

PLANNING REPORT



125-129 ARTHUR STREET, PARRAMATTA

SECTION 4.55(2) APPLICATION - ALTERATIONS AND ADDITIONS TO AN APPROVED RESIDENTIAL FLAT BUILDING

PREPARED FOR
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1 INTRODUCTION

1.1 THE CLIENT

This report has been prepared for Citibuild Design and Construction Pty Ltd to accompany a Section 4.55(2) Modification Application submission to Parramatta City Council.

1.2 THE REGULATIONS

This report addresses Clause 115 of the Environmental Planning & Assessment Regulation 2000 (the Regulations) and therefore, includes the information that an application for modification of a development consent, under Section 4.55 of the Environmental Planning & Assessment Act, 1979 (the Act), must contain.

1.3 THIS REPORT

This SEE is divided into the following sections that address matters (a) to (d) above.

Section 1	This introduction.
Section 2	A description of the proposal in detail.
Section 3	A description of the site and its surrounds.
Section 4	An assessment of the proposal in accordance with the relevant matters for consideration prescribed by Clause 4.15 of the Environmental Planning and Assessment Act, 1979 (as amended).
Section 5	The conclusion to the assessment.

1.4 BACKGROUND

Council originally approved DA/776/2014 on 22 June 2015 with a variation of the maximum building height of RL29 or 107% of the development standard (i.e. RL14). Two modifications to the consent have also been approved as follows:

- DA/776/2014/A for Demolition of existing buildings, tree removal and construction of a Part 4, 6 and 7 storey residential flat building comprising 64 dwellings and basement car parking; and
- DA/776/2014/B for an amended unit mix, reduction of 3 basement car spaces, reconfiguration of unit and basement layout, and various external changes to balconies and roof feature.

In approving the height variation, the Assessing Officer's report noted as follows:

"The maximum height variation, although is 107% is well founded and acceptable as:

1. *The increase in height was partially necessitated by the flood impacts on the site and the ability of the building to allow for flood flow through path. This in turn increased the height of the building substantially to a maximum of 1.7 m from the natural ground level.*
2. *The 7 storey portion of building is a transition from the 9 storey Mercure Hotel building to the east and is considered appropriate for the area, given that it is located in a predominant gateway site connecting the east with Parramatta CBD.*
3. *The Arthur Street frontage has been transitioned to step down from 7 storeys through 6 and 5 storeys and finally a 4 storey, thereby providing a transition to the two storey dual occupancy to the north of the site.*
4. *No significant views listed in the PDGP2011 that would be obstructed.*
5. *The proposal will not have any additional solar access impacts on all the immediate neighbours.*
6. *There are no known privacy issues as the buildings are setback 4.5m from the eastern boundary and adequately landscaped.*
7. *The matter was considered by Council in a pre-lodgement application and assessed to be appropriate.*

The maximum building height variation is considered acceptable in order to achieve the design outcome and compliance with zoning requirements."

A further development application (DA/870/2018) was submitted to Council on 12 December 2018 proposing an additional two levels on the top of the approved residential flat building, including 10 additional dwellings, resulting in a total of 74 dwellings. The proposal also included common open space on the roof accessible from the lift and stairs. Council formally refused consent on 12 November 2019. A subsequent appeal to the NSW Land and Environment Court was withdrawn on 20 October 2020 and the refusal of that application still stands.

1.5 LIST OF DRAWINGS

Table 1 below, indicates the plans that this SEE has relied upon in order to detail, as a minimum, any likely environmental and social impacts of the development. The plans have been provided by Ghazi Al Ali Architects.

TABLE 1: LIST OF DRAWINGS

SHEET NO.	DESCRIPTION	REVISION	DATE
A 0000	Title Page	C	27/10/2021
A-1000	BASIX Certificate	A	27/10/2021
A-1201	Lower Basement Plan	C	27/10/2021
A-1202	Upper Basement Plan	C	27/10/2021

SHEET NO.	DESCRIPTION	REVISION	DATE
A-1203	Flood Overflow Plan	C	27/10/2021
A-1204	Ground Floor Plan	C	27/10/2021
A-1205	Level 01 Floor Plan	C	27/10/2021
A-1206	Level 02 Floor Plan	C	27/10/2021
A-1207	Level 03 Floor Plan	C	27/10/2021
A-1208	Level 04 Floor Plan	C	27/10/2021
A-1209	Level 05 Floor Plan	C	27/10/2021
A-1210	Level 06 Floor Plan	C	27/10/2021
A-1211	Roof Plan	C	27/10/2021
A-1301	West Elevations	C	27/10/2021
A-1302	South Elevations	C	27/10/2021
A-1303	East Elevations	C	27/10/2021
A-1304	North Elevations	C	27/10/2021
A-1401	Ramp Section AA and BB	C	27/10/2021
A-1402	Section CC	C	27/10/2021
A-1403	Section DD	C	27/10/2021
A-2001	GFA Calculation	C	27/10/2021
A-2010	Solar Access Diagram	C	27/10/2021
A-2020	Cross-ventilation Diagram	C	27/10/2021
A-2021	Flooding Design – Ground Level	A	27/10/2021
A-2022	Flooding Design – L01	A	27/10/2021

The amendments are also supported by a revised Flood Impact Assessment prepared by Cardno and a Flood Emergency Detailed Response Plan, also prepared by Cardno.

