

Item 5.**Development Application: 134-136 Botany Road, Alexandria - D/2025/488****File Number: D/2025/488****Summary**

Date of Submission:	11 June 2025
Applicant:	Mackenzie Architects International Pty Ltd
Architect/Designer:	Mackenzie Architects International Pty Ltd
Owner:	Jam Ghosn Pty Ltd, CPM Property Management Pty Ltd and F Mourad Pty Ltd
Planning Consultant:	Sutherland & Associates Planning Pty Ltd
Cost of Works:	\$6,522,293
Zoning:	The site is zoned MU1 Mixed Use and SP2 Infrastructure (Classified Road). The proposed commercial building comprises retail premises on ground floor and office premises above which are permissible within the MU1 Mixed Use Zone. The temporary landscape works are permissible with consent in the SP2 Infrastructure Zone as they are ancillary to or incidental to a future road reserve.
Proposal Summary:	Approval is sought for demolition of the existing building, excavation, and redevelopment for a 6-storey commercial building with one basement level. The commercial development comprises 2 retail premises on ground and 5 office premises above. The application is for Integrated Development, requiring approval from Water NSW under the Water Management Act 2000. General Terms of Approval have been issued by Water NSW. The application is referred to the Local Planning Panel (LPP) for determination as sensitive development for which the developer has offered to enter into a planning agreement. The proposed Voluntary Planning Agreement (VPA) is to deliver community infrastructure at Green Square and

includes the dedication of road widening along Botany Road and footpath widening along Botany Lane.

The draft VPA is required to be publicly exhibited for 28 days in accordance with the requirements of the Environmental Planning and Assessment Act 1979. The VPA is currently on exhibition.

The proposal was notified for a period of 28 days between 13 June 2025 and 12 July 2025. As a result of the notification, 12 submissions were received, of which 9 were in objection, one a comment and 2 in support of the development. Submitters raised concerns in relation to:

- transport and waste related issues
- loss in amenity, overshadowing and visual impacts
- visual impacts to the street resulting from the proposed bulk, scale and inconsistent character
- safety concerns, potential damage to the public domain and adjoining development

Amendments were made during the assessment of this application to better relate to the scale of the surrounding buildings through articulation of the facade and materiality and provide a satisfactory response to the site conditions. Subject to conditions, the proposed development is acceptable and is commensurate with that envisaged by the adopted incentivised planning controls and desired future character of the Botany Road Precinct.

The development application is recommended for deferred commencement approval. A deferred commencement condition requires the Voluntary Planning Agreement to be executed and registered on the title of the land prior to the consent becoming operative.

Summary Recommendation: The development application is recommended for deferred commencement approval.

Development Controls:

- (i) Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2021
- (ii) Water Management Act 2000
- (iii) Sydney Water Act 1994
- (iv) Sydney Airport Referral Act 1994
- (v) Roads Act 1993

- (vi) State Environmental Planning Policy (Resilience and Hazards) 2021
- (vii) State Environmental Planning Policy (Transport and Infrastructure) 2021
- (viii) State Environmental Planning Policy (Sustainable Buildings) 2022
- (ix) Sydney Local Environmental Plan 2012
- (x) Sydney Development Control Plan 2012

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Revised Overshadowing Analysis
- D. Submissions

Recommendation

It is resolved that deferred commencement consent be granted to Development Application No. D/2025/488, subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the recommended conditions of consent, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Local Planning Panel.
- (B) The development is permissible with consent in the MU1 mixed-use zone and is consistent with the objectives of the zone. The temporary works in the SP2 zone are permissible with consent given they are ancillary to or incidental to a future road reserve.
- (C) The proposed development complies with the maximum alternative height of buildings and floor space ratio development standards contained in Clause 6.60B of Sydney Local Environmental Plan 2012.
- (D) The proposed development provides a positive contribution that is suitable in terms of its context, scale and building form which is consistent with the desired future character of the area. The proposed development exhibits design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21C of the Sydney Local Environmental Plan 2012.
- (E) The proposed development has a form, bulk and massing that is commensurate with that envisaged by the adopted planning controls for the Botany Road Precinct. The development is consistent with the objectives and locality statement. The development maintains an acceptable level of amenity to surrounding developments as discussed in the report, subject to conditions.
- (F) The proposal is consistent with the relevant objectives and controls of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 1 DP 75051, known as 134-138 Botany Road, Alexandria. It is irregular in shape with area of approximately 586.5sqm. The site is located at the intersection of Botany Road and Buckland Street. It has a primary street frontage to Botany Road, northern frontage to Buckland Street and western frontage to Botany Lane. The site has a relatively flat topography with a slight fall from south-west to north-east.
2. The site contains a 2-storey commercial development with a hardstand area for car parking at the rear. Existing vehicular access to the site is provided via Buckland Street. Several street trees surround the site along Buckland and Botany Road.
3. The surrounding area is characterised by a mixture of land uses, primarily being mixed use development along Botany Road and 2-storey residential terraces fronting Buckland and Wyndham Streets. Alexandria Park is located approximately 62m west of the site.
4. The site is not identified as a heritage item, nor located within a heritage conservation area. It is however located within the vicinity of a few surrounding local heritage items, including the 'Cauliflower Hotel' at 123 Botany Road (Item No. I2070), the 'Congregational Church' at 103-105 Botany Road (Item No. I2069), 'Terrace Group' at 122-136 Wellington Street (Item No. I2296) and Alexandria Park (Item No. I11). Developments to the west of Wyndham Street are located within the Alexandria Park (C1) heritage conservation area.
5. The subject allotment is situated within the Alexandra Canal floodplain and is identified as being flood affected in 1% Annual Exceedance Probability along Botany Road and Buckland Streets.
6. The site is located within the Botany Road special character area and has a high level of accessibility. This precinct is undergoing significant change to serve as an economic connector between the surrounding higher order centres, including Central Sydney to the north and Green Square to the south. The desired transitioning character and growth of the area is afforded by the new Waterloo Metro Station approximately 350m to the north-east of the site. There is a bus stop located immediately south of the site, which provides services to Green Square, Mascot and Redfern. The site is also connected to an extensive cycleway network, with Buckland Street providing an off-road shared path along the site, which provides a connection through to central Sydney.
7. Site visits were carried out on 26 June and 25 September 2025. Photos of the site and surrounds are provided below.

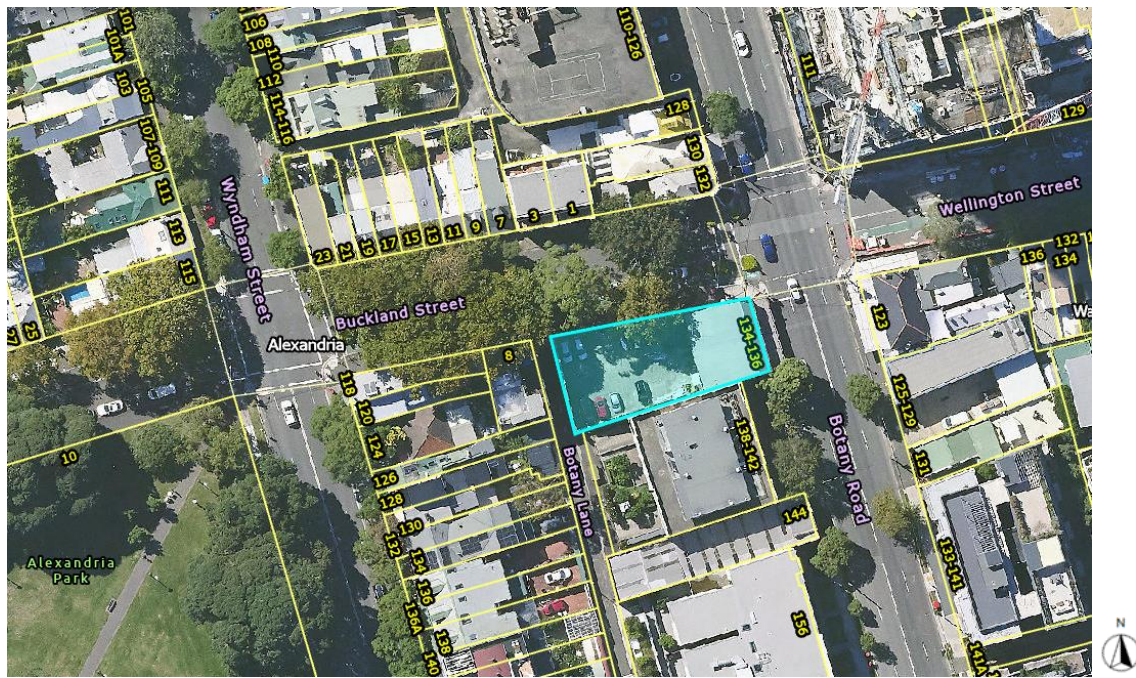


Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Botany Road facing west



Figure 3: Site viewed from Buckland Street facing south



Figure 4: Site viewed from Botany Lane



Figure 5: Site rear viewed from Botany Lane



Figure 6: Existing car parking area of the site showing interface with the southern adjoining property at No. 138-142 Botany Road



Figure 7: Surrounding developments to the north-east of the site, Waterloo over station development (left) and the Cauliflower hotel (right)



Figure 8: Southern adjoining mixed-use development at No. 138-142 Botany Road



Figure 9: Surrounding developments to the north of the site (Nos. 110-126, 128, 130 and 132 Botany Road)



Figure 10: Existing properties to the west of the site fronting Botany Lane (Nos. 8 Buckland Street, 126 and 128 Wyndham Street)



Figure 11: Rear garage structures of existing dwellings fronting Wyndham Street



Figure 12: Rear facade of the southern adjoining mixed-use development at No. 138-142 Botany Road

History Relevant to the Development Application

Development Applications

8. The following applications are relevant to the current proposal:

- **D/2015/1129**

Deferred commencement consent was granted on 21 March 2016 for the demolition of existing structures and construction of a 4-storey mixed-use building comprising 13 residential apartments, 1 retail/ commercial tenancy, basement car parking, and associated landscape works.

The deferred commencement conditions were satisfied on 5 March 2019 and was subsequently modified number of times. The consent lapsed on 5 March 2024.



Figure 13: Photomontage of D/2015/1129

- **Botany Road Precinct**

A draft planning proposal was prepared by the City to amend the Sydney LEP and DCP to promote the revitalisation of the Botany Road Precinct. The new Waterloo Metro Station, located at the centre of the precinct, provided a catalyst for the area's transition to serve as an economic connector between higher order centres, including Central Sydney to the north and Green Square to the south. The objectives of the controls seek to renew the precinct and incentivise the growth of business floor space and affordable housing where it does not conflict with or restrict the delivery of commercial and non-residential uses. The new controls came into effect on 11 November 2022.

- **D/2023/721**

A Development Application was lodged on 14 August 2023 for a similar proposal to the subject application. The proposed development at that time comprised demolition of existing structures and construction of a 6-storey commercial development with basement carparking and a rooftop communal open space.

Numerous design issues were identified during the assessment of the application in relation to the proposed building form, building height, street frontage interface, lack of deep soil provision, parking, and waste arrangements. Given the quantum of design issues, the application was referred to the City's Design Advisory Panel (DAP). The DAP considered the proposal lacked design quality and recommended the development be redesigned with a clear architectural intent.

The application was subsequently withdrawn on 9 November 2023.



