, flows and velocities caused by alterations to flood flows; and (iii) the cumulate impact of multiple potential developments in the vicinity.</p> <p>As per 6.3.5.4 of the Parramatta DCP electricity substations critical services infrastructure that could be damaged by flooding such as electrical, lift, sewer and water are to be placed above the PMF level, or, where that cannot be achieved, effectively flood-proofed. The proposed pump room (Architectural Drawings DA, 03 Rev A) and other critical facilities such as lifts at the basement must be adequately protected from floods.</p> <p>The OSD has a completely drowned outlet and it should be designed accordingly, refer to section 6.4 Drowned Outlets for the OSD Handbook. The SSRt requires to be increased as per the recommendation of the guideline which is likely to result in a significantly larger OSD size.</p>

	A Flood Emergency Response Plan was also requested and not provided.
Part 6 Additional local provisions	
6.1 Acid Sulfate Soils	<p>Does not comply.</p> <p>Classified as a class 4 sulfate soil, which requires development consent if works are proposed more than 2m below the natural ground surface.</p> <p>No Acid Sulfate Soils management plan has been submitted.</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>The proposed Earthworks for the basement are considered to meet the controls.</p>
Part 7 – Parramatta City Centre	
7.3 Floor Space Ratio Allowable: 6:1 (sliding scale) or 2982sq.m Proposed: 6:1 or 2,982sq.m	<p>Complies.</p> <p>The proposed FSR for this site under this control is 6:1 (2982sq.m) as the site is less than 1000sq.m.</p> <p>The DA has proposed 2982sq.m of GFA (6:1)</p>
7.5 Sun Access	<p>Complies.</p> <p>The proposal complies with the sun access clause and does not over shadow the key public spaces identified in the clause.</p>
7.8 Active Frontages	<p>Complies.</p> <p>The original DA plan (not the draft plan submitted on 3 March) provides an active frontage for majority of the site.</p>
7.9 Floodplain Risk Management	See 5.21 Flood planning
7.11 Design Excellence	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.
7.15 Car Parking	No car parking 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	Retail premises are not over 600sq.m and is not required.
7.22 Dual Water systems	Can be conditioned if approval proposed
7.23 High performing building design	Does not apply to co-living development
7.24 Commercial premises in Zone B4 Mixed Use	<p>Does not comply.</p> <p>A minimum 1:1 commercial FSR is not provided.</p>
7.25 Concurrence of Planning Secretary	Does not comply.

	A written Satisfactory Arrangements Certificate has not been provided by the Planning Secretary.
8.2 Public Utility Infrastructure	The development site has adequate arrangements for water, electricity and gas infrastructure.

Clause 4.6 Exceptions to Development Standards Building Height

As stated above, this DA is made pursuant to SEPP (Housing) 2021, however, clause 4.6 of PLEP 2011 allows Council to provide an appropriate degree of flexibility in applying certain development standards, where flexibility would achieve better outcomes.

Clause 4.6(1) – Objectives of Clause 4.6

In the absence of objectives for Clause 69 of the Housing SEPP the objectives of clause 4.6 of the PLEP 2011 are considered as follows:

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

It is not Council opinion that the proposal would meet a better outcome as described further below.

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.

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

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

Wehbe v Pittwater Council

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

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

Council response: There are no objectives to section 69 of the Housing SEPP relating to minimum lot sizes. Given this the nearest and best objectives are the principles of the Housing SEPP given that the application is applied for under the policy. 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 response: Council does not have any objection to the delivery of co-living housing given the sites location within the CBD and proximity to three 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,

Council response: 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,

Council response: This objective is not being met. Due to the 39% variation proposed to the minimum lot size required under section 69 of the Housing SEPP the level of amenity is unduly compromised. Due to the smaller lot size the following non-compliances have been triggered which reduces amenity for the residents, and adjoining properties:

- The setback to 189 Macquarie St contravenes the requirement of AS1668.2-2012 *The use of ventilation and airconditioning in buildings* – 4.4.2 (d)(ii) which requires 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”.
- The setback to 189 Macquarie St and 12 Charles St is inconsistent with the ADG requirements and the 0 lot setback would leave a 12 storey blank wall to 12 Charles St, this would unfairly mean that 12 Charles St would have to provide the entire 12m-15m side setback to comply with the ADG or DCP standards depending on what they develop in the future. This is inconsistent with 69(b) of the Housing SEPP which requires compliance with the ADG building separations. While there are no minimum lot sizes in the Parramatta CBD DCP or PLEP for RFB's, any development would be required to comply with the building separations and setback requirements in the ADG and DCP which would not be possible on this site.
- The proposal does not demonstrate compliance with section 69(c) which requires 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. The proposals reduced setbacks due to the smaller lot size does not allow for greater windows and open space to the side boundaries which would allow greater solar access.
- The proposal does not comply with section 69(f) in that the design of the building is not compatible with the desired future character of the precinct. Due to the non-compliance with the lot size the development does not have a building design which is envisioned under the CBD DCP, being tall slender towers above a podium.
- Due to the site size the development does not have enough space for the proper flood planning provisions on the ground floor and leads to the development obstructing the flood extent and increases flooding impacts on adjoining sites.
- The proposal also does not comply with the minimum 35m site frontage requirement within section 6.3.2 of the Parramatta DCP.

Given these among other non-compliances with relevant planning standards the variation does not meet this principle of the Housing SEPP.

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

Council response: The location of the co-living development would meet 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,

Council response: The development can meet this objective subject to the conditions of consent requiring compliance with the ESD requirements for dual piping under the PLEP and section 6.8 of the CBD DCP.

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

Council response: It can be argued that given that the development does not comply with the minimum lot size requirement and variations are proposed to the ADG and DCP building separations/setbacks that this development

would not enhance the locality which is undergoing transformation as per the newly created CBD DCP for the reasons listed above for principle (c).

- (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,*

Council response: This principle is met.

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

Council response: This principle is met.

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

Council response: Council is of the opinion that the underlying objective of the development (being the principles of the Housing SEPP) is relevant to the development. Given that lot B DP 375159 has not been developed and no evidence has been provided to Council to show that the applicant has offered to fairly purchase this land from 12 Charles St then it can be argued that compliance is not unnecessary. In addition, given the variations proposed as a result of this smaller lot size compliance would be necessary for many of the Housing SEPP requirements to be met.

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

Council response: As detailed above the planning principles of the Housing SEPP would not be thwarted if compliance was provided.

- 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, there are no examples within the Parramatta LGA of this requirement being abandoned for co-living housing. Given that co-living is a new use under the Housing SEPP, it is also considered that there are no examples of affordable housing such as a boarding house on a site of this size to the scale proposed.

- 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 flexible with its application and can allow both residential and commercial uses. Compliance with the development standard would allow for a development which is appropriate for the future development for the site as envisioned under the CBD DCP.

Four2Five Pty Ltd v Ashfield Council

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: It has not been demonstrated that environmental planning grounds exist to justify contravening the development standard. The development will lead to adverse impacts to the residents of this site and the adjoining properties, and hence there is not sufficient environmental planning grounds to vary this control.

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.”

Council response: The matters of clause 4.6(4)(a)(ii) and Clause 4.6(4)(b) have been dealt with in the preceding section and the applicant’s variation is not supported.

Public Interest

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

Development consent must not be granted until the consent authority is satisfied that -

“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”.

Council response: The proposed development is inconsistent with the objectives of the Housing SEPP which the application is made under and hence is not in the public interest. While a number of written objections have been made from the adjoining sites for other reasons, the proposed variation is not in the interest of future residents of this site and those at 189 Macquarie St and 12 Charles St.

Concurrence

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

“The concurrence of the Secretary has been obtained”.

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

Conclusion: It is considered that the applicant’s written request has not adequately addressed the matters required to be demonstrated and that the request to vary the minimum lot size for co-living housing within the Housing SEPP cannot be supported and does not meet the principles of the Housing SEPP. The proposal also includes non-compliant setbacks and amenity issues, for this reason the proposal is also not in the public interest. In reaching this conclusion, regard has been given to the relevant Judgements of the LEC.


