

Item 3.**Development Application 16-22 Cooper Street, Surry Hills - D/2025/1198****File Number:** D/2025/1198**Summary**

Date of Submission:	2 December 2025 Final amended plans received on 15 April 2026
Applicant:	Michael Stokes
Architect/Designer:	SJB Architects
Owner:	STRATA PLAN No 65207
Planning Consultant:	Principle Planning
Cost of Works:	\$10,542,945.00
Zoning:	The site is located within the MU1 - Mixed Use zone. The use is defined as a "residential flat building", with "retail premises", and is permissible with consent within the zone.
Proposal Summary:	<p>Approval is sought for the demolition of the existing building, and construction of an 8-storey mixed-use development comprising retail tenancies on the ground floor, 2 levels of basement carparking, 10 residential apartments and associated landscaping.</p> <p>The application is being reported to the Local Planning Panel for determination as the development is for a new residential flat building and does not comply with the maximum building height development standard by 10%.</p> <p>The application seeks a variation to the maximum building height development standard under the Sydney Local Environmental Plan 2012. A maximum building height of 27m is permitted under clause 4.3 of the Sydney Local Environmental Plan 2012. A maximum height of 29.7m is proposed for the development, which represents an exceedance of 10% over the control. The application seeks a variation to the height control under clause 4.6. The proposed variation to the development standard has merit and is supported.</p>

The requirement under Clause 6.21D of the Sydney Local Environmental Plan 2012 requiring a competitive design process is recommended to be waived on the basis that it is unreasonable or unnecessary in the circumstances, given the proportion of the building which exceeds the 25m threshold of the control is limited to the uppermost level and rooftop structures (which do not comprise gross floor area), the proposal achieves design excellence, is of a scale and form appropriate within context of the site, and that amendments to the LEP which raise the minimum threshold for requiring a site specific DCP or Competitive Design process to 35m have been endorsed by Council and received Gateway approval.

The proposal was presented to the City's Design Advisory Panel Residential Subcommittee on 27 January 2026.

Following a preliminary review of the application and comments and recommendations provided by DAPRS, the applicant amended the proposal to improve the amenity of the ground level communal open space, provide an inaccessible green roof, incorporate back of house access within the ground floor, and improve the Cooper Street facade articulation.

Amended plans and updated consultant reports were submitted on 1 April 2026, with the last amendments submitted on 30 April 2026. Amendments to the proposal include architectural alterations to the Cooper Street facade, the addition of a non-trafficable green roof, providing additional sun shading to the Level 7 apartment balconies, and minor amendments to the ground floor communal open space, waste storage, bike parking configuration and amended draft subdivision plans.

The application was notified for a period of 21 days from 4 December 2025 to 24 January 2026 (not including extended notification period from 20 December 2025 and 10 January 2026).

The amended plans submitted on 15 April 2026 were not re-notified, as the amendments to the design, which were generally requested by Council, did not result in any significant increases to the proposed building envelope, and did not result in any significant additional environmental impacts, or significantly intensify the proposed use of the site.

Eleven (11) submissions were received which raised concerns relating to the bulk and scale of the proposal, adverse impacts to the amenity of surrounding properties (including impacts from any construction works) and overshadowing impacts on the proposed development

from any future development of the open carpark directly north of the site.

The bulk and scale of the proposal responds satisfactorily to surrounding development context, does not result in any unreasonable adverse amenity impacts, provides new housing helping meet the needs of the community and is consistent with the desired future character of the area. The proposal is in the public interest.

The proposal is generally consistent with the relevant objectives and provisions of the Sydney LEP 2012, as well as the SEPP (Housing) and Apartment Design Guide.

Subject to the recommended conditions at Attachment A, the development application is recommended for approval.

Summary Recommendation: The development application is recommended for approval, subject to conditions.