Figure 14: Photomontage of D/2023/721

- **PDA/2024/196**

A pre-Development Application (pre-DA) request was received on 20 September 2024 for the subject commercial development. The pre-DA sought feedback on the revised building form, height, layout, vehicular access strategy, and deep soil provision to address concerns that were raised during D/2023/721.

On 20 October 2024, written feedback was provided on the scheme. Council officers considered that the overall revised design had been refined to a more presentable building form. To this end, minor additional design amendments were raised in the pre-DA advice, as summarised below:

- Building Design
 - include passive shading devices to manage solar heat gain
 - reconsideration of the extent of the roof terrace to minimise overlooking impacts to the surrounding residential developments to the west and south

- refine the design to respond to the surrounding building typologies through articulation of façade openings, shopfronts, and use of a rich textural materiality
- engage and consult with an Indigenous consultant throughout the design development stage to advise on the approach to Connecting with Country that is appropriate for the site
- Deep soil and on-structure planting
 - provision of a minimum 2.5m setback for the basement to the base of the existing street tree on Buckland Street
 - include a consolidated minimum deep soil area of 10% within the boundary of the site
 - provision of 30% of the available rooftop space (not occupied by structures/ plant) as a green roof
- Transport, Access and Waste Management
 - waste storage, collection and loading to be contained wholly within the site
 - include visitor bicycle parking at street level in close proximity to the retail use

The above-mentioned key issues that were raised at the time of the Pre-DA have been addressed.



Figure 15: Photomontage of pre-DA scheme PDA/2024/196

Amendments

9. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant to seek:

- (a) design amendments in relation to the building façade and materiality to reference the existing 2-3 storey scale of surrounding developments, Cauliflower Hotel local heritage item and podium height of the Waterloo Metro OSD
 - (b) consideration of providing a setback to the upper levels of the building to mitigate overshadowing impacts to the adjoining properties
 - (c) revised shadow analysis to rectify discrepancies
 - (d) amendments to address traffic, access, and waste requirements to facilitate servicing and loading within the proposed basement level
 - (e) environmental studies including detailed site investigation, remediation action plan, and interim audit advice letter
 - (f) further information on the design of the proposed green roof and deep soil area
 - (g) revised flood report and associated changes to meet the required flood planning levels
 - (h) removal of encroachments into the public domain and amendments
 - (i) arborist report to assess potential impacts on the existing Buckland Street tree
10. The applicant responded to the above requests through submission of the following information and amendments:
- (a) preliminary alternative design showing the proposed overshadowing impacts resulting from a stepped building form
 - (b) revised shadow analysis including a comparison of impacts between the original envelope and alternative design
 - (c) amendments to the façade to incorporate a shadow line recess and subtle changes to the brick colour and materiality of the development
 - (d) amendments to the basement level removing encroachments under the SP2 zone. Revisions were also made to ensure louvres do not encroach into the airspace of the SP2 zone
 - (e) design amendments to raise the floor levels of the building to comply with the required flood planning levels
 - (f) updated Waste Management Plan and a revised Traffic Report including swept path analysis and scape assessment for the proposed vehicular ramp
 - (g) detailed Site Investigation, Remediation Action Plan, and Interim Audit Advice Letter
 - (h) revised Landscape Plan and an Arborist Report
11. The assessment provided in this report is based on the amended application received on 5 November 2025 and the additional information received on 8 and 26 September and 27 October 2025, outlined above.

Proposed Development

12. The application seeks consent for the following:
 - (a) demolition of the existing building and all on-site structures
 - (b) site remediation and excavation to a depth of approximately 4.9m (RL 13.55)
 - (c) construction of a 6-storey commercial building with a maximum height of 23.8m (RL 39.4) with one (1) basement level accessed via Botany Lane
 - (d) two (2) retail premises on ground level and five (5) commercial offices above
13. Voluntary Planning Agreement (VPA/2025/8)
 - (a) The proposed development includes a letter of offer to enter into a Planning Agreement to deliver community infrastructure at Green Square. The VPA seeks to dedicate the following land to the City:
 - (i) Botany Road (78.4sqm) along the eastern frontage of the site
 - (ii) Botany Lane (27.1sqm) along the western frontage of the site
14. The fit-out and specific use of the ground floor retail tenancies and commercial premises is not sought and will be subject of separate application(s). The proposal does not include any signage.
15. Selected plans and elevations of the proposed development are provided below. Additional drawings are included in Attachment B.



Figure 16: Proposed Photomontage

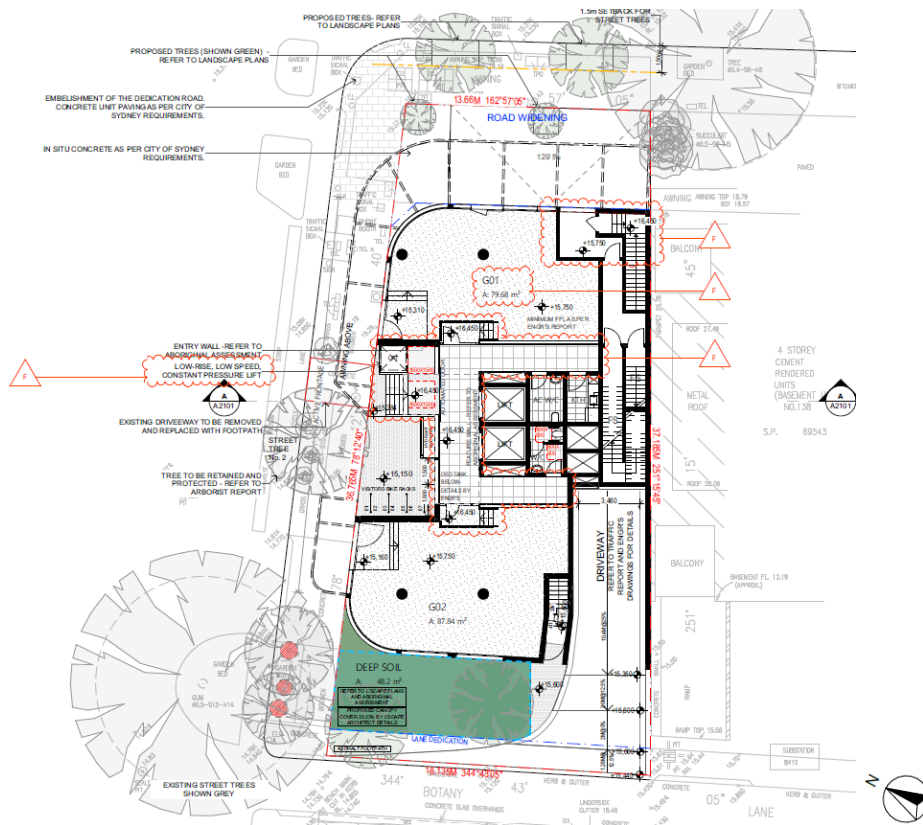


Figure 17: Proposed Ground Floor Plan

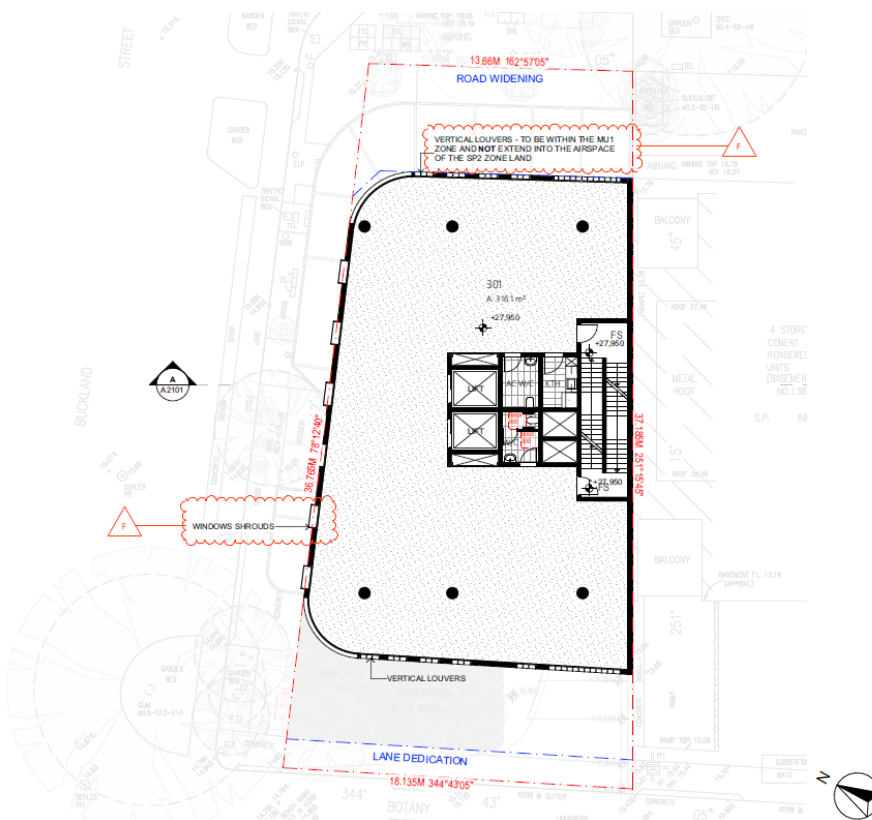


Figure 18: Typical floor plan (Level 3 shown)

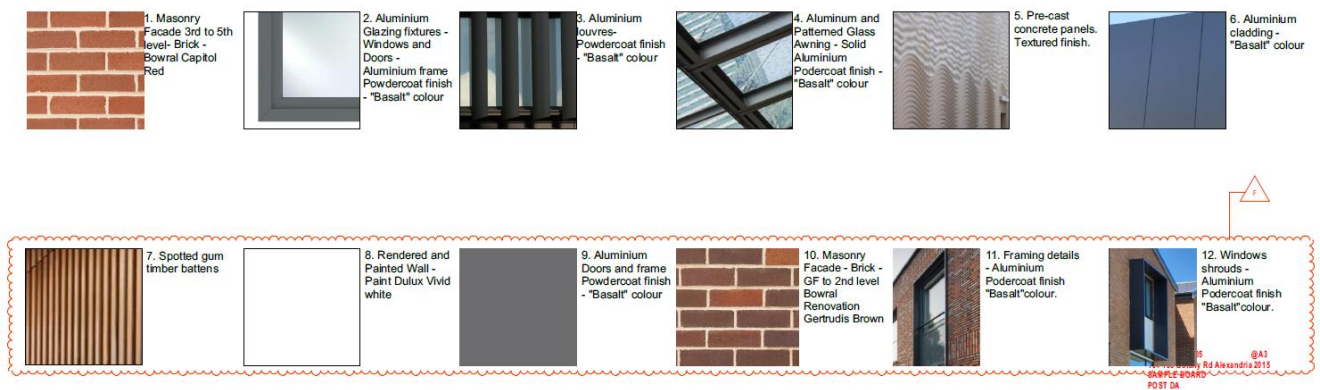


Figure 19: External Materials and Finishes

Assessment

16. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Water Management Act 2000

17. In accordance with Section 4.47 of the Environmental Planning and Assessment Act 1979, the application was forwarded to Water NSW as Integrated Development, as the proposed basement levels will have an impact on groundwater levels. A dewatering activity requires a Water Supply Work approval under the Water Management Act 2000.
18. The proposal seeks to excavate to a depth of approximately 4.9m below ground surface to allow for a tanked basement. Groundwater is expected to be encountered at a depth of between 3.83m and 4.1m (RL 11.57m and RL 11.26 AHD) below ground level.
19. Water NSW provided General Terms of Approval on 29 August 2025, which have been included at Attachment A to this report.