2 THE SITE AND LOCALITY

2.1 SITE DESCRIPTION

The Site is located at 125-129 Arthur Street Parramatta, within the Parramatta Local Government Area. It is located 23km west of the Sydney CBD and approximately 1.2km east of the Parramatta Commercial Centre.

The Site is legally described as Lot 5 DP 27997, Lot 6 DP 27997, and Lot 7 DP 27997, known as 125 – 129 Arthur Street, Parramatta. It is generally rectangular in shape, with a frontage to Arthur Street of 55m and a Hassall Street frontage of 28m. The Site has an area of approximately 1,668 m².

The original three single storey residential dwellings and a number of trees occupying the subject site have been demolished and bulk earthworks have commenced on the Site. Vehicular access is currently obtained from Arthur Street.

FIGURE 1: SUBJECT SITE



SOURCE SIX MAPS 2021



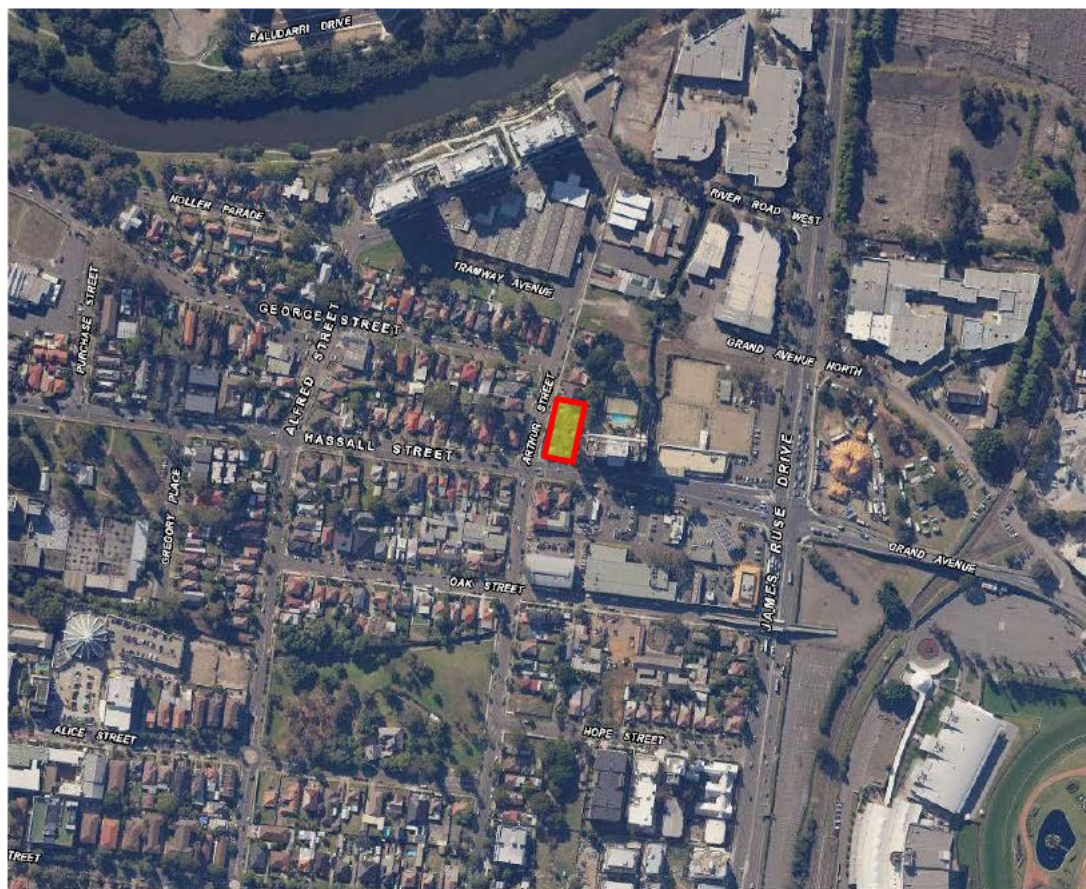
125-129 Arthur Street, Parramatta



2.2 THE LOCALITY

The Site is located at a corner of the intersection between Arthur Street and Hassall Street. Immediately to the east is the Mercure Hotel, the highest development in the locality. Across Hassall Street to the south is a local shopping centre. Directly to the north of the subject site is a Strata-titled dual occupancy development. The Site is within the proximity to Camellia train station, Rosehill Gardens Racecourse and Camellia industrial precinct.

FIGURE 2: LOCALITY AERIAL VIEW



SOURCE: SIX MAPS 2021



125-129 ARTHUR ST PARRAMATTA



2.3 SITE CONSTRAINTS

The Site is zoned B4 Mixed Use according to the Parramatta Local Environmental Plan 2011 (PLEP 2011). It is subject to a blanket maximum building height limit of RL 14 but has no floor space ratio controls.

Other key attributes or constraints associated with the Site include:

- The Site is located diagonally opposite the north eastern corner of the Elizabeth Farm Conservation Area.
- There are no heritage items on the Site. The nearest heritage items are a series of single storey weatherboard cottages located at 6-12 Oak Street, within the Elizabeth Farm Conservation Area.
- The Site is classified as potentially containing Class 4 Acid Sulphate Soils.