9. 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	Refer to CBD controls under section 6.7 of the DCP	No
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. A Preliminary Site Investigation (PSI) Report was requested and	No

	to be read in conjunction with the Geotechnical Investigation report, this was not provided.	
2.4.5 Air Quality	<p>The proposal does not comply with the required setbacks and is within 6m of the carpark vents for 189 Macquarie St which is the minimum separation between natural ventilation.</p> <p>The exhaust vents from the carpark would be within 3.5 metres of some of the windows of the proposed development within the void. This contravenes the requirement of AS1668.2-2012 <i>The use of ventilation and airconditioning in buildings</i> – 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>	No
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	<p>The proposal will result in an active street frontages that encourage pedestrian movement and pedestrian access which connects to and addresses the public domain.</p> <p>The proposal would be generally accessible to the street.</p> <p>Public Domain to Council requirements can be conditioned prior to CC if approved.</p>	Yes
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 considered acceptable except for the side setbacks. See part 6 Parramatta City Centre DCP assessment below.	Yes
3.3 Environmental Amenity		
3.3.1 Landscaping	<p>No trees are on the subject site, the provided landscape plan has been reviewed by Councils Trees and Landscaping Officers, see referrals section above.</p> <p>The basement is proposed to extend beyond the building footprint which is not supported due to the reduction of deep soil.</p>	No
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. The location of the ground floor retail tenancy is unlikely to diminish the amenity of nearby residential uses from noise intrusion.	Yes
3.3.5 Solar Access and Cross Ventilation	See CBD DCP assessment below	Yes

3.3.6 Water Sensitive Urban Design Water Efficiency Stormwater Drainage Grey Water	Water Sensitive Urban Design Provisions can be considered as part of the landscaping plan and the Flood Risk Management Plan. Water Efficient Stormwater and grey water requirements can be conditioned appropriately.	-
3.3.7 Waste Management	<p>A waste storage space is provided within the basement; however, this basement cannot be accessed by a waste vehicle. Therefore, the property must be serviced from the street, this is not accepted and is inconsistent with Appendix A8 of the DCP which requires waste for a building of this size to be from the basement. This also has the potential to conflict with the operation of the PLR route which is along this side of the street as shown on figure 10 below.</p>  <p><i>Figure 10 - Aerial map of Macquarie St</i></p>	No
3.4 Social Amenity		
3.4.1 Culture and Public Art	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.	Yes
3.4.2 Access for People with Disabilities	The proposal includes an access report which outlines that access for people with disabilities is generally compliant with the relevant standards. The design is generally compliant, remaining issues to do with the fit out of the space can be dealt with via condition prior to CC	Yes
3.4.3 Amenities in Building Available to the Public	One toilet is available for the public on the ground floor.	Yes
3.4.4 Safety and Security	The proposal does not contribute to the provision of any increased opportunity for criminal or anti-social behaviour. Natural surveillance of the public domain would be significantly increased with the proposed level of occupancy.	Yes

3.4.5 Housing Diversity and Choice	As per 3.4.5.1 of the Parramatta DCP a minimum of 10% or 9 units are to be accessible/adaptable. This does not comply.	No
3.5 Heritage		
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 = 1	1 car share space required. Due to the sites size it is not possible to provide parking onsite, however given that there are 93 units proposed with no parking, a car share space is required. Given the difficulty in providing 1 space, it is unclear how this could be provided.	No
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 Control 0 parking spaces required	<p>Given this application is lodged under the Housing SEPP parking is determined by the lesser of either the Housing SEPP or Council requirements.</p> <p>As per 68(e) of the Housing SEPP 19 car spaces are required.</p> <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 11 car spaces and 19 motorbike spaces.</p> <p>As such the DCP requirements would apply as they are the lesser.</p> <p>Councils Traffic and Transport Engineers have stated that they would be able to support a variation to this control if one parking space for loading/unloading/site caretaker is provided and adequate motorbike parking is provided, which has not been provided.</p> <p>This is in addition to any car share requirements.</p> <p>It is unlikely due to the sites size that this parking could be provided, TfNSW have also indicated it is highly unlikely that a new access will be allowed as</p>	No
6 Strategic Precinct - Parramatta City Centre		
6.1.2 General Objectives	The proposal does not promote urban and architectural design quality through planning procedures that foster design excellence nor manages flood waters to protect and enhance the quality of the public domain and private property in the City Centre. Therefore, it cannot meet all of the sections objectives.	Yes
6.2 Design Quality	The proposal does not qualify for a Design Competition as per the PLEP controls.	Yes
6.3 Built Form		