Airports Act 1996

20. Section 182 of the Commonwealth Airports Act 1996 stipulates that constructing a building, or other structure that intrudes into the prescribed airspace, is a controlled activity. The proposal seeks approval to erect a development with a maximum building height of 40m Australian Height Datum (AHD).
21. Section 183 of the Commonwealth Airports Act 1996 specifies that controlled activities may not be carried out in relation to prescribed airspace unless an approval has been granted. The relevant approval body is the Civil Aviation Safety Authority (CASA).
22. The location lies within an area defined in the Schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24m AHD without approval of the CASA.

23. The proposal exceeds the 15.24m height limit, and approval from CASA, to carry out controlled activities in prescribed airspace, has been provided.

Roads Act 1993

24. Section 26 of the Roads Act 1993 applies to the site as the SP2 portion of land is subject to a road widening order. Under Section 26(3) of the Roads Act 1993 states that a consent may not be given with respect to a classified road except with the concurrence of Transport for New South Wales (TfNSW).
25. The proposal includes landscaping, tree planting and associated public domain works within the SP2 portion of land/ land affected by the road widening order (RWO). Accordingly, the application was referred to TfNSW for concurrence.
26. The proposal includes temporary landscaping and 4 new trees within the SP2 land until such time the road is acquired by TfNSW. The new trees include 2 *Lophostemon confertus* (Brush box) and 2 *Elaeocarpus reticulatus* (Blueberry Ash) trees. Brush Box trees are identified as large canopy trees, while Blueberry Ash trees are noted as a small canopy species under the City of Sydney Tree Species List. TfNSW raised initial concerns on the proposed Brush Box trees as these species may grow to a substantial size and hinder a future road project.
27. Under the City's Street Tree Masterplan, Brush Box and Southern Hackberry trees (both identified as large canopy trees) are selected as the appropriate species to be delivered along Botany Road. Following discussions with TfNSW and Council's Tree Management Unit, it was identified that due to the presence of an existing Brush Box tree within the site proximity, only one additional large tree would be required. Should road widening works proceed, TfNSW was advised that Council would collaborate with TfNSW to ensure a positive outcome on the road widening design and canopy cover within the locality.
28. Concurrence was granted by TfNSW on 29 October 2025, subject to the recommended conditions included at Attachment A to this report.

State Environmental Planning Policies

State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4

Remediation of Land

29. The site has a history of industrial uses and potential land contaminating activities including furniture manufacturing and commercial site uses. Site investigations have identified the following potential contamination sources and associated contaminants of potential concern as present on the site:
- (a) chemicals for furniture manufacturing - chlorinated hydrocarbons, Per-and Polyfluoroalkyls Substances (PFAs) and Polybrominated diphenyl ethers (PBDE)
 - (b) uncontrolled filling and demolition - metals, asbestos, polychlorinated biphenyl, petroleum hydrocarbons and polycyclic aromatic hydrocarbons
 - (c) hazardous materials and pesticides (for termite treatment) on existing and former structures on site

30. A Remediation Action Plan (RAP) relating to the site, accompanied by a letter of interim advice has been submitted with the development application.
31. The RAP proposes to remove and dispose excavated fill for the basement off-site and require a supplementary contamination assessment (SCA) to determine if the fill to be retained in areas outside of the basement footprint requires remediation. The SCA will involve a visual inspection of the site surface by an environmental consultant to confirm absence of asbestos containing material and any potential contamination sources. The interim advice confirms the above approach is appropriate.
32. The Council's Health Unit has reviewed the information provided and has recommended conditions of consent to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.
33. The Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

State Environmental Planning Policy (Sustainable Buildings) 2022

34. The aims of this Policy are as follows—
 - (a) to encourage the design and delivery of sustainable buildings,
 - (b) to ensure consistent assessment of the sustainability of buildings,
 - (c) to record accurate data about the sustainability of buildings, to enable improvements to be monitored,
 - (d) to monitor the embodied emissions of materials used in construction of buildings,
 - (e) to minimise the consumption of energy,
 - (f) to reduce greenhouse gas emissions,
 - (g) to minimise the consumption of mains-supplied potable water,
 - (h) to ensure good thermal performance of buildings.

Chapter 3 Standards for non-residential development

35. Chapter 3 of the SEPP applies to development, other than development for the purposes of residential accommodation, that involves:
 - (a) the erection of a new building, if the development has an estimated development cost of \$5 million or more, or
 - (b) alterations, enlargement or extension of an existing building, if the development has an estimated development cost of \$10 million or more.

Section 3.2 Development Consent for non-residential development

36. Section 3.2 Development consent for non-residential development provides that:
 - (1) In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—

- (a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials
 - (b) a reduction in peak demand for electricity, including through the use of energy efficient technology
 - (c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design
 - (d) the generation and storage of renewable energy
 - (e) the metering and monitoring of energy consumption
 - (f) the minimisation of the consumption of potable water
- (2) Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.
37. With regard to the above matters, the applicant has submitted a City of Sydney Design for Environmental Performance report template to address the above. The template identifies design and technology responses for environmental performance that the applicant proposes to be incorporated in the development. This includes:
- (a) 5.5 Star NABERS Office Energy Commitment Agreement (base building)
 - (b) electric heat pump with high Coefficient of Performance (CoP)
 - (c) below ground OSD tank to capture and store rainwater to reduce for outdoor irrigation purposes
 - (d) low water usage water fixtures and fittings
 - (e) on site renewable energy generation (Photovoltaic Cells on the rooftop) and storage technologies
38. With regard to section (2) above the applicant has adequately quantified the embodied emissions attributable to the development. Section 35B of the Environmental Planning and Assessment Regulation determines the form in which embodied emissions are to be quantified. The embodied emissions attributable to the development have been appropriately quantified using the NABERS embodied energy form published on the NSW Planning Portal and certified by an appropriately qualified person as required by the regulations.

Section 3.3 Other Considerations for Large Commercial Development

39. Section 3.3 Other considerations for large commercial development applies to development defined as prescribed office premises, prescribed service apartments and prescribed hotel or motel accommodation.
40. The proposal includes a prescribed office premises, which is defined as an office premises with a net lettable area of at least 1,000sqm.

41. Section 3.3 provides that:
- (1) In deciding whether to grant development consent to large commercial development, the consent authority must consider whether the development minimises the use of on-site fossil fuels, as part of the goal of achieving net zero emissions in New South Wales by 2050.
 - (2) Development consent must not be granted to large commercial development unless the consent authority is satisfied the development is capable of achieving the standards for energy and water use specified in Schedule 3.
 - (3) For the purposes of subsection (2), development is capable of achieving a standard specified in Schedule 3 if there is a NABERS commitment agreement in place to achieve the standard.
42. The above, to the extent it relates to energy use, does not apply to large commercial development, except serviced apartments, on land to which the following local environmental plans apply—
- (a) Sydney Local Environmental Plan 2012
 - (b) Sydney Local Environmental Plan (Green Square Town Centre) 2013
 - (c) Sydney Local Environmental Plan (Green Square Town Centre—Stage 2) 2013
43. The proposed development is subject to (a) Sydney Local Environmental Plan 2012 and is for a prescribed office premises. The proposal seeks to achieve a 5.5 Star NABERS Energy rating. The standard for water usage for large commercial development is a 3 Star NABERS water rating pursuant to Schedule 3 of the SEPP. Refer to further energy use provisions in the LEP compliance table below.
44. Conditions of consent are recommended to ensure that the development achieves the required energy and water use standards.

State Environmental Planning Policy (Transport and Infrastructure) 2021

45. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network

Clause 2.48 Determination of development applications – other development

46. The application is subject to Clause 2.48 of the SEPP as it involves excavation nearby existing Ausgrid infrastructure.
47. As such, the application was referred to Ausgrid for a period of 21 days. A response was received on 26 June 2025, which raised no objection, subject to recommended conditions of consent.

Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors**Clause 2.98 – Development adjacent to rail corridors**

48. The application is adjacent to the Sydney Metro West rail corridor and was subsequently referred to Transport for NSW (TfNSW) for comment. TfNSW raised no objections.

Clause 2.99 – Excavation in, above, below or adjacent to rail corridors

49. The application is adjacent to the Sydney Metro West rail corridor and was subsequently referred to Transport for NSW (TfNSW) for comment. TfNSW raised no objections.

Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations**Clause 2.118 – Development on proposed classified road**

50. Clause 2.118 stipulates that development for any of the following purposes on land reserved for the purposes of a classified road (but before the land is declared to be a classified road) may be granted only with the concurrence of TfNSW:
- (a) subdivision that results in the creation of an additional lot with dwelling entitlements
 - (b) development with an estimated development cost greater than \$185,000
 - (c) development for the purposes of dwellings that area, or any other building that is, to be held under strata title
51. The proposal was referred to TfNSW for concurrence in accordance with the SEPP. A request for additional information was received from TfNSW to seek confirmation on the estimated cost of works associated with the awning, noting that concurrence from TfNSW is not required for this application if the estimated cost is less than \$185,000.
52. The applicant provided confirmation that the estimated development cost of the proposed works within the SP2 Classified Zone/ Road Widening Order is \$103,820 including GST. A revised Cost Estimate Report dated 24 October 2025 prepared by OPC & C was provided to this effect.
53. Clause 2.118 therefore not applicable to the development and concurrence under this provision is not required from TfNSW.

Clause 2.119 – Development with frontage to classified road

54. The application is subject to Clause 2.119 of the SEPP as the site has frontage to Botany Road which is a classified road.
55. The proposed development satisfies the provisions of Clause 2.119 subject to conditions of consent, as access to the site is not provided from the classified road and the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development, subject to the recommended conditions of consent.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non-Rural Areas) 2017

56. The proposal does not seek the removal of any trees, as such this SEPP does not apply.

Local Environmental Plans

Sydney Local Environmental Plan 2012

57. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The majority of the site is zoned MU1 Mixed Use. The proposed development is defined as commercial development and is permissible with consent in the MU1 zone. The proposal is consistent with the objectives of the MU1 Zone as it provides a diversity of business, retail and office uses which will stimulate economic activity and generate job opportunities in the locality. The eastern portion of the site at the Botany Road Street boundary (78.4sqm) is zoned SP2 Infrastructure (Classified Road). Apart from the pedestrian awning, no physical works are proposed within the SP2 Infrastructure Zone. Temporary landscaping and new plants including canopy trees are to be provided within the SP2 zone, in the interim until such time the road is acquired. Temporary landscaping works are compatible with the future provision of infrastructure. The new trees will not impede on future road widening works and can be removed as required. Refer to further details under Clause 5.3 of Sydney LEP 2012.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings 6.60B Botany Road Precinct Opportunity Land	Yes	A maximum building height of 15m is permitted pursuant to Clause 4.3. An alternative maximum height of 29m applies to the site under Clause 6.60B as it is identified as Botany Road Precinct Opportunity Land. The proposal seeks a maximum height of 23.8m, which complies with the maximum height of buildings development standard.
4.4 Floor space ratio 6.13 End of journey floor space 6.14 Community infrastructure floor space at Green Square 6.60B Botany Road Precinct Opportunity Land	Yes	Clause 4.4 stipulates a base floor space ratio (FSR) of 1.1:1 for the site. The site is located within 'Area 6' within the floor space ratio map, pursuant to Clause 6.14 of Sydney LEP 2012 an additional quantum of floor space equating to 0.5:1 can be awarded, subject to the provision of community infrastructure within the Green Square locality. The proposed works associated with the Voluntary Planning Agreement (VPA) involving the dedication of land for public roads is considered to provide appropriate community infrastructure within Green Square (refer to details under Clause 6.14 below). In addition, Clause 6.60B permits an alternative base FSR of 3.25:1 for employment sites. Clause 6.60B(5) notes that in calculating the FSR for the building, the land identified as Classified Road (SP2) is not included in the site area. The proposal also includes the provision of end of journey facilities and is therefore eligible for an amount of additional floor space equal to the floor space occupied by those facilities (being 7.84sqm, FSR 0.01:1). Considering all the relevant FSR provisions contained within the Sydney LEP 2012, the maximum FSR for the site is FSR 3.76:1 equating to a Gross Floor Area (GFA) of 1,913.215sqm.