FIGURE 3: ZONING MAP EXTRACT



SOURCE: NSW PLANNING PORTAL 2021

3 THE PROPOSED MODIFICATIONS

3.1 DESCRIPTION OF THE AMENDMENTS

The application proposes alterations and additions to an approved residential flat building. The modifications have evolved as a consequence of conditions in the consent relating to flood safety and design requirements and refinements in the design. Details of the proposal are as follows:

DRAWING A1201 LOWER BASEMENT PLAN

- Re-calculated required parking, based on updated Unit Mix.
- Size of service room allocated and adjusted.
- Relocated 2 (two) accessible parking spaces and associated shared space from Upper Basement level.

DRAWING A1202 UPPER BASEMENT PLAN

- Sprinkler water tank included under approved ramp.

DRAWING A1203 FLOOD OVERFLOW LEVEL

- Size of OSD adjusted as per hydraulic consultant advisement.
- Indicated substation (base).

DRAWING A1204 GROUND FLOOR PLAN

- Connected north & south building corridor for flooding safety purpose.

DRAWING A1210 LEVEL 06

- Unit 601 - updated layout, swap bedroom with living area, with living area to face east for better solar access.
- Communal toilet removed.
- Pergola removed for fire safety.

ELEVATIONS & SECTIONS

- Height of ground floor raised in order to have Lo1 at RL 9.3 due to flooding issue.
- Updated accordingly as per plan amendments
- Sliding door heights reduced 100mm to 2600mm

GFA CALCULATION

- Floor areas changed slightly due to internal changes
- New calculated GFA 5101.78 m² (previously approved as 5063.96 m²).

SOLAR ACCESS & CROSS-VENTILATION

- Calculations changed slightly due to internal changes.

3.2 MODIFICATIONS TO SPECIFIC CONDITIONS

As a consequence of the proposed modifications, the following conditions will need to be amended accordingly:

- Condition 1 – to reflect the proposed suite of drawings, as detailed in Table 1 in Section 1.5 above and deleting all reference to the drawings prepared by Chanine Design.
- Condition 1 – update the suite of supporting documents to reflect this Report and the updated Flood Impact Assessment and Flood Emergency Detailed Response Plan prepared by Cardno.
- Condition 23 – modification to reflect the relevant drawings.
- Condition 24 to reflect the accompanying Flood Emergency Detailed Response Plan.
- Condition 25 – modification to reflect the relevant drawings.
- Condition 33 – modification to reflect the applicable drawings and *required* car parking spaces.
- Condition 35 – modification to reflect the relevant drawings.
- Condition 80 – modification to reflect the relevant Basix Certificate No.
- Condition 90 – deletion as it is a duplication of Condition 88.

4 ENVIRONMENTAL ASSESSMENT

4.1 ENVIRONMENTAL PLANNING & ASSESSMENT REGULATION 2000

This report considers the environmental consequences of the development as required under Schedule 1 (2) (4) of the Environmental Planning & Assessment Regulation 2000 (the Regulations).

Any environmental impacts of the development have been identified through a review of applicable planning instruments as outlined below; review of the site and its surrounds and review of other related documents. Our assessment of the proposal, against the planning instruments guiding development, concludes that environmental impacts, as a result of the modification of the approved development, are minimal.

4.2 SECTION 4.55 PROVISIONS

Section 4.55 (2) of the Environmental Planning and Assessment Act 1979 (EP & A Act, 1979) provides that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) *It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all),*

Comment:

The “substantially the same” test is a fundamental aspect in the consideration of a Section 4.55 Application (and its predecessor, Section 96(2) of the EP&A Act 1979). Consideration must also therefore be given to the relevant caselaw, notably:

- *Ahmad Corp Pty Ltd v Fairfield City Council (2018) NSWLEC 1526;*
- *North Sydney Council v Michael Standley & Associates Pty Ltd (1998) 43 NSWLR 468; and*
- *Moto Projects (No 2) Pty Ltd v North Sydney Council (1999) 106 LGERA 298.*

In *North Sydney Council v Michael Standley & Associates Pty Ltd*, the Court held that the power to modify a consent is ‘a power to alter without radical transformation’. In the *Moto Projects* matter, it was found that in determining whether the Court is able exercise this power, it undertakes a qualitative and quantitative comparison of the original application and the modified application, noting that ‘the result of that

comparison must be a finding that the modified development is "essentially" or "materially" the same.

The proposal (as modified) will be substantially the same development as approved by Council under DA/776/2014 and the proposal does not represent a radical transformation of the approved development. This consent was granted for *"Demolition of existing buildings, tree removal and construction of a Part 4, 6 and 7 storey residential flat building comprising 64 dwellings and basement car parking"*.

The proposal will remain both essentially and materially the same as was approved - that is a part 4, 6 and seven storey residential flat building containing 64 dwellings with basement car parking. Other aspects to note are:

- There will be no fundamental change to the use and definition of the approved development. It will remain as a residential flat building.
 - There will be no change in density with sixty four dwellings being approved and still proposed, albeit in a slightly different configuration.
 - There will be no change to the size or description of the land to which the consent relates.
 - The qualitative impacts will be comparative to that of the approved development (operative consent). The amendments will not be discernible from adjoining properties or the public domain as they are to a large extent internal modifications that have been derived in the course of satisfying conditions of consent.
 - The outlook, views and overall amenity to adjoining properties will remain unchanged.
 - The quantitative changes will be very minor as indicated by the assessment below.
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) *it has notified the application in accordance with:*
- (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or*

*advertising of applications for modification of a development consent,
and ...*

- (d) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*
- (e) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment:

It is anticipated that Council as the consent authority, will notify the relevant approval bodies/ Ministers of the application as well as notify the proposal in accordance with the relevant regulations and the relevant Development Control Plan. This will include Council notifying each and any person who made a submission in relation to the original application.