6.3.1 Guiding principles	While the proposal does provide adequate street setbacks it does not provide for proper separation between the buildings as per the ADG requirements.	Yes
6.3.2 Minimum Site Frontage	The proposal has a 10.6m street frontage. This does not comply and the objectives of this control are not met.	No
6.3.3 The Building Envelope	<p>6.3.3.1 Street Setbacks The proposal provides a compliant street wall of 16m. A street setback of 6m is then provided to the tower component. This is of similar height to the existing carpark at 189 Macquarie St.</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 levels 1 and 2 comply with the 3.8m requirement. The residential floor to floor heights do not comply and only provide 3.0m, rather than the required 3.1, this is not supported.</p>	<p>Yes</p> <p>Yes</p> <p>No</p>
6.3.4 The Street Wall	The Street Wall is built to the street alignment and provides adequate modulation and street wall height.	Yes
6.3.5 Ground Floor	<p>6.3.5.1 Non Flood affected site Controls do not apply</p> <p>6.3.5.2 Flood affected Site The design of the commercial ground floor generally complies with these flood protection measures.</p> <p>6.3.5.2.3 Floodwater Management Design Elements As detailed in the PLEP flood mitigation assessment the proposal has not adequately demonstrated mitigation for the flood path.</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>No</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	N/A as co-living housing mix must be compliant with the development standards in the Housing SEPP	-
<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>		