Provision	Compliance	Comment
		The proposal seeks a FSR of 3.73:1, GFA of 1,895.01sqm.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.1 and 5.1A Development on land intended to be acquired for public purposes	Partial compliance	The eastern portion of the site along Botany Road is identified for acquisition by Transport for NSW. The proposal dedicates this area for road widening, which meets the requirements of Clause 5.1A. The proposal relies upon Clause 5.3 of Sydney LEP 2012 for the provision of the pedestrian awning.
5.3 Development near zone boundaries	Yes	The objective of Clause 5.3 is to provide flexibility where a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone. Subclause (2) states the relevant distance of a boundary between any 2 zones of Zone SP2 Infrastructure is 6m. The proposed pedestrian awning projects into the airspace of the SP2 zone and has been designed to be easily removed in the event the SP2 land is acquired by TfNSW. The awning has a width of 3.6m. The pedestrian awning is consistent with the zone objectives of the MU1 zone, and given its removal design, also meets the objectives of the SP2 zone, which are to: • provide for infrastructure and related uses • prevent development that is not compatible with or that may detract from the provision of infrastructure. The awning does not prevent infrastructure related uses and does not detract from the provision of infrastructure. Conditions are recommended to require the awning to

Provision	Compliance	Comment
		be removed in the event the land is required by TfNSW.
5.10 Heritage conservation	Yes	The site is not identified as a heritage item nor is it within a heritage conservation area. The site is located opposite the Cauliflower Hotel, which is a local heritage item (I2070). The proposed development, as amended, will not have detrimental impact on the heritage significance of the heritage item.
5.21 Flood planning	Yes	The site is identified as being affected by flooding within the Alexandra Canal catchment. The proposal, as amended, complies with the City's Interim Floodplain Management Policy which requires minimum flood planning levels of: • 16.45m AHD for all possible ingress points to the basement (PMF). • RL 15.75m AHD for retail tenancies (1% AEP). • RL 15.60m AHD for the basement entry crest from Buckland Street. The submitted revised Site-Specific Flood Risk Management Report prepared by SGC confirms that the proposed development does not impact the existing 1% AEP flood behaviour within the vicinity of the site. The proposal has been reviewed by the City's Public Domain Unit and is acceptable in relation to flood behaviour, safe occupation and evacuation, risk to life and impact on the environment, subject to recommended conditions in Attachment A.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 2 Additional floor space outside Central Sydney		
6.13 End of journey floor space	Yes	As outlined above, the proposed development is eligible for an amount of additional floor space equal to the floor space occupied by those facilities (being 7.84sqm, FSR 0.01:1).
6.14 Community floor space	Yes	The proposed development is eligible for an additional floor space ratio of 0.5:1, subject to the provision of community infrastructure within the Green Square locality. Green Square community infrastructure is defined under the Clause 6.14 of Sydney LEP 2012 as development in Green Square for the purposes of recreation areas, recreation facilities (indoor or outdoor), public roads, drainage or flood mitigation works. The proposal achieves consistency with Clause 6.14 through the proposed second VPA, which involves the following dedication of land: - road widening along Botany Road (width of 5.541m equating to an area of 78.4sqm) - footpath widening along Botany Lane (width of 1.507m equating to an area of 27.1sqm) - embellishment works and landscaping The above proposed Green Square community infrastructure is considered commensurate with the intensity of development and contributes towards infrastructure for the desired character of the locality. The Green Square community infrastructure is necessary at Green Square, having regard to the area which is currently undergoing significant change. The proposed dedication of land for public roads will improve pedestrian amenity and will support the desired growth in the precinct. The

Provision	Compliance	Comment
		proposal achieves the objectives of Clause 6.14. The draft VPA is required to be publicly exhibited for 28 days in accordance with the requirements of the Environmental Planning and Assessment Act 1979. The VPA is currently on exhibition.
Division 4 Design excellence		
6.21 Objective 6.21B Application of Division 6.21C Design excellence	Yes	The proposed development is of a high standard and uses materials and detailing which are compatible with the existing development along the street and will contribute positively to the character of the Botany Road Precinct. The proposed form, scale, height and massing responds to the incentivised alternative height and floor space ratio controls for the transitioning locality for development delivering employment generating uses. Active street frontages are proposed at ground with pedestrian awnings contributing to the amenity of the public domain. The proposed development has been amended to reference the 3-storey street wall and 2-3 storey scale of the surrounding buildings through the introduction of a shadow line and subtle change in brick colour. The southern elevation will be constructed in textured pre-cast concrete panels to moderate the visual impact of the building when approaching the from the south along Botany Road. Such detail will ensure the blank side walls visible above the adjacent mixed-use building has a visually interesting treatment of high-quality design and materiality and is of low maintenance. The proposal includes a green roof and maximises provision of deep soil.

Provision	Compliance	Comment
		The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The proposed materials and finishes are supported by Council's Urban Designer, subject to the provision of physical samples, actual specification of materials and external glazing. Conditions are also recommended to require further 1:10 details on the proposed window shrouds and fixed louvres. Subject to conditions, the development therefore achieves design excellence.
6.21D Competitive design process	Not applicable	A competitive design process under Clause 6.21D is not required to be undertaken as the development does not exceed a height of 25m, does not have a capital value of more than \$100,000,000, and a development control plan is not required to be prepared under Clause 7.20 of Sydney LEP 2012. Furthermore, it is noted that Clause 6.21D (3)(a) does not apply to building for which development consent is granted under Clause 6.60B(8).
Division 5 Site specific provisions		
6.60B Botany Road Precinct Opportunity Land	Yes	Clause 6.60B of the Sydney LEP 2012 provides incentives for development within the Botany Road Precinct Opportunity Land. In accordance with subclause (3), the proposal may exceed the maximum height control under Clause 4.3 if the building is used for non-residential purposes, provided it does not exceed the alternative permissible height control of 29m.

Provision	Compliance	Comment
		Similarly, subclause (4) stipulates a maximum alternative FSR of 3.25:1 for employment sites. As discussed above, the proposal complies with both the alternative permissible height and FSR controls. Subclause (6) stipulates that subclause (3) and (4) does not apply unless the consent authority is satisfied that the development provides appropriate public access and laneways. The proposal includes a public benefit offer, involving land dedication for public access and laneways (VPA/2025/8). Subclause (7) only applies to residential development involving the provision of affordable housing and therefore does not apply to the development.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.6 Office premises and business premises 7.7 Retail premises	Yes	A maximum of 14 car parking spaces is permitted for the proposed office and retail use (break down of 9 for office/business premises and 5 spaces for retail premises). The proposed development includes a total of 5 car parking spaces and complies with the relevant development standards.
Division 3 Affordable housing		
7.13 Contribution for the purpose of affordable housing	Yes	The site is within the 'Green Square' locality and involves the erection of a new building with a gross floor area of more than 200 square metres. In accordance with Clause 7.13(2A)(b)), an affordable housing levy contribution levy of 1% of the total floor area of the

Provision	Compliance	Comment
		development applies. A condition of consent is recommended to reflect this.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils and is located within 500m from adjacent Class 3 Acid Sulfate Soils. A desktop analysis was undertaken in the accompanying Geotechnical report prepared by Alliance. The report concludes that the preparation of an Acid Sulfate Soils Management Plan is not required as the site is located in an area with no mapped ASS risk under eSPADE version 2.2 published by the State Government NSW and NSW Department of Planning, Industry and Environment (2025).
7.16 Airspace operations	Yes	The proposed development will penetrate the prescribed airspace of 15.24m AHD for Sydney Airport. The concurrence of Sydney Airport Corporation, as a proxy for the Civil Aviation Safety Authority, has been received subject to conditions of consent.
7.23 Large retail development outside of Green Square Town Centre and other planned centres	Not applicable	The proposal does not include a shop greater than 1,000sqm.
7.33 Sustainability requirements for certain large commercial development	Partial compliance	The development, subject to conditions, is able to satisfy the requirements of the sustainability requirements for large commercial development. Refer to SEPP (Sustainable Buildings) and discussion section below.

Development Control Plans

Sydney Development Control Plan 2012

58. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

59. The site is located within the Botany Road locality. The proposed development is in keeping with the unique character and the design principles of the Botany Road Precinct pursuant to Section 2.13.13 of Sydney DCP 2012, in that it will:
- (a) Showcase 'Connecting to Country' approaches in line with the framework published by the Government Architect NSW (refer to discussion under Clause 5.10.5 of Sydney DCP 2012 below).
 - (b) Delivers a new commercial building on a prominent corner within the locality which responds to the needs of the growing Redfern and Waterloo area with floor space for jobs and services.
 - (c) Contributes to the main street character and activates the key intersection of Botany Road and Buckland Street through the provision of ground floor retail premises.
 - (d) Prioritises pedestrian movement on Botany Road through land dedication for road widening purposes and landscape embellishment works.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements 3.1.1 Streets, lanes and footpaths	Yes	The proposal includes a public benefit offer to dedicate land along Botany Road and Buckland Street. Refer to further discussion under Section 5.10.3.1 of Sydney DCP 2012 below.
3.1.5 Public Art	Not applicable	The proposal is not subject to a Planning Proposal or a Stage 1 concept development application.
3.2. Defining the Public Domain 3.2.1.1 Sunlight to publicly accessible spaces 3.2.1.2 Public views	Yes	The proposal has been designed to contribute towards the activity, safety, amenity and quality of Botany Road and Buckland Streets. The proposal provides legible entries to the commercial offices from Buckland Street and active retail uses on ground floor. The dedication of land for road widening along Botany Road will improve the building street alignment, enhance

Provision	Compliance	Comment
		pedestrian amenity and continuity of the streetscape. The proposal does not result in any additional overshadowing impacts to Alexandria Park. The development does not impede on any views to highly utilised public places, parks, heritage buildings, monuments or public art.
3.2.3 Active frontages	Yes	The site's Botany Road and eastern third of Buckland Street frontages are nominated as Category 1 active frontages. In accordance with this provision, over 80% of the Botany Road and the Buckland Street frontage is provided as an active frontage. The retail tenancies on the ground floor will comprise transparent glazing with a predominately unobstructed view from the adjacent footpath to contribute to the liveliness and vitality of Botany Road and Buckland Street.
3.2.4 Awnings	Yes	The proposal includes a continuous awning along the Botany Road and Buckland Street frontages. The awnings seek to provide weather protection for pedestrians. The awning above the Botany Road frontage is removable to facilitate future road widening. Along Buckland Street, a separated awning is provided to minimise conflicts with the existing street tree canopy, as such does not extend above the entry to the commercial lobby. The proposed awning is generally consistent with the design requirements of Section 3.2.4, in terms of height (varied height of 3.2m to 3.6m measured from natural ground to the underside of the awning), width (2m along Buckland Street and 3.6m along Botany Road), and wraps around the corner of Botany Road and Buckland Street. Conditions are recommended to require 1:50 detailed drawings to ensure the