It is anticipated that Council will review any submissions from the community, should any be received. In the event that submissions are received by Council, the applicant requests the opportunity to review and respond accordingly.

Section 4.55 (3) of the Act states:

- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

The following section provides an assessment of the matters of relevance to the proposed amendment.

4.3 ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

Section 4.15(1) of the Environmental Planning and Assessment Act 1979 (EP&A Act) provides criteria, which a consent authority is to take into consideration, where relevant, when considering the modification of a Development Application (DA). A full assessment of the proposed modifications, in accordance with the relevant matters for consideration prescribed under Section 4.15(1) of the EP&A Act, is provided below.

4.4 OVERVIEW OF STATUTORY AND POLICY CONTROLS

The relevant statutory and policy controls applicable to the subject site and proposed development are listed below.

RELEVANT STATE AND REGIONAL ENVIRONMENTAL PLANNING POLICIES

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)
- State Environmental Planning Policy No.55 – Site Remediation (SEPP 55)
- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- State Environmental Planning Policy (Sydney Harbour Catchment) 2005
- State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development (SEPP 65)

RELEVANT LOCAL ENVIRONMENTAL PLANS

- Parramatta Local Environmental Plan 2011 (PLEP 2011)

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

- Nil

RELEVANT DEVELOPMENT CONTROL PLANS

- Parramatta Development Control Plan 2011 (PDCP 2011)

4.5 SEPP PROVISIONS

STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

The amended development is within the category of dwellings affected by the SEPP (Building Sustainability Index: BASIX) 2004. Accordingly, the application is accompanied by a BASIX Certificate under separate cover.

STATE ENVIRONMENTAL PLANNING POLICY NO 55 – REMEDIATION OF LAND (SEPP 55)

Given the nature of the proposal, it is not necessary to revisit whether the Site is contaminated. Council has previously considered that the Site is suitable in its present state for rural residential development and that further investigation of land contamination is not warranted. The Site remains suitable in its present state for the development as amended.

STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

The proposed modifications do not alter the conclusions made by Council with respect to the Infrastructure SEPP. The amendments do not trigger any new considerations and the proposal remains consistent with the aims to facilitate the efficient delivery of Infrastructure across the State.

STATE ENVIRONMENTAL PLANNING POLICY (SYDNEY HARBOUR CATCHMENT) 2005

The Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 contains visual, environmental, and heritage provisions which are required to be addressed and satisfied. Although the Site is located within the Sydney Harbour Catchment, it is not located within a Foreshores and Waterways Area, Wetlands Protection Area or identified as a Strategic Foreshore Sites. Accordingly, there are no matters for consideration under this SEPP for the proposed modifications.

STATE ENVIRONMENTAL PLANNING POLICY NO. 65 – DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT (SEPP 65)

SEPP 65 states as follows:

"4 Application of Policy

- (1) *This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if—*
 - (a) *the development consists of any of the following—*
 - (i) *the erection of a new building,*
 - (ii) *the substantial redevelopment or the substantial refurbishment of an existing building,*
 - (iii) *the conversion of an existing building, and*
 - (b) *the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and*
 - (c) *the building concerned contains at least 4 or more dwellings."*

The original DA consent (No. DA/776/2014) was granted under the provisions in SEPP 65 Design Quality of Residential Flat Development. At the time, SEPP 65 called up the Residential Flat Design Code (RFDC) provisions, as opposed to the

Apartment Design Guide (ADG), which would apply to new development that the SEPP applies to.

Clause 29 of the SEPP also applies in relation to modification applications, as follows:

"29 Determination of applications for development consent modifications

- (1) This clause applies if a consent authority is required by clause 115(3B) of the Environmental Planning and Assessment Regulation 2000 to refer an application for the modification of development consent (other than in relation to State significant development) to a relevant design review panel (if any) for advice as to whether the modifications diminish or detract from the design quality, or compromise the design intent, of the development for which the consent was granted.*
- (2) In determining an application to which this clause applies, the consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration)—*
 - (a) the advice (if any) obtained from the design review panel, and*
 - (b) the design quality of the development (as modified) when evaluated in accordance with the design quality principles, and*
 - (c) the Apartment Design Guide.*
- (3) However, if the relevant design review panel fails to inform the consent authority of its advice within 14 days after its first meeting to deal with the application concerned, the consent authority may determine the application without considering any such advice and a modification of consent so granted is not voidable on that ground.*
- (4) The 14-day period referred to in subclause (3) does not increase or otherwise affect the period within which an application for the modification of development consent is required to be determined by a consent authority."*

Clause 115(3B) requires a consent authority refer a modification application to the relevant design panel if the statement made by the qualified designer does not verify that he or she also designed, or directed the design of, the development for which the consent was granted. The purpose of the referral to the Panel is to seek advice as to whether the modifications diminish or detract from the design quality, or compromise the design intent, of the development for which the consent was

granted. The application is accompanied by the requisite design verification statement.