4 Bedrooms -10% of total dwellings		
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 in the nominated 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 this to be provided along this side of Macquarie St.</p> <p>4.2.3 Semi Recessed Awnings Controls have been met.</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	N/A – The pedestrian lane was provided within the property at 189 Macquarie St, there is no laneway requirement on this property.	-
6.4.5 Pedestrian Overpasses and Underpasses	N/A	-
6.4.6 Vehicle Footpath Crossings	No vehicle entry point is proposed under this DA. This site has never historically had any site access point, if one is proposed it will need concurrence approval from TfNSW and is identified in figure 6.4.6.1 as not having any new vehicle entry point.	Yes
6.4.7 Views	The proposal will not impact any identified view corridors.	Yes
6.5 Special Areas		
6.5.1 City River	N/A	-
6.5.2 Civic Link	N/A	-
6.5.3 George St	N/A	-
6.5.4 Church St	N/A	-
6.5.5 Marion St	N/A	-
6.5.6 Campbell St and Great Western Highway	N/A	-
6.5.7 Auto Alley	N/A	-
6.5.8 Station St West	N/A	-
6.5.9 Creek Corridors	N/A	-
6.5.10 Park Edge	N/A	-
6.6 Heritage		
6.6.1 Guiding Principles	<p>The proposal is not a heritage site and has been designed to adequately address the nearby Heritage Conservation Area and heritage items.</p> <p>A detailed Heritage assessment 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, this was based off a flood modelling enquiry with Council.	Yes
6.7.1 Assessment and minimisation of flood hazards, risks and potential for harm	<p>The current flood information provided by Council which was submitted with the Flood Risk Management Plan does not consider local overland flooding it is limited to riverine/mainstream flooding. A flood study is required to determine the overland flow affectation, this has not been provided to Council. The associated development risks cannot therefore be verified.</p> <p>The proposed building footprint fully interferes with the flood extents and causes loss of flood storage, due to this loss it is likely that the excess floodwater will be diverted to neighbouring sites. Therefore, it is likely that there will be flood impacts as a result of the development. The flood study must calculate and consider the impacts and as requirement of the DCP, the flood study report to certify that the development will not increase flood affectation elsewhere, having regard to: (i) loss of flood storage; (ii) changes in flood levels, flows and velocities caused by alterations to flood flows; and (iii) the cumulative impact of multiple potential developments in the vicinity.</p>	No
6.7.2 Land Use and building levels	The habitable floors of all habitable residential uses within the building must be above the probable maximum flood (PMF) which for this site is 9.74m AHD. Whilst there are residential areas on the ground floor below this level, they are communal and not the only accommodation for residents of the site. Notwithstanding, a satisfactory flood hazard and risk assessment and appropriate flood mitigation measures have not been provided, which have been requested.	No
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 to address this part of the DCP was not submitted	No
6.7.8 Car park basements in flood prone areas	N/A as 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 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 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, it 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 to cause any undue solar reflectivity given its size in the context of the CBD heights.	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 size in the context of the area.	Yes
6.9 Vehicular Access, Parking and Servicing		
6.9.1 Vehicle Driveways and Maneuvering	No driveway is proposed under this DA.	N/A
6.9.2 On Site Car Parking	Bicycle parking and motorbike parking is provided as per the Housing SEPP requirements. No motorbike parking has been proposed under this DA but should be provided.	Yes
6.9.3 Bicycle Parking and End of Trip Facilities	<p>6.9.3.1 Bicycle Parking</p> <p>Refer to Housing SEPP requirements which only requires 'adequate' bike parking. 52 spaces has been provided which has been assessed as adequate to Councils Traffic and Transport Officer.</p> <p>9.3.2 End of Trip Facilities</p> <p>No end of trip facilities has been provided. Given that there is only 40sq.m of commercial space proposed, as the development does not comply with section 7.24 of the PLEP, this is not warranted.</p>	Yes
5 Other Provisions		
5.5 Signage	No signage proposed.	N/A

10. 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. The DEAP made the following comments regarding the design proposed:

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 to the proposed use which is compliant under the Housing SEPP.
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 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.	Noted

<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 application currently being considered was refused, however, the setbacks for the approved 189 Macquarie St development are sufficient given the CBD setting in relation to the side boundaries. The proposed building separation to 189 Macquarie St from the subject DA, however, does not comply and is one of the reasons sought for refusal.</p> <p>While the package submitted from the applicant on the 3rd March included a concept proposal for 12 Charles St, this was not accepted and hence not provided to DEAP.</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>-</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>While the DEAP is able to support the principle of a building at this site in terms of a built form, this does not negate the need for the applicant to comply with the remaining planning instruments. The site size remains unacceptable for the reasons detailed above.</p> <p>The recommended design changes have not been made in any event.</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, any 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>No amended plans have been received and the DA has not been sent back to the panel. Draft plans were submitted on the 3rd March 2023 which were not accepted by the Council at the time as they have not been formally lodged. In any event, these did not address all the DEAP issues raised.</p>

11. Development Contributions

As this Development Application was lodged on 25 October 2022. The Parramatta City Centre Local Infrastructure Contributions Plan 2022 commenced on 14 October 2022 and 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 \$89,171.58.

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.

12. 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 sought.

13. EP&A Regulation 2021

Applicable Regulation considerations including demolition, fire safety, fire upgrades, compliance with the Building Code of Australia, compliance with the Home Building Act, PCA appointment, notice of commencement of works, sign on work sites, critical stage inspections and records of inspection can be addressed by appropriate consent conditions if approval was sought.

14. The likely impacts of the development

The assessment demonstrates that the proposal will have significant adverse impacts upon adjoining properties, existing and future, and the environment through non compliances with the applicable flood planning controls. 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.