Provision	Compliance	Comment
		provision of high-quality awnings including the material finish, concealed gutters/ downpipes, design and integration with the façade.
3.2.7 Reflectivity	Yes	A condition is recommended to ensure the light reflectivity from the building façade materials does not exceed 20%.
3.2.8 External lighting	Yes	A condition is recommended to require a separate development application to seek any external lighting.
3.4 Hierarchy of Centres, City South	Yes	The proposal will facilitate minor retail development and will not adversely impact the viability or economic role of the planned centres. The proposed retail tenancies will achieve a positive net community benefit, providing convenient shopping opportunities within walking distance of homes and workplaces.
3.5 Urban Ecology	Yes	The application does not involve the removal of any trees and will not have an adverse impact on the local urban ecology. The proposal includes deep soil and landscaping on the ground plane, as well as a non-accessible green roof which contributes towards the biodiversity of the site. Refer to discussion under Section 4.2.3.5 of Sydney DCP 2012 below.
3.6 Ecologically Sustainable Development 3.6.1 Energy efficiency in non-residential developments	Yes	The proposal, as revised, has been designed to reduce the need for active heating and cooling in accordance with Section 3.6.1(1) of Sydney DCP 2012. A Section J Assessment Report and Design for Environmental Performance Report (DEP Report) prepared by Efficient Living Sustainable Building Consultants accompanies the application. The proposal meets the requirements of Section J of the BCA. The proposed development incorporates passive design measures through the provision of fixed shading louvres on the east and west façades, and deep shrouds to shade the north facing

Provision	Compliance	Comment
		windows. The development seeks to improve biodiversity through the provision of the green roof and includes on-site renewable energy generation through rooftop photovoltaic panels. Water efficient fittings and high efficiency LED lighting with zoned switching will be installed in the building. Subclause (7) requires office (base building) to achieve a minimum of 5.5 Star NABERS Energy Commitment Agreement + 25% (an additional +25% beyond that required by the SEPP (Sustainable Buildings) for large commercial development). The proposal seeks to deliver a minimum of 5.5 Star NABERS Office Energy (base building) Commitment Agreement. Council's Environmental Sustainability Specialist advised the additional 25% as required by subclause (7) can be achieved by the development, and as such the proposal is acceptable subject to conditions. Conditions are recommended to require a 5.5 Star NABERS Energy Commitment Agreement + 25% to be achieved to align with the City's requirements. Further conditions are recommended to require compliance with the submitted DEP Report to ensure that all ESD commitments are carried through to the certification and construction phase of the development.
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. See discussion under Clause 5.21 of Sydney LEP 2012 above. The proposal includes an integrated on-site stormwater detention (OSD) tank within the basement level to meet Sydney Water requirements. Council's Public Domain Unit has reviewed the stormwater and drainage design prepared by SGC Engineers and advised that the preliminary design is acceptable subject to standard conditions.

Provision	Compliance	Comment
		Public domain conditions are recommended to ensure the stormwater drainage design complies with the City's requirements, including the requirement for a positive covenant to be registered on the property title for the ongoing maintenance of the OSD.
3.8 Subdivision, Strata Subdivision and Consolidation	Not applicable	No subdivision is proposed by the subject application. There is an existing covenant on title which restricts the change of use of the previously approved residential accommodation and conversion of the residential car spaces under D/2015/1129. The covenant was created on 26 February 2021. The consent was not activated and lapsed on 5 March 2024. The application was referred to Council's Specialist Surveyor, who advised the development is acceptable subject to recommended conditions. This includes a condition to release the restriction registered on title prior to the issue of any construction certificate.
3.9 Heritage	Yes	Refer to discussion under Clause 5.10 of Sydney LEP 2012 above.
3.11 Transport and Parking 3.11.3 Bike parking and associated facilities 3.11.6 Service vehicle parking	Partial compliance	The development includes 6 parking spaces within the basement level which complies with Clause 7.6 and 7.7 of Sydney LEP 2012. A minimum of 12 employee spaces and 8 visitor spaces are required under Section 3.11.3 of Sydney DCP 2012. The proposal exceeds this requirement and provides a total of 13 employee and 8 visitor bicycle spaces. . The development complies with the end of trip requirements under subclause (8), providing 13 lockers and 2 shower/change cubicles in the basement conveniently located next to the employee bicycle spaces. Section 3.11.6 and Schedule 7.8.1 of Sydney DCP 2012 requires the provision

Provision	Compliance	Comment
		of 1 service parking space. The supporting swept path analysis demonstrates that the site can be serviced via a 6.4m Small Rigid Vehicle (SRV). While no formal service parking spaces are proposed, there is sufficient area within the basement level perpendicular to parking space no. 5 to accommodate the service vehicle. Loading and servicing of the site is proposed to occur outside of business hours to ensure no vehicles are parked in the truck turning area. Having regard to the site constraints, anticipated infrequent servicing requirements and scale of the development, Council's Transport and Access unit advised the proposal is acceptable subject to recommended conditions. Appropriate conditions are recommended to: - formalise the SRV loading area and maintain the orderly operation of the basement and on-site loading area. - ensure deliveries, servicing and waste collections will not occur between the hours of 10.00pm and 6.00am daily, to protect the surrounding residents from noise disturbance.
3.12 Accessible Design	Yes	The Accessibility Report confirms the proposal can comply with accessibility requirements under the NCC, DDA and Section 3.12 of Sydney DCP 2012.
3.13 Social and Environmental Responsibilities	Yes	The proposal includes ground level retail uses and provides an active street frontage to Botany Road and Buckland Street. The frontage of retail tenancy G02 provides passive surveillance to the deep soil area and Botany Lane. The building entries are clearly visible, unobstructed and easily identified from the street. The proposed development provides adequate passive surveillance and is

Provision	Compliance	Comment
		generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	The accompanying Waste Management Plan prepared by Loka Consulting Engineers and Service Confirmation Letter prepared by WasteFree state that waste will be collected by a private contractor from the basement level. Waste will be collected via a 6.4m mini rear loader trucks after business hours, 3 times a week. The proposed waste storage area in the basement is of a sufficient area to accommodate waste generated by the proposed retail and office uses. The waste storeroom is conveniently located and within proximity to the proposed waste collection area and is consistent with the City's Guidelines for Waste Management in New Developments. Council's Waste Management Unit has reviewed the proposal and raised no objections subject to recommended conditions.
3.15 Late Night Trading Management	Not applicable	The proposal does not include the specific use or fit out of the retail or office premises, which will be subject to separate future applications.
3.16 Signage and Advertising	Not applicable	The proposal does not include any new signage. A condition is recommended to require a separate application to be submitted for a signage strategy for the building.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed-Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	No	The site is permitted a maximum building height of 4 storeys under Section 4.2.1.1 of Sydney DCP 2012.

Provision	Compliance	Comment
		The alternative maximum height in storeys of 6 storeys under Section 5.10.4 of Sydney DCP 2012 prevails over Section 4.2.1.1, refer to further details below.
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	Section 4.2.1.2 of Sydney DCP 2012 requires buildings with a commercial or retail use to have a minimum floor to floor height of 4.5m on the ground floor and 3.6m on the first commercial floor and above. The provisions under Section 5.10.4 takes precedence this control, refer to details below.
4.2.2 Building setbacks	Yes	Refer to discussion under Section 5.10.4.2 of Sydney DCP 2012.
4.2.3 Amenity		
4.2.3.1 Solar access	No	Section 4.2.3.1 of Sydney DCP 2012 requires neighbouring developments to achieve 2 hours of direct sunlight between 9.00am and 3.00pm at mid-winter to at least 1 square metre of living room windows and a minimum 50% of the required minimum area of private open space (8sqm for dwellings and 4-6sqm for apartments subject to the apartment size). New development must not create any additional overshadowing onto a neighbouring dwelling where that dwelling currently receives less than 2 hours' direct sunlight to habitable rooms and the minimum private open space. Given incentivised controls for the precinct, the proposal will create additional overshadowing impacts to the adjoining surrounding properties, primarily to the mixed-use development immediately south of the site at No. 138-142 Botany Road.

Provision	Compliance	Comment
		Refer to assessment under Section 5.10.2.4 of Sydney DCP 2012 and the discussion section below.
4.2.3.4 Design features to manage solar access	Yes	The proposal was amended to include additional louvres and passive shading devices to manage solar heat gain. The devices will comprise fixed vertical louvres to east/ west facing windows and shrouds to the north facing windows to ensure that natural daylight or outlook is not unreasonably restricted and responds to the orientation of each façade. Conditions are recommended to require further 1:10 details to be submitted and approved by Council prior to the issue of any Construction Certificate.
4.2.4 Fine grain, architectural diversity and articulation	Yes	Section 4.2.4 seeks to ensure that the scale, modulation and façade articulation of the development responds to its context. The proposal seeks a maximum building length of 25.2m. The development provides a unified architectural character with façade elements that establish a fine grain articulation and is consistent with subclause (11), which applies to buildings less than or equal to 40m in length. Further subtle amendments have been made to the facade to respond to the emerging character of the Botany Road Precinct. These amendments include the introduction of a shadow line and revising the brick colour above the third level to provide a more sympathetic response to the existing 2-3 storey scale of the surrounding buildings, local heritage item and 3-storey street wall of the Waterloo over station development.

Provision	Compliance	Comment
4.2.3.5 Landscaping	Yes, subject to conditions	No landscaping is currently provided on the site. The proposal provides a deep soil area along the Buckland Street frontage, landscaped green roof and temporary tree planting within the SP2 zone along Botany Road (4 trees). The revised Landscape Plan prepared by Scrivener Landscape Architects includes details on the proposed species of plants, garden profile, drainage details and soil depth. The proposal meets the requirements of Section 4.2.3.5 of Sydney DCP 2012. Council's Landscape Specialist advised the proposal is acceptable subject to recommended conditions. It is considered that the diversity of plant species on the green roof could be further increased to improve biodiversity. Conditions are recommended to require detailed landscape plans, revise the number of trees in the RWO affected land, and a long-term maintenance plan for the green roof to be submitted and approved prior to the issue of any Construction Certificate.
4.2.3.6 Deep Soil	Yes	A minimum deep soil area of 10% of the site area is required (48.19sqm). The proposal includes a deep soil area of 48.2sqm along the Botany Lane frontage. The deep soil area has a minimum dimension of 4m (exceeding the minimum dimension of 3m).
4.2.6 Waste and recycling Management	Yes	Refer to discussion under Section 3.14 above.
4.2.7 Heating and cooling infrastructure	Yes	Heating and cooling infrastructure has been integrated in the development and is located on the rooftop.

Provision	Compliance	Comment
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Not applicable	Section 5.10.2.4(1) stipulates that this provision does not apply to development within the Botany Road Precinct.