Clause 30 of the SEPP also contains provisions that a consent authority must not refuse consent for a modification if a proposal satisfies the relevant requirements relating to:

- Car parking that is equal to or greater than that recommended by Part 3J of the ADG.
- The minimum internal area is equal to or greater than that recommended by Part 4D of the ADG.
- The ceiling heights are equal to or greater than that recommended by Part 4C of the ADG

As shown in the table below, the proposal satisfies these requirements.

TABLE 2: ADG COMPLIANCE

ADG DESIGN CRITERIA/ DESIGN GUIDANCE	PROPOSAL	COMPLIANCE
Building depth - 18m	< 18m	No change – complies
Communal open space - 25%	COS is to increase slightly from 345.02m ² (20.7%) to 352.44m ² (20.9%)	No – existing approved non-compliance, however the small increase in COS is not seen to be a negative outcome.
Deep Soil: - 6m minimum dimension - 7% of Site (118.6m ²)	Approved: 225.95m ² Proposed: 215.09m ²	Yes
Building Separation Distances	No change to existing setbacks	No change – complies

ADG DESIGN CRITERIA/ DESIGN GUIDANCE	PROPOSAL	COMPLIANCE												
<table border="1"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m		
Building height	Habitable rooms and balconies	Non-habitable rooms												
up to 12m (4 storeys)	6m	3m												
up to 25m (5-8 storeys)	9m	4.5m												
over 25m (9+ storeys)	12m	6m												
<p>Car parking- If within 800m of railway station – apply Guide to Traffic Generating developments or DCP, whichever is lesser.</p> <p>0.6 spaces/1 bed</p> <p>0.9 spaces / 2 bed</p> <p>1.4 spaces / 3 bed 1 vis space / 5units</p>	Requires 66 parking spaces, provides 78 spaces. See drawing A-1201 for calculations	No change – complies												
Single aspect apartment maximum depth - 8m from window	<8m	Complies												
Solar access - >2 hours to living areas and private open space of 70% dwellings between 9:00am – 3:00pm on 21 June	<p>45 (70.4%) of units receive greater than or equal to 3 hours solar access.</p> <p>19 (29.6%) of units receive limited solar access.</p> <p>Nil units have no solar access (previously 7 units)</p>	Yes												
Natural ventilation - >60% of apartments	42 (66%) of units are cross ventilated.	Yes												
Ceiling Heights:	No change to approved ceiling heights – minor change to overall height by 300mm to satisfy flood requirements.	Complies												

ADG DESIGN CRITERIA/ DESIGN GUIDANCE	PROPOSAL	COMPLIANCE															
<table><tr><th colspan="2">Minimum ceiling height for apartment and mixed use buildings</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table>	Minimum ceiling height for apartment and mixed use buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use					
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Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope																
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use																
<p>Min unit size:</p> <p>Studio – 35m²</p> <p>1 bed - 50m²</p> <p>2 bed – 70m²</p> <p>3 bed – 90m²</p>	All units achieve minimum size requirements.	Complies															
<p>Min room size:</p> <p>Master bedroom – 10m²</p> <p>Other bedrooms - 9m²</p> <p>Living rooms – 3.6m studio/ 1 BR</p> <p>Living rooms – 4m 2+ BR</p> <p>4m min unit width</p>	All rooms achieve minimum size requirements.	Complies															
<p>Minimum private open space:</p> <table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table>	Dwelling type	Minimum area	Minimum depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	All units have adequate private open space areas commensurate with unit size.	Complies
Dwelling type	Minimum area	Minimum depth															
Studio apartments	4m ²	-															
1 bedroom apartments	8m ²	2m															
2 bedroom apartments	10m ²	2m															
3+ bedroom apartments	12m ²	2.4m															
<p>Apartments per core – maximum of 8</p>	Two stair/ lift cores per floor servicing 11 units for ground and 1 st floor; 5-6 units per core per floor above	Complies															

ADG DESIGN CRITERIA/ DESIGN GUIDANCE	PROPOSAL	COMPLIANCE
Min. storage size: Studio – 4m ³ 1 bed – 6m ³ 2 bed – 8m ³ 3 bed – 10m ³	All units allocated compliant storage areas in basement levels and in apartments.	Yes

4.6 LEP PROVISIONS

PARRAMATTA LOCAL ENVIRONMENTAL PLAN 2011 (PLEP 2011)

Clause 1.4 – Definitions

The proposal is for modifications to an approved residential flat building. A residential flat building is defined in the PLEP 2011 as:

Residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

The modified development remains permissible within the zone with consent.

Clause 2.1 – Land use zone

The Site is within the B4 Mixed Use zone according to the PLEP 2011 according to the RLEP 2012 and its relevant zoning maps.

Clause 2.3 – Zone objectives and land use table

The relevant objectives of the 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.*

The proposed development satisfies the above objectives for the following reasons:

- The proposal includes modifications to an approved residential flat building which is permissible and will be compatible with adjoining permissible uses in the zone.
- The proposal is for alterations to an approved residential flat building.
- The proposed development will provide continue to provide high density housing in an accessible location with access to public transport and walking distance from services.
- The proposal contributes to an active and vibrant neighbourhood by enhancing the possibilities of community interaction, while supporting local retail/ business centres with a higher density of residential development.

Clause 4.3 – Height of Buildings

The proposed modifications result in a minor increase in height of 300mm to satisfy flooding requirements outlined in the development consent. The increase in height is relatively minor in the context of the existing approved height and will not be discernible from the public domain.