15. Suitability of the Site

The subject site cannot accommodate the proposed co-living development of this scale as the site requires services and facilities to enable efficient and safe operation of the use without causing further impacts on the amenity of surrounding properties. While the physical location for co-living development being near university campuses is ideal also being close to the Parramatta CBD and Light Rail, the physical constraints of the site limits its suitability for this development as proposed when assessed against the Housing SEPP and Parramatta LEP and DCP.

Some suitable investigations and documentation have been provided to demonstrate that the site can be made suitable for the proposed development and the development is consistent with the land use planning framework for the locality. However, not all have been provided.

The floodway impacts are a natural hazard that are likely to have an unacceptably adverse impact on the proposed development.

Due to the reasons for refusal within the recommendation to this report, the site is not considered to be suitable for the proposed development.

16. Public Consultation

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

Issue	Response
Security/Privacy impacts	<p>The proposed use would be subject to a plan of management, which has been submitted with the DA and the site has provision for a manager who would remain onsite 24 hours a day. The proposed use is not considered to cause any undue social impacts by way of noise or crime.</p> <p>The required setbacks to the rear of the site to 6 Charles St meets the ADG requirements as there is a 9m setback provided to the rear of the site.</p>
Solar Access	The proposal will cause extra overshadowing between 10am and 2pm to the property at 6 Charles St. This remains consistent with the development controls as overshadowing would be difficult to reduce in a CBD location.
Traffic	No parking is proposed on site, it is considered operational traffic impacts would be minimal. 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 private certifier and would be subject to conditions for standard construction noise as per Council guidelines.

17. Public interest

Regardless of the current submissions which could be managed by way of conditions, the development is not in the public interest as its impacts would be for the development rights of the adjoining property and impacts for future residents at both 189 Macquarie St and the subject site.

18. Conclusion

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

Whilst the proposed development is appropriately located within a CBD locality, some variations (as detailed above) in relation to the Housing SEPP are sought. The non compliance with the site size control results in further non compliances with setbacks and other standards resulting in a poor built form and substandard accommodation for future residents. This is exacerbated by the fact that the site does not benefit from a vehicular access and is unlikely to be granted one by PLR. This is not acceptable in this location given the site fronts the PLR route and will have to have some means for servicing or maintenance.

The development more broadly does not comply with several planning requirements of the Housing SEPP, PLEP and PDCP as detailed in the recommendation below, a number of these non-compliances are because of the non-compliance with the minimum lot size.

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 below.

19. 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 variation to section 69(1)(i) of the State Environmental Planning Policy (Housing) under the provisions of Clause 4.6 for the following reasons:
- Non compliance with Australian Standards** - The setback to 189 Macquarie St contravenes the requirement of AS1668.2-2012 *The use of ventilation and airconditioning in buildings* – 4.4.2 (d)(ii) which requires the location of any relief-air openings, including vehicle entries and exits to be more than 6m away from any outside air intake or natural ventilation opening not associated with the enclosure.

- b) **Setbacks** - The setback to 189 Macquarie St and 12 Charles St is inconsistent with the ADG requirements, section 69(b) of the Housing SEPP requires compliance with the ADG building separations.
- c) **Solar Access** - The proposal does not demonstrate compliance with section 69(c) of the Housing SEPP which requires 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. Reduced setbacks due to the smaller lot size does not allow for greater windows and open space to the side boundaries which would allow greater solar access.
- d) **Desired Future Character** - The proposal does not comply with section 69(f) of the Housing SEPP in that the design of the building is not compatible with the desired future character of the precinct. Due to the non-compliance with the lot size the development does not have a building design which is envisioned under the CBD DCP, being tall slender towers above a podium.
- e) **Flood Planning** – Due to the site size the development does not have enough space for the proper flood planning provisions on the ground floor and leads to the development obstructing the flood extent and increases flooding impacts on adjoining sites.
- f) **Parking/Site Access** - The site frontage does not allow for vehicular access and motorcycle, car parking and car share parking to meet the requirements of the Housing SEPP and Parramatta DCP 2011.
- g) **Waste Collection** - The site size does not allow for waste collections to occur within the site. This would not be possible from the street due to the PLR route. Due to the size of the development it is also inconsistent with the development controls contained within Appendix A8 of the Parramatta DCP for waste to be collected from the street.