Section 5 – Specific Areas

Provision	Compliance	Comment
5.2 Green Square	Yes	The development is generally consistent with the objectives for Green Square as it provides new employment opportunities to support a socially diverse community and delivers a development which contributes to the realisation of the Green Square Urban Strategy.
5.2.3 Community infrastructure	Yes	Refer to discussion under Clause 6.14 of Sydney LEP 2012 above.
5.2.5 Pedestrian and bike networks 5.2.5.1 Bike network	Yes	The proposal is consistent with the objectives of Section 5.2.5 and will encourage walking and cycling for future employee and visitors. Bicycle parking is provided in accordance with Section 3.11.3 of Sydney DCP 2012, as discussed above.
5.2.7 Stormwater management and waterways 5.2.7.3 Flood risk management	Yes	Refer to discussion under Section 5.21 of Sydney LEP 2012 above. A revised flood report prepared by SGC accompanies the application. which concludes the proposed development does not significantly alter the existing site conditions and will not increase the hazard in the 1% AEP storm event. The revised report recommends shelter-in-place strategy as the preferred response strategy. Council's Public Domain unit have advised that the findings of the amended report and recommended flood response strategy is acceptable subject to recommended conditions.
5.2.9 Building design	Yes	Refer to assessment under the site-specific Botany Road provisions in

Provision	Compliance	Comment
5.2.10 Setbacks		Section 5.10.4 of Sydney DCP 2012 below.
5.2.11 Carparks under the public domain	Yes	The proposed basement car park does not extend beyond the boundary of the site or encroach into future land to be dedicated.
5.10 Botany Road Precinct		
5.10.1 General	Yes	The proposal is in keeping with the desired character for the Botany Road Precinct as outlined within the locality statement under Section 2.13.13 of Sydney DCP 2012, discussed above.
5.10.2.1 Land-use diversity	Yes	The proposal will reinforce the primacy of commercial, business and employment generating uses within the locality. The development accords with Section 5.10.2.1.
5.10.2.3 Ground and first floor uses, active frontages and awnings	Yes	The proposal provides active ground floor retail frontages along Botany Road and Buckland Streets which will create interest and provide passive surveillance of the public domain. A continuous awning is also proposed to these frontages in accordance with Section 3.2.4 of Sydney DCP 2012. The awning will facilitate safe and comfortable pedestrian environments with adequate weather protection.
5.10.2.4 Managing change	Yes	The objective of Section 5.10.2.4 of Sydney DCP 2012 is to ensure that existing built form and land uses (including residential uses) do not unreasonably constrain the growth and change in the precinct. Subclause (5) outlines that amenity impacts that may arise from non-residential development, such the loss of daylight or sunlight access, acoustic privacy or visual privacy, are to be considered in the context of the locality statement and objectives for the Precinct. The proposal seeks to utilise incentive building heights and floor space

Provision	Compliance	Comment
		available under Clause 6.60B of Sydney LEP 2012. The proposal is commensurate with that envisaged by the Botany Road Precinct planning controls. Refer to further assessment under the discussion heading below.
5.10.3 Movement and local infrastructure 5.10.3.1 Laneway network	Yes	In accordance with the Streets and lanes map, a new laneway is to be provided along the Botany Lane frontage of the site. As discussed above, the proposal includes a public benefit offer to dedicate land along the Botany Lane frontage of the site.
5.10.3.4 Design and use of SP2 zoned land	Yes	The proposal does not include any physical building works within the SP2 zoned land. The awning is attached to the commercial building, and its permissibility relies upon Clause 5.3 of Sydney LEP 2012. The segment of the awning in the airspace of the SP2 zone can be removed if required. Should road widening works occur, conditions are recommended to require partial removal of the awning affected by the SP2 zone. Conditions are recommended to require these details to be submitted to and approved by Council, prior to any Construction Certificate. The proposal seeks to deliver temporary landscape and tree planting within the road reservation, which can be removed when or if the road widening of Botany Road occurs.
5.10.4 Building layout, form and design 5.10.4.2 Building alignments and setbacks	Yes	The proposal, as amended, complies with the minimum required floor to floor heights, providing 4.8m to the ground floor retail tenancies, 3.8m on the first floor and 3.6m for the remaining floors above. A reduced floor to floor height of 4.1m for the lobby area on the ground floor is acceptable to meet the required flood planning levels and provide a higher level of flood protection. This will mitigate potential sources of water

Provision	Compliance	Comment
		ingress into the basement level from the lift. No street or upper-level setbacks for the site are identified under Section 5.10.4.2 of Sydney DCP 2012. The proposed form of the development accords with Section 5.10.4.2(4), which states that where upper-level setbacks are not identified, buildings are to present a consistent street wall with no upper-level setback to the street frontage.
5.10.4.3 Materiality and design	Yes	The materiality and design of the development is considered to positively respond to the emerging character of the Botany Road precinct. Section 5.10.4.3(2) requires 70% of the façade of the first 4 floors to be constructed of face brick with appropriate brick detailing and articulation. The proposal exceeds this requirement and delivers a predominately face brick building. Council's Urban Designer considers the proposed detailing of the façade and use of the 2 brick types for the lower levels (Bowral Renovation Gertrudis Brown) and upper levels (Bowral Capitol Red) are acceptable. A textured pre-cast concrete panel finish is proposed to the southern building elevation, which responds to previous comments provided by the DAP at the time of the previous application (D/2023/721).
5.10.4.4 On-structure plantings	Yes	Section 5.10.4.4(1) requires a green roof to be provided for all non-residential development. The proposal includes a non-accessible green roof and complies with this provision.
5.10.4.5 Public Art	Not applicable	The proposal does not have a capital investment value (CIV) exceeding \$10 million (proposed CIV 6.8 million).
5.10.4.6 Visual and Acoustic Privacy	Yes	The development is oriented to face the street frontages and is designed with a blank wall to the southern adjoining mixed-use development. Vertical louvres

Provision	Compliance	Comment
		are proposed on the western elevation of the development which will mitigate overlooking impacts across Botany Lane (to Nos. 8 Buckland Street and 126 Wyndham Street). Conditions are recommended to require 1:10 details showing the orientation, spacing, size and fixings of the louvres to the windows to be submitted and approved by Council prior to the issue of any Construction Certificate. The proposed development does not result in any adverse overlooking or visual privacy impacts to the adjoining dwellings.
5.10.4.7 Energy and water efficiency	Yes	A Design for Environmental Performance Statement prepared by Efficient Living accompanies the development. Refer to assessment under Section 3.6.1 of Sydney DCP 2012 and discussion under the Sustainable Buildings discussion section below.
5.10.5 Connecting with Country 5.10.5.1 All development	Yes	Section 5.10.5.1 requires all development within the Botany Road Precinct to consider Indigenous inclusion, comfort and access in the design and operation of publicly accessible area. The proposal is accompanied by a First Nations Co-Design Values Report prepared by JMP Aboriginal Consultancy, which identifies opportunities to incorporate cultural symbols, traditional ecological knowledge and local stories into the design framework. The report documents collaboration between the community representatives and cultural advisors within the project design input session. The proposal seeks to relay themes of connection overtime for the Redfern community, including its adaptability and bridging the connection of traditional Aboriginal culture with modern urban cultures.

Provision	Compliance	Comment
		The Connecting to Country opportunities identified on the site include: • Entry statement and foyer design with feature walls • Awning design reflecting connection with sky • Façade elements such as the precast concrete panels, window shrouds and louvres incorporating patterns inspired in native flora and fauna • Landscape design of the green roof and deep soil area reflecting elements of natural flora and fauna, utilising finger limes and banksia brush • Building materials to reflect natural elements and characteristics of the area The proposal seeks to facilitate greater opportunities for employment in this location and does not result in adverse impacts specific to Aboriginal and Torres Strait Islander people and organisations. The proposal meets the objectives of this provision. Appropriate conditions are recommended to require these design elements to be carried through to the detailed design and construction of the development.
5.10.5.2 Major development	Not applicable	The development is not identified as 'major development' as defined under the City of Sydney Act 1988, and as such the provisions under Section 5.10.5.2 are not applicable to the development.
5.10.5.3 Aboriginal archaeology	Yes	The site is identified as having a moderate potential for Aboriginal archaeology. A search of previously recorded sites in the AHIMS database has been undertaken and confirms that there are no Aboriginal sites or places recorded at

Provision	Compliance	Comment
		or near the site. Conditions are recommended to require an archaeological assessment to be undertaken by a suitably qualified archaeologist, submitted to and approved by Council prior to the issue of a Construction Certificate.

Discussion

Solar access and overshadowing - neighbouring residential developments

60. The overshadowing impact resulting from the proposed development at mid-winter is shown in Attachment C. The diagrams identify existing shadows in blue, proposed additional shadows hatched in yellow and shadows resulting from a complaint 29m building envelope dashed in red.
61. The analysis also includes a comparison with the previous approved development under D/2015/1129 (4-storey mixed-use building). Given the incentivised height and floor space ratio controls, the shadows cast during the morning and afternoon periods are longer in length than that approved under the previous consent.
62. The shadow diagrams show the following impacts to existing developments to the south, east and west. Given the site orientation, the proposal does not create any additional shadows to the surrounding developments to the north across Buckland Street.
 - (a) Surrounding developments to the west:
 - (i) No. 128 Wyndham Street - approximately 0.5 hour, between 10.00am - 10.30am
 - (ii) No. 130 Wyndham Street - 1 hour, between 10.00am - 11.00am
 - (iii) Nos. 132, 134, 136 and 136A Wyndham Street - 1 hour, 10.00am - 11.00am
 - (b) Surrounding developments to the east:
 - (i) Nos. 133-141 Botany Road - approximately 0.5 hour, between 2.30pm - 3.00pm
 - (c) Surrounding developments to the south:
 - (i) Nos. 138-142 Botany Road - 5 hours, between 9.00am -10.00am and 11.00am - 3.00pm
 - (ii) No. 144 Botany Road - 2 hours, between 11.00am - 1.00pm
 - (iii) No. 156 Botany Road - 1 hour, 2.00pm - 3.00pm

63. The proposal maintains an acceptable amount of solar access to surrounding developments to the west between 12.00pm to 3.00pm (3 hours). At 11.00am, the proposed shadows primary fall onto Botany Lane and existing garage structures of Nos. 130 - 136A Wyndham Street.
64. The proposal does not change the existing solar access received at No. 133-141 Botany Road before approximately 2.30pm. The additional overshadowing impact of approximately 0.5 hour between 2.30pm and 3.00pm is considered minor and acceptable.
65. The extent of additional shadows to the southern adjoining properties results from the incentivised floor space ratio and height controls permitted under Clause 6.60B of Sydney LEP 2012. A development commensurate with that envisaged by these controls could not result in a similar overshadowing impact as D/2015/1129.
66. The shadows cast onto No. 144 Botany Road predominately fall over the roof over the existing commercial / industrial development and thus the overshadowing impact is negligible. The proposed overshadowing to No. 156 Botany Road primarily falls onto the existing roof and does not affect the east or west facing balconies or living areas.
67. The immediately adjoining development at No. 138-142 Botany Road is the most affected by the development by virtue of its orientation immediately south of the proposal. This development contains 10 residential units across 2 levels. Given the surrounding urban context and site orientation, none of these units currently receive 2 hours of direct solar access to both living areas and private open space areas. The uppermost units of this building are 2-storeys where living areas / private open space balconies are located on the second floor with rooftop terraces accessed via master bedrooms on the third floor (refer to Figure 20 below).
68. No. 138-142 Botany Road is already affected by overshadowing impacts from the Waterloo OSD during the morning between 10.00am and 11.00am. The proposal does not affect the existing solar access received by the POS areas of east facing units which are located on the second floor.
69. The proposal does not reduce the existing solar access received to the common garden of No. 138-142 Botany Road that fronts Botany Lane, which will be maintained for 2 hours between 1.00pm and 3.00pm.