Clause 4.4 – Floor Space Ratio

There is no FSR applicable to the Site.

Clause 5.10 – Heritage Conservation

The Site is neither a Heritage Item, nor located within a Heritage Conservation Area. It does however lie adjacent to the Elizabeth Farm Conservation Area, as shown in Figure 4 below.

Clause 5.10(5)(c) provides that a consent authority may consider the potential impact of new development seeking the granting of development consent on Heritage Items and Heritage Conservation Areas. Development consent has already been granted and Council gave due consideration of the proposal on the heritage significance of the adjacent Heritage Conservation Area. External modifications in areas adjacent to the Heritage Conservation Area are relatively minor and include:

- The inclusion of a ground level kiosk-style substation within the setback to Hassall Street.

- A relocated bedroom window to Unit 102 (level 1) from the street frontage to Hassall Street.
- Minor reconfiguration of Unit 601 for improved internal solar access (Level 6).

The proposed amendments do not alter Council's original conclusions to grant consent as they do not have a significant adverse impact on the heritage significance of the Elizabeth Farm Conservation Area, given their minor nature, location and the surrounding commercial context.

FIGURE 4: HERITAGE MAP



Clause 6.1 – Acid sulphate soils

The Site is identified as having Class 4 Acid Sulphate Soils, however the modifications do not cause any change with regards to the conclusions drawn in this respect.

Clause 6.2 – Earthworks

The proposed modifications do not require any additional earthworks and accordingly, there will be no change to this aspect of the approved development.

4.7 DRAFT PLANNING INSTRUMENTS

There are no applicable draft planning instruments currently under preparation that are relevant to the Site or the proposal.

4.8 PLANNING AGREEMENTS

There are no voluntary planning agreements that apply to the proposal.

4.9 NON-STATUTORY PROVISIONS

PARRAMATTA DEVELOPMENT CONTROL PLAN 2011 (PDCP 2011)

The Parramatta Development Control Plan 2011 (PDCP 2011) is the applicable development control plan that relates to the Site. The purpose of the PDCP 2011 is to act as a guiding document, in accordance with Section 3.42 of the EP&A Act, in order to achieve the aims and objectives of any environmental planning instruments applying to the Site and to facilitate development that is permissible in the zone. The PDCP 2011 provides additional guidelines and controls for specific types of development.

Given that the proposal is for modifications to an approved residential flat building on the Site, the application of the PDCP 2011 is limited. In addition, a number of the provisions of the PDCP 2011 are not relevant given that there are ADG controls that override those matters.

The relevant parts of the PDCP 2011 are addressed in Table 2 below, with non-relevant sections omitted.

TABLE 2: PDCP 2011 COMPLIANCE TABLE

REQUIREMENT	PROPOSED	COMPLIES
3.1.3 Primary Building Envelope – B4 zone		
Minimum site frontage 15.m	No change	Yes
Front Setback – 3.0m.	No change – 3.0m to Hassall Street/ 1.5m secondary frontage to Arthur Street for a corner lot	Yes
Side Setbacks	No change	Yes
Rear Setbacks – 15% of site length or merit	No change	Yes
Landscaped area – rear setback to be landscaped for residential development in the B4 zone	No change to rear setback. Minor change to landscaping area from 225.95m ² to 215.09m ² as a result of the required substation.	Yes
3.2.1 Building Form and Massing		
P.1 Buildings are to be of a height that responds to the topography and the shape of the site.	The proposed modifications do not alter the overall shape of the building. The minor increase in height of 300mm will not be discernible from the public domain and will not adversely impact adjoining properties. The proposed	Yes

REQUIREMENT	PROPOSED	COMPLIES
	amendments to the building continue to reinforce the corner location of the subject site.	
P.2 The proportion and massing of buildings is to relate favourably to the form, proportions and massing of existing and proposed buildings patterns in the street.	No change. Aside from the minor height increase, external changes are minimal and do not alter the form, proportions, massing or scale of the building.	Yes
P.3 Building height and mass should not result in unreasonable loss of amenity to adjacent properties, open space or the public domain.	No change	Yes
P.4 The form and massing of buildings is to provide a transition between adjoining land use zones and building types.	No change	Yes
P.5 Building form and massing is to support individual and communal entries.	No change	Yes

REQUIREMENT	PROPOSED	COMPLIES
3.2.2 Building facades and Articulation		
O1. To ensure the appearance of buildings complement and enhance neighbourhood and streetscape character.	The street presence continues to emphasize the corner site location and provide a positive architectural precedent to the locality.	Yes
O2. To encourage contemporary designs which integrate with the appearance of the streetscape.	The proposed modifications continue to demonstrate the transitional development in the B4 zone.	Yes
O3. To provide attractive building facades which establish identity and contribute to the streetscape.	The proposed modifications continue to provide an interesting architectural presence to the street. Darker-coloured and more detailed materials have been used for lower levels to provide a strong base for the development.	Yes
3.2.4 Energy Efficient Design		
BASIX compliance required	BASIX Certificates provided under separate cover.	Yes
3.3.2 Private and Communal Open Space		