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 building containing a retail shop and a 'Co-Living' development comprising 93 rooms with indoor and outdoor communal spaces over 1 level of basement on land at 183 Macquarie St, Parramatta for the following reasons:

1. State Environmental Planning Policy (Housing) 2021

- a) **Section 69(1)(b)(ii)** – The development does not comply with the minimum lot size for co-living housing.
- b) **Section 69(1)(h)** – The development has not provided adequate motorcycle parking spaces
- c) **Section 69(2)(b)** – The development does not comply with the required building separations provided within 3F of the Apartment Design Guideline to both the eastern and western boundaries to 189 Macquarie St and 12 Charles St.
- d) **Section 69(2)(c)** - The development does not demonstrate compliance with the required solar access for at least 3 hours of direct solar access to be provided between 9am and 3pm at mid-winter in at least 1 communal living area.
- e) **Section 69(2)(f)** - The design of the building is not consistent with the desired future character of the precinct as envisioned by Part 6.3 of the Parramatta DCP 2011.

2. State Environmental Planning Policy (Resilience and Hazards) 2021

- a) **Section 4.6** - A Preliminary Site Investigation (PSI) Report which supports the Geotechnical Investigation is not provided. It cannot be confirmed that the site meets the contamination and remediation requirements. The lack of this document is not compliant with section 2.4.4 of the Parramatta DCP 2011 relating to land contamination.

3. State Environmental Planning Policy (Transport and Infrastructure) 2021

- a) **Section 2.99** – Concurrence has not been provided from TfNSW as the development proposes excavation below 2m within 25m measured horizontally of a rail corridor (Parramatta Light Rail)

4. Parramatta Local Environmental Plan 2011

- a) **Section 5.21** - The development has not demonstrated that it can adequately not obstruct the flood extents and causes loss of flood storage. This is also non-compliant with Section 6.7.2 of the Parramatta DCP 2011. A flood Emergency Response Plan is not provided which is required under section 6.7.4 of the Parramatta DCP 2011, and the development will not meet the objectives of this control nor any of the controls under 5.21(2).
- b) **Section 6.1** – The development is non-compliant as it has not been submitted with an Acid Sulfate Soil management plan and has not adequately addressed the provisions within this section.
- c) **Section 7.24** – The development has not provided a minimum 1:1 commercial FSR
- d) **Section 7.25** – The development does not comply as written concurrence of the Planning Secretary has not been provided

5. Parramatta Development Control Plan 2011

- a) **Section 2.4.5** - The Australian Standard 1668.2-2012 *The use of ventilation and airconditioning in buildings* – 4.4.2 (d)(ii) does not comply as the location of the relief-air openings at 189 Macquarie St are less than 6m away from any outside air intake or natural ventilation opening not associated with the enclosure
- b) **Section 3.3.1** – The proposed basement extends beyond the building footprint which reduces deep soil provision.
- c) **Section 3.3.7 1** – There is insufficient space on Macquarie St for waste management vehicles to service the site from the street and there is no provision for this to be done from the basement as required under Appendix A8 of the Parramatta DCP for a development of this size.
- d) **Section 3.4.5.1** – The development has not provided a minimum of 10% or 9 units are to be accessible/adaptable units as per the Australia Standards have not been provided.
- e) **Section 3.6.1** – The development has not provided a minimum of 1 car share spaces for use by the residents.
- f) **Section 3.6.2** – The development has not provided a minimum one parking space for use by the building manager/deliveries
- g) **Section 6.3.2** - The development has provided a 10.6m frontage rather than the 35m required and the objectives of the control have not been met.
- h) **Section 6.3.3.4** - The development has not provided the required 3.1m floor to floor heights for residential levels.

6. Environmental Planning and Assessment Act 1979

- a) **Section 4.15(1)(a)(i), (ii) and (iii)** – The development will lead to environmental impacts to the natural and built environment it is not suitable for this development and is not in the public interest.

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