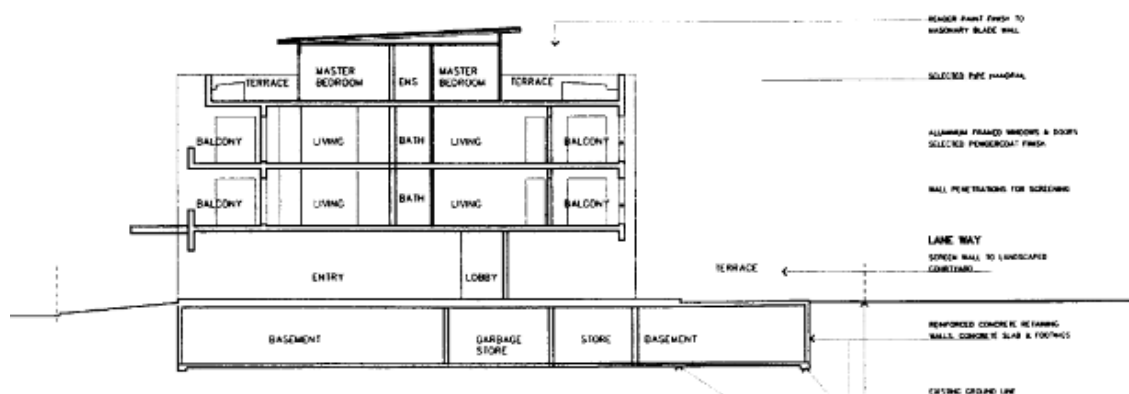


Figure 20: Section of No.138-142 Botany Road showing the location of the affected rooftop terraces (D/2001/376)

70. Through the course of assessment, the applicant was requested to explore the provision of a setback / notch to the building form to assist in reducing shadows to the top floor terraces of No. 138-142 Botany Road. Revised shadow analysis including sun eye diagrams were prepared to compare the schemes to determine whether this would significantly reduce overshadowing impacts to these units (proposed scheme compared to an alternative scheme with a setback).
71. The revised analysis illustrates that the proposal results in minor additional overshadowing to the private open space (POS) balconies at 3.00pm (Units 4 and 9, closest to the development) and negligible additional shadows to the POS of the larger apartments (Units 5 and 10, closest to No. 144 Botany Road), as shown in Figures 21 and 22 below. The balconies of Units 4 and 9 are already predominately overshadowed by the existing northern blade wall of the development.

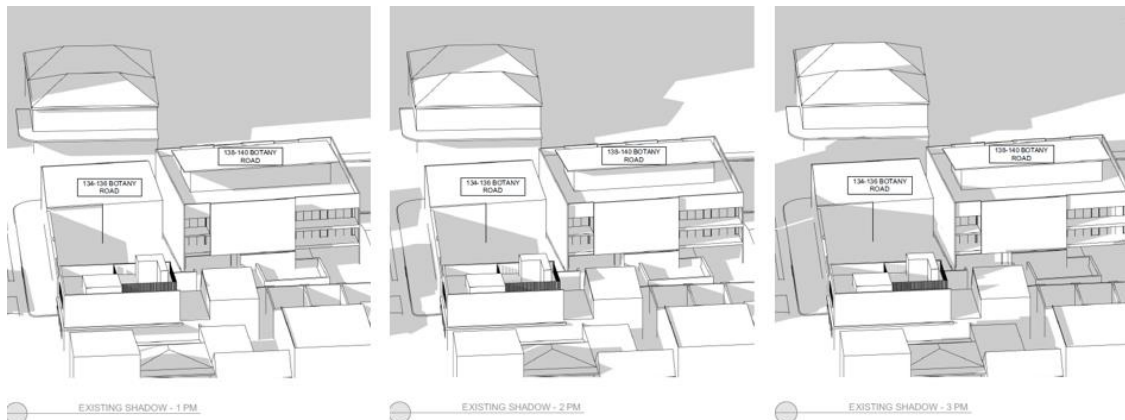


Figure 21: Existing shadows to west facing units of No. 138-142 Botany Road (1.00pm - 3.00pm)



Figure 22: Proposed shadows to west facing units of No. 138-142 Botany Road (1.00pm - 3.00pm)



Figure 23: Overshadowing impact of the alternative scheme with setback provided to levels 4 and 5 (1.00pm - 3.00pm)

72. The alternative scheme with the provision of a setback at levels 4 and 5 does not reduce the overshadowing impacts to the POS areas when compared to the proposed scheme, as shown in the following sun eye diagrams. Stepping the form at the top 2 levels would provide a slight improvement to a rooftop terrace of one unit (Unit 10) at 2.00pm.

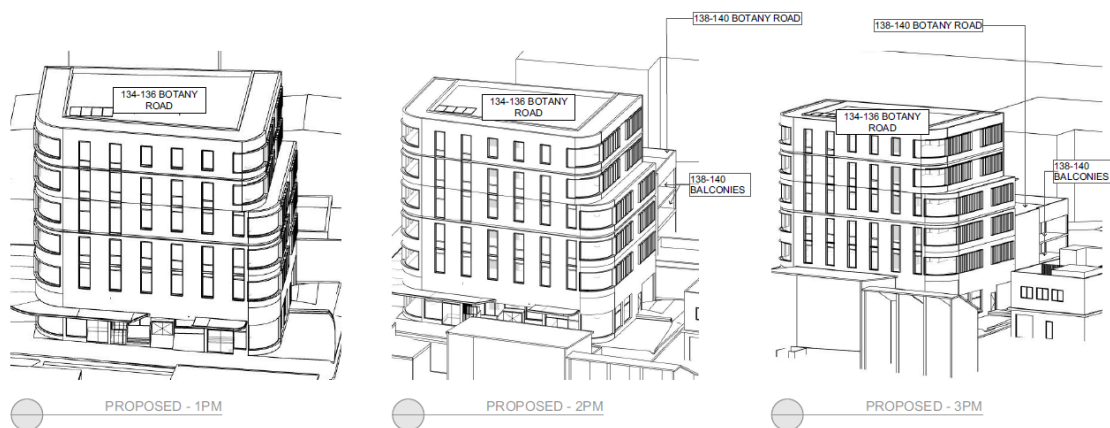


Figure 24: Sun eye diagrams of alternative scheme (1.00pm - 3.00pm)

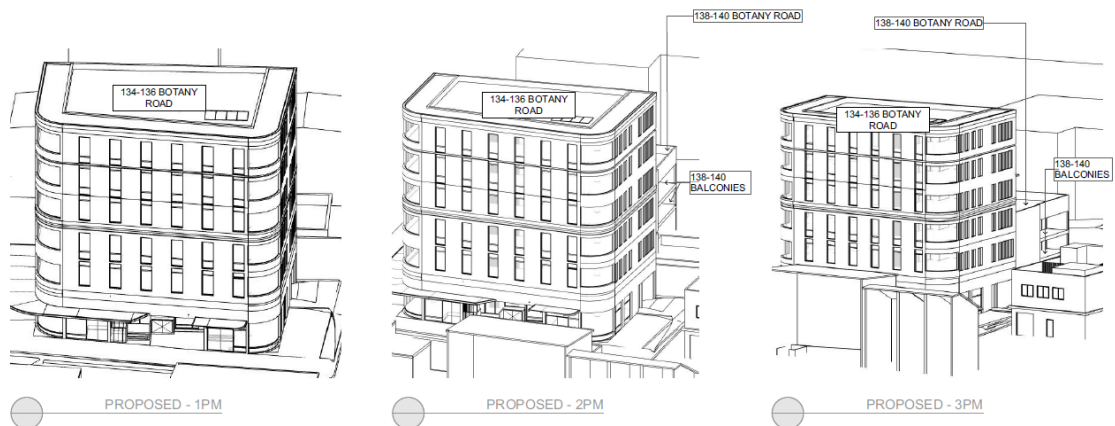


Figure 25: Sun eye diagrams of proposed scheme (1.00pm - 3.00pm)

73. In light of the above, the proposed overshadowing impacts to No. 138-142 Botany Road is assessed as acceptable for the following reasons:
- (a) An alternative stepped form was explored during the assessment of the application. The upper-level setback disrupts the architectural quality and unified design of the building. Noting the resulting negligible improvement to solar access to the rooftop terrace of the southern adjoining unit, it is considered as an inferior design outcome than the proposed scheme.
 - (b) Section 5.10.2.4(5) of Sydney DCP 2012 states that the amenity impacts that may arise from non-residential development such as loss of sunlight, are to be considered in the context of the locality statement and objectives for the Precinct.
 - (c) The shadows cast by the proposed development are created by a compliant building envelope. The proposed form is commensurate with the Botany Road Precinct controls and meets the objectives of the locality statement under Section 2.13.13 of Sydney DCP 2012. Maintaining 2 hours of solar access to the rooftop terraces of these units between 1.00pm -3.00pm would require a substantial setback to levels 3-5 of the development. This would not be consistent with the Botany Road locality statement or development envisaged by the planning controls. This would not promote the orderly, economic use and development of land to meet the objects of the Environmental Planning and Assessment Act 1979.
 - (d) The proposal results in minor additional shadows to the primary POS areas of these units. The rooftop terraces are secondary outdoor areas and are not considered the primary POS under the Apartment Design Guide as they are not located adjacent to the living areas.
 - (e) The proposal complies with Part 3B of the ADG, where 70% of the existing apartments do not currently receive the minimum required 2 hours of solar access, and the development does not result in a reduction of more than 20%.
 - (f) Noting the orientation of the site, overshadowing impacts to existing properties to the south are unavoidable.

Sustainable Buildings

74. The development consists of a large commercial development consisting of a prescribed office premises and is subject to the sustainable buildings provisions of:
- (a) SEPP (Sustainable Buildings) 2022
 - (b) Sydney Local Environmental Plan 2012
 - (c) Section 3.6.1 Energy Efficiency in non-residential buildings of Sydney Development Control Plan 2012
75. The development complies with the requirements of these provisions, subject to conditions.
76. Section 3.6.1 of Sydney DCP 2012 requires the development to satisfy the following energy performance standards for an office (base building):
- (a) a maximum 45 kWh/yr/sqm of Gross Floor Area (GFA); or

- (b) a 5.5-star NABERS energy commitment agreement + 25%; or
 - (c) a certified Green Star Building rating with a "credit achievement" in Credit 22: Energy Use; or
 - (d) an "equivalent" approach to achieving the required energy performance standards.
77. In this regard the applicant has demonstrated the development can achieve a 5.5-star NABERS energy commitment agreement.
78. Council's Environmental Sustainability Specialist advised the additional 25% as required by subclause can be readily achieved by the development, and as such the proposal is acceptable subject to conditions. Conditions of consent are recommended to ensure that development will align with the City's energy use requirements (5.5-star NABERS energy commitment agreement + 25%) and the required water standards.

Consultation

Internal Referrals

79. The application was discussed with Council's:
- (a) Environmental Health Unit
 - (b) Cleansing and Waste Unit
 - (c) Environmental Projects Specialist
 - (d) Heritage and Urban Design Unit
 - (e) Public Domain Unit
 - (f) Transport and Access Unit
 - (g) Specialist Surveyor
 - (h) Landscape Specialist
 - (i) Planning Agreements Team
 - (j) Tree Management Unit
 - (k) Model team
80. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

External Referrals

Ausgrid

81. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.