REQUIREMENT	PROPOSED	COMPLIES
O1. To ensure that private open space is designed to provide residents with quality usable private outdoor living areas for recreational and outdoor activities.	The modifications ensure all dwellings are provided usable private open space. The communal open space on level 6 continues to serve all the residents.	Yes
O2. To ensure that private open space is designed for privacy, solar access, and is well integrated with living areas.	The proposed modifications ensure that dwellings receive good solar access. Privacy screens have been provided for certain dwellings where appropriate.	Yes
O3. To provide low maintenance communal open space areas for residents that facilitates opportunities for recreational and social activities, passive amenity, landscaping and deep soil planting.	The communal open space remains low maintenance and is well landscaped.	Yes
3.3.3 Visual Privacy		
O1. To ensure that development does not cause unreasonable overlooking of	The design has utilised highlight and minimal window openings in the northern elevation to minimise potential and perceived impacts upon the	Yes

REQUIREMENT	PROPOSED	COMPLIES
habitable rooms and principal private open spaces of dwellings.	development to the north of the site. The configuration of dwellings and private and communal open space areas minimises potential conflicts.	
O2. To ensure that visual privacy is provided both within a development and between a development and its neighbours.	Privacy impacts have been mitigated by amended location of windows and installation of privacy screens.	Yes
O3. To ensure that the siting and design of development minimises the impacts of noise transmission between properties.	Noise transmission between properties is unlikely to be a concern in this instance.	Yes
3.3.4 Acoustic Privacy		
O1. To ensure that the siting and design of buildings minimises noise impacts from abutting busy roads, rail corridors and other noise-generating land uses.	The proposed amendments will not result in adverse acoustic impacts to future residents.	Yes
3.3.5 Solar Access and Cross Ventilation		

REQUIREMENT	PROPOSED	COMPLIES
<p>O1. To provide thermal comfort for occupants.</p> <p>O2. To ensure that development does not unreasonably diminish sunlight to neighbouring properties and within the development site.</p> <p>O3. To ensure that sunlight access is provided to private open space and habitable rooms to improve amenity and energy efficiency.</p> <p>O4. To ensure sufficient volumes to fresh air circulate through buildings to create a comfortable indoor environment and to optimize cross ventilation.</p> <p>O5. To ensure that sunlight access is provided to public open space.</p>	<p>70.4% (45) dwellings receive greater than or equal to 3 hours solar access between 9am and 3pm at mid- winter.</p> <p>66% (42) dwellings are naturally cross-ventilated.</p> <p>Solar access to adjoining properties is not diminished by the proposal.</p>	<p>Yes</p>

3.3.7 Waste Management

REQUIREMENT	PROPOSED	COMPLIES
<p>O.1 To reduce the quantity of waste and encourage the recycling of waste generated by demolition and the construction of new developments.</p> <p>O.2 To encourage building design that will minimise waste generation over the lifetime of the building.</p> <p>O.3 To ensure that the disposal of waste generated by a building's occupants over its lifetime is managed appropriately and efficiently.</p> <p>O.4 To ensure that waste storage facilities are located appropriately and do not impact negatively on the streetscape.</p> <p>O.5 To ensure that waste can be effectively collected and managed.</p>	<p>The proposed amendments will not alter the demolition phase of the development as this has already occurred. Construction impacts in terms of waste management will be minimal, as will the operational aspects of the on-site waste management system.</p>	<p>Yes</p>

REQUIREMENT	PROPOSED	COMPLIES
O.6 To assist in achieving Federal and State Government waste minimisation targets.		
3.6.2 Parking and Vehicular Access		
Required parking: 1 space per 1 or 2 bedroom dwelling 1.2 spaces per 3 bedroom dwelling 0.25 visitor spaces per dwelling	The ADG overrides the DCP controls. Under the ADG, a total of 66 spaces are required. The proposal continues to provide 78 parking spaces (as approved), including 8 accessible parking spaces.	Yes – ADG prevails
Total required 81 spaces		
4.3.2 Harris Park		
View Corridors protect identified views from Elizabeth Farm	The site does not sit within the view corridors to be protected or reinstated that are identified in Appendix 2.1 of the DCP.	N/A
Landscaped area – 30% of the site area	Refer to revised calculations on sheet A0000. The proposed modifications result in a very minor decrease in the landscaped area and deep soil, but offset this by a small increase in the communal open space areas.	Acceptable

REQUIREMENT	PROPOSED	COMPLIES
	<p>The proposal still satisfies the ADG requirements with regards to these controls.</p> <p>The approach to the site has been guided by the flood hazard of the site and the desire to accommodate exiting overland flow paths and flood storage capacity.</p> <p>The design provides uninterrupted deep soil planting across the Hassall Street frontage of the site, except adjacent to the required substation. The setback to the eastern boundary provides for extensive landscape treatment in planters as detailed on the accompanying landscape plan.</p> <p>The size and location of planting has been prepared having regard to the need to minimise impacts upon overland flow paths in flood events.</p>	
Area of National significance	<p>The building is located outside the identified view corridors of National Significance.</p> <p>The scale and form of the modified building is considered to remain acceptable in the context of adjoining development and the lack of amenity impacts to surrounding existing development.</p>	

4.10 FLOODING

The management of flood risk and flood storage and the existing overland flow paths have been a major base consideration in the approach to the development of the site taken. The updated flood impact assessment prepared by Cardno has responded to Council's requirements relative to flood storage and retention of the current patterns of flood behaviour. The result is a concept that accommodates these requirements, and which will facilitate shelter in place in the event of a flood event.