82. A response was received raising no objections to the proposed development, subject to recommended conditions. These conditions are included in Attachment A.

Sydney Airport

83. Section 182 of the Commonwealth Airports Act 1996 specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.
84. Schedules 2 and 5 of the Civil Aviation (Building Control) Regulations 1988 identify that the site is subject to a prohibition of the construction of buildings more than 15.24m above existing ground level.
85. Section 183 of the Commonwealth Airports Act 1996 specifies that controlled activities may not be carried out in relation to prescribed airspace unless an approval has been granted. The relevant approval body is the Civil Aviation Safety Authority (CASA).
86. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA, provided approval for the controlled activity on 20 June 2025.

Transport for NSW

87. The application was referred to Transport for NSW (TfNSW) for comments pursuant to Section 2.98 and 2.99 of the SEPP (Transport and infrastructure) 2021.
88. The application was also referred to TfNSW pursuant to Section 2.118 of the SEPP (Transport and infrastructure) 2021 and Section 26 of the Roads Act 1993 for concurrence.
89. Concurrence was received on 29 October 2025. Conditions of consent were recommended which are included in the Notice of Determination.

Water NSW

90. The application is integrated development pursuant to Section 4.46 of the EP&A Act because an approval is required under Sections 89 and 90(2) of the Water Management Act 2000.
91. The site is located within the Botany Sands Groundwater Source Prohibition area and as such proposal was revised to include a tanked basement design.
92. General Terms of Approval were issued by Water NSW on 29 August 2025. The General Terms of Approval are included in the recommended conditions of consent in Attachment A.

Sydney Water

93. Pursuant to Section 78 of the Sydney Water Act 1994, the application was referred to Sydney Water for comment.
94. A response was received raising no objections to the proposed development, subject to recommended conditions. These conditions are included in Attachment A.

Advertising and Notification

95. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 28 days between 13 June 2025 and 12 July 2025. A total of 292 properties were notified, and 12 submissions were received, of which 9 were in objection, one comment and 2 were in support of the development.

96. The submissions raised the following issues:

- (a) **Issue:** Traffic disruptions, safety impacts, and obstruction of Botany Lane

Response: Servicing and loading are proposed to occur within the basement level of the site outside of business hours. The gradients of the driveway have been amended to ensure a small rigid vehicle (SRV) can safely enter and exit the site. Council's Transport and Access Unit advised the proposal is acceptable subject to recommended conditions. Refer to further discussion under Section 3.11 of Sydney DCP 2012 above.

- (b) **Issue:** Construction management and noise

Response: Appropriate conditions are recommended to ensure the protection of the amenity of the surrounding developments during the construction phases of the development.

- (c) **Issue:** Lack of off-street loading and requirement for a construction traffic management plan

Response: Refer to discussion under Section 3.11 of Sydney DCP 2012. Conditions are recommended to require a construction traffic management plan to be submitted to and approved by Council prior to the issue of any Construction Certificate.

- (d) **Issue:** Vehicular access should remain from Buckland Street

Response: The design of the proposal has been subject to a Pre-DA (PDA/2024/196) which had been developed from the concerns raised at the time of D/2023/721. Providing vehicular access from Buckland Street enables active street frontages to be delivered to the primary and secondary street frontages, contributing to the vibrancy of the public domain. The development has demonstrated that servicing, loading and waste collection can occur within the site outside of business hours from Buckland Street. Appropriate conditions are recommended to this effect and to require the loading area to be formalised on the plan.

- (e) **Issue:** Waste management

Response: Waste will be collected from within the confines of the site. Refer to details under Section 3.14 of Sydney DCP 2012 above.

- (f) **Issue:** Overshadowing impacts to adjoining units and common garden on Botany Lane

Response: Refer to the discussion section above. The proposed overshadowing impacts are assessed as acceptable.

- (g) **Issue:** Inaccurate shadow diagrams

Response: A review of the applicant's original submitted shadow diagrams was undertaken by the City's model team. The applicant's revised shadow analysis has rectified these discrepancies.

- (h) **Issue:** Visual privacy impacts to adjoining units

Response: The development is orientated to face the street frontages with a blank wall to the southern adjoining mixed-use development. An inaccessible green roof is proposed and does not result in adverse overlooking impacts to the surrounding residential developments. Refer to discussion under Section 5.10.4.6 (Visual and Acoustic Privacy) of Sydney DCP 2012.

- (i) **Issue:** Create a footpath by setting the western wall back by 1-1.2m to provide pedestrian access instead of walking on the road

Response: The proposal includes a public benefit offer to dedicate land for footpath widening along Botany Lane (width of 1.507m equating to an area of 27.1sqm) under VPA/2025/8. Refer to discussion under Section 5.10.3.1 (Laneway network) of Sydney DCP 2012.

- (j) **Issue:** Reduced apartment value

Response: The value of apartments resulting from a development is not a matter for consideration under Section 4.15 of the EP&A Act.

- (k) **Issue:** Visual impacts to the street resulting from the proposed bulk, scale, inconsistent character, and building height

Response: The proposed development is of a built form that is commensurate with that envisaged by the adopted planning controls for the Botany Road Precinct. These controls provide alternative incentivised height and floor space ratio controls to encourage growth and employment generating uses within the locality. The proposal delivers a compliant building form.

- (l) **Issue:** Loss of amenity and sky views

Response: The current views obtained from existing units at No. 138-140 Botany Road does not include water or iconic views (as described in Tenacity Consulting v Waringah [2004] NSWLEC 140). Maintaining the existing district views and outlook over the existing site that has not been developed to its maximum development potential is unrealistic and unavoidable in an urban context. Section 5.10.2.4(5) of Sydney DCP 2012 requires new development to be considered against the objectives and locality statement for the transitioning area. The proposal development is contained within the site boundary and will not result in an unreasonable loss of views to the sky from the rooftop terraces.

- (m) **Issue:** Potential damage to No. 138-142 Botany Road resulting from the proposed excavation

Response: Appropriate conditions are recommended to ensure that No. 138-142 Botany Road is protected during construction. This include conditions requiring preparation of a dilapidation report including photographic survey to be undertaken by a qualified structural engineer prior to any demolition/ excavation works commencing, and a second report to be prepared following completion of the demolition/ excavation works.

- (n) **Issue:** Damage to the public domain

Response: Appropriate standard conditions are recommended to ensure no damage to the public domain results from the development.

- (o) **Issue:** No plans to allow the community to be a part of this building

Response: The proposed commercial development comprises retail uses on the ground floor and offices above. These uses are permissible with consent within the MU1 Mixed Use Zone.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

97. The City of Sydney Development Contributions Plan 2015 applies to the site. The development is subject to a section 7.11 local infrastructure contribution under this Plan.
98. Credits have been applied for the most recent past use of the site for comprising retail and commercial office uses. Based on historic development consents, the existing building has a GFA of approximately 160sqm with a second floor of the same size, resulting an approximately GFA of 320sqm, permitting a credit of 7.6 workers.
99. A condition relating to this local infrastructure contribution has been included in the recommended conditions of consent in the Notice of Determination. The condition requires the contributions to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

100. Section 7.32 of the Act outlines that the consent authority may grant consent to a development application subject to a condition requiring dedication of part of the land for the purpose of providing affordable housing, or payment of a monetary contribution to be used for the purpose of providing affordable housing where the section of the Act applies.
101. The Act applies with respect to a development application for consent to carry out development within an area if a State environmental planning policy identifies that there is a need for affordable housing within the area and:
 - (a) the consent authority is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area, or
 - (b) the consent authority is satisfied that the proposed development will create a need for affordable housing within the area, or

- (c) the proposed development is allowed only because of the initial zoning of a site, or the rezoning of a site, or
 - (d) the regulations provide for this section to apply to the application.
102. The proposal is consistent with parts (a) and (c) that is, the proposed uses are permissible under the initial zoning of the site.
103. Clause 222B of the Environmental Planning Assessment Regulation 2021 provides that section 7.32 of the Act applies to a development application to carry out development in the City of Sydney local government area.
104. An affordable housing condition may be reasonably imposed under Section 7.32(3) of the Act subject to consideration of the following:
- (a) the condition complies with all relevant requirements made by a State environmental planning policy with respect to the imposition of conditions under this section, and
 - (b) the condition is authorised to be imposed by a local environmental plan, and is in accordance with a scheme for dedications or contributions set out in or adopted by such a plan, and
 - (c) the condition requires a reasonable dedication or contribution, having regard to the following:
 - (i) the extent of the need in the area for affordable housing
 - (ii) the scale of the proposed development
 - (iii) any other dedication or contribution required to be made by the applicant under this section or section 7.11
105. Having regard to the provisions of Section 7.32 of the Act, the imposition of an affordable housing contribution is reasonable.
106. The site is located within the Green Square affordable housing contribution area.
107. As the proposed development includes the erection of a new building where the gross floor area is more than 200sqm, a contribution is required at a rate of \$11,646.80 multiplied by 1% of the total floor area that is not intended to be used for residential purposes (2,324.82sqm), totalling \$270,767.14 is applicable.
108. A condition of consent is recommended requiring payment prior to the issue of a construction certificate.

Housing and Productivity Contribution

109. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024.
110. The site is located with the Greater Sydney region, the development is a type of commercial development to which the Housing and Productivity Contribution applies, and the development is not of a type that is exempt from paying a contribution.

111. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent.

Relevant Legislation

112. Environmental Planning and Assessment Act 1979
113. Sydney Airport Referral Act 1996
114. Water Management Act 2000
115. Sydney Water Act 1994
116. Roads Act 1993

Conclusion

117. The proposal seeks consent for the demolition of the existing building and redevelopment of the site for a new 6-storey commercial development with a maximum height of 23.8m (RL 39.4). The development comprises one basement level, retail uses on ground floor and offices above.
118. The application is Integrated Development, requiring approval of Water NSW under the Water Management Act 2000. General Terms of Approval have been issued by Water NSW and form part of the recommended conditions in Attachment A.
119. The proposal is appropriate in its setting and achieves a high level of compliance with the objectives, standards, and guidelines of the relevant applicable planning controls in the SEPP, Sydney LEP 2012, and Sydney DCP 2012.
120. The proposed development is compliant with the applicable alternative floor space ratio and building height controls for the Botany Road Precinct and accords with the relevant provisions of the Sydney Local Environmental Plan 2012.
121. The development achieves a high standard of architectural design, materials and detailing, well integrated landscaping and will contribute positively to the public domain. The proposal is appropriate in its setting and surrounding context and responds to the future desired character of the locality. Overall, the proposed development demonstrates design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21C of the Sydney Local Environmental Plan 2012.
122. Matters raised by internal and external referrals have been adequately addressed, as discussed within this report.
123. The proposed development will not result in any adverse impacts on both the natural and built environment and the locality, is suitable for the site, and is in the public interest, subject to the appropriate conditions.
124. Issues raised in all submissions have been taken into account in the assessment, and, where appropriate, conditions of consent have been recommended to address these issues.

125. The draft VPA is required to be publicly exhibited for 28 days in accordance with the requirements of the Environmental Planning and Assessment Act 1979. The exhibition period of the draft VPA has commenced.
126. For the reasons detailed in this report, it is recommended that deferred commencement consent be granted, subject to the recommended conditions included in Attachment A.

ANDREW THOMAS

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