The updated Flood Impact Assessment notes the following amendments have been incorporated into the design changes to facilitate the required flood solution:

- Installation of a flood-proof roller shutter to protect the basement levels from flooding;
- Installation of shutters and/or flood-proof doors on the Ground Floor to protect the basement levels from flooding circumventing the roller shutter on the driveway.;
- A continuous corridor on the Ground Floor – noting the previous layout had a split corridor forming the north and south “halves”;
- Raising of the Level 1 floor level to 9.30 m AHD (ie above the PMF level);
- Flood refuge area on Level 1 (relocated from Level 2);
- Stairwell from Ground Floor to Level 1 refuge.

The report concludes that the assessment and recommendations put forward satisfy the flood planning requirements of the Parramatta DCP 2011.

A separate Flood Emergency Detailed Response Plan (FEDRP) has been prepared to respond to the flood risks at the Site. This report describes:

- Flood behaviour at the site in floods up to a Probable Maximum Flood (PMF),
- A Flood Emergency Detailed Response Plan for the development, including: -
 - a. A Flood Warning System;
 - b. Evacuation strategy, measures, procedures and plan; and
 - c. A FloodSafe Plan.

4.11 OTHER RELEVANT MATTERS

Impacts to the built environment and social environments will be acceptable. The development will provide housing that is consistent with the objectives of the

relevant zone and furthermore, is a development that will benefit the streetscape and desired future character of the area. The proposed modifications do not raise any other matters relevant to the statutory consideration of the Modification Application.

4.12 SUBMISSIONS

The proponent will respond to any submissions received as part of any public notification undertaken by Council regarding the proposed development.

4.13 THE PUBLIC INTEREST

Approval of the proposal is not contrary to the wider public interest as it facilitates the refurbishment of an existing detached dwelling that does not make a positive contribution to the streetscape. The end result of the proposal is that the dwelling will make a significant positive contribution to the character of the local area and overall integrity of the Heritage Conservation Area.

4.14 SUITABILITY OF THE SITE

The report has demonstrated in detail that the Site remains suitable for the modified development. In summary, suitability is achieved given:

- The proposed development is permissible and will be consistent with the relevant Zone objectives.
- The development will respect the existing and desired future character of the immediate locality.
- Likely impacts from the proposal are reasonable.

5 CONCLUSION

The amended scheme has been assessed as being satisfactory with respect to the relevant provisions of Section 4.55 of the EP & A Act, 1979. A comparison of the quantitative and the qualitative differences between the development as originally approved and the amended scheme demonstrates that the amendments will be minor. The amended development will satisfy all of the provisions of Section 4.55 of the Environmental Planning and Assessment Act, 1979. It will perform adequately with respect to the surrounding natural and built environment and maintain an appropriate level of on-site amenity for future residents.

APPENDIX 1: CLAUSE 115 - APPLICATION FOR MODIFICATION OF DEVELOPMENT CONSENT

REQUIREMENT	PROPOSED	COMPLIES
(1) An application for modification of a development consent under section 4.55(1), (1A) or (2) or 4.56(1) of the Act must contain the following information:		
(a) the name and address of the applicant,	Provided on the application form generated by the NSW Planning Portal.	YES
(b) a description of the development to be carried out under the consent (as previously modified),	Provided on the application form generated by the NSW Planning Portal and in Section 1 of this report.	YES
(c) the address, and formal particulars of title, of the land on which the development is to be carried out,	Provided on the application form generated by the NSW Planning Portal.	YES
(d) a description of the proposed modification to the development consent,	Provided on the application form generated by the NSW Planning Portal and in Section 3 of this report.	YES
(e) a statement that indicates either— (i) that the modification is merely intended to correct a minor error, misdescription or miscalculation, or	Refer to Section 4 of this report.	YES

REQUIREMENT	PROPOSED	COMPLIES
<p>(ii) that the modification is intended to have some other effect, as specified in the statement,</p> <p>(f) a description of the expected impacts of the modification,</p>		
<p>(g) an undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved,</p>	<p>The proposal will remain substantially as approved by Council. The proposed amendments do not alter the nature, operation or scale or capacity of the approved development.</p>	YES
<p>(g1) in the case of an application that is accompanied by a biodiversity development assessment report, the reasonable steps taken to obtain the like-for-like biodiversity credits required to be retired under the report to offset the residual impacts on biodiversity values if different biodiversity credits are proposed to be used as offsets in accordance with the variation rules under the <i>Biodiversity Conservation Act 2016</i>,</p>	Not Applicable	N/A
<p>(h) if the applicant is not the owner of the land, a statement that the owner consents to the making</p>	Owner's consent is supplied with the modification application.	YES

REQUIREMENT	PROPOSED	COMPLIES
of the application (except where the application for the consent the subject of the modification was made, or could have been made, without the consent of the owner),		
(i) a statement as to whether the application is being made to the Court (under section 4.55) or to the consent authority (under section 4.56).	Not Applicable	N/A
(1A) An application for modification of development consent must— (a) be in the form that is approved by the Planning Secretary and made available on the NSW planning portal, and	Provided on the application form generated by the NSW Planning Portal.	YES
(b) be accompanied by the information and documents specified in the approved form and information or documents required by the Act or this Regulation	All requisite documents provided to support the application.	YES
(c) be lodged on the NSW planning portal.	Noted. The application will be lodged via the Portal.	YES