Development Controls:

- (i) Environmental Planning and Assessment Act 1979
- (ii) SEPP (Housing) 2021
- (iii) SEPP (Resilience and Hazards) 2021
- (iv) SEPP (Industry and Employment) 2021
- (v) SEPP (Transport and Infrastructure) 2021
- (vi) SEPP (Biodiversity and Conservation) 2021
- (vii) SEPP (Sustainability) 2022
- (viii) Sydney Local Environmental Plan 2012
- (ix) Sydney Development Control Plan 2012

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation - Height of Buildings
- D. Submissions

Recommendation

It is resolved that:

- (A) the variation requested to Clause 4.3 (Height of Buildings) in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;
- (B) the requirement under Clause 6.21D of the Sydney Local Environmental Plan 2012 requiring a competitive design process is unreasonable or unnecessary in the circumstances;
- (C) the requirement under Clause 7.20 of the Sydney Local Environmental Plan 2012 requiring the preparation of a development control plan is unreasonable or unnecessary in the circumstances; and
- (D) consent be granted to Development Application Number D/2025/1198 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 proposed development is consistent with the objectives of the MU1 Mixed Use zone.
- (B) The proposed development generally satisfies the relevant provisions of the State Environmental Planning Policy (Housing) 2021 and is generally consistent with the Apartment Design Guide.
- (C) The proposed development satisfies the relevant objectives and provisions of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (D) Having considered the matters in Clause 6.21C of the Sydney LEP 2012, the proposal exhibits design excellence.
- (E) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
 - (i) the applicant has demonstrated that compliance with the height of buildings development standard in Clause 4.3 of the Sydney Local Environmental Plan 2012 is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard in accordance with the requirements of Clause 4.6(3) of the Sydney Local Environmental Plan 2012; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the MU1 Mixed Use zone and the height of buildings development standard.

Background

The Reason the Application is Reported to the Local Planning Panel

1. The application is reported to the Local Planning Panel for determination as it is identified in Schedule 3 of the Local Planning Panels Direction of 3 March 2024 as being within the following category(s):
 - Departure from Development Standards
 - Sensitive Development
2. The development application falls within the category of Departure from Development Standard as the proposal is for purposes other than a "dwelling house", "dual occupancy" or "attached dwelling", and contravenes the "maximum building height" development standard imposed by the *Sydney Local Environmental Plan 2012*, by 10%.
3. The development application falls within the category of Sensitive Development as it is development to which *State Environmental Planning Policy (Housing) 2021*, Chapter 4 (Design of residential apartment) applies and is 4 or more storeys in height.

The Site and Surrounding Development

4. The site has a legal description of Lots 1 and 2 in DP 515656, known as 16-22 Cooper Street, Surry Hills. It is rectangular in shape with area of approximately 384 sqm. It has a primary street frontage of 19.825m to Cooper Street and a secondary street frontage of 19.565m to O'Loughlin Street. The site is located close to the intersection of Cooper Street and Holt Street. Levels on the site fall by approximately 800mm from Cooper Street frontage (south) to O'Loughlin Street frontage (north).
5. The site contains a part 2/3 storey commercial building with frontages to both Cooper Street and O'Loughlin Street.
6. The surrounding area is characterised by a mixture of land uses. The immediate surrounding context consists of the following:
 - Immediate north - The site is bound by O'Loughlin Street to the immediate North. On the northern side of O'Loughlin Street is a private, open air car park associated with the commercial building to the north-east at 2 Holt Street, with the main tenant being "News Corp".
 - Immediate east - To the immediate east of the site is the adjoining property at 24 Cooper Street which is a small, wedged shape lot of approximately 80sqm. The site comprises a 2-storey building with a retail food and drink premises at ground floor.
 - Immediate south - The site is bound by Cooper Street to the immediate south. On the opposite side of Cooper Street is 1-31 Cooper Street which is an existing 3 storey commercial building with ground floor retail tenancies.

- Immediate west - Immediately west of the site is the adjoining property at 10-14 Cooper Street which is an eight-storey mixed use building comprising of a ground floor retail tenancy and 19 apartments with basement car parking. Further west of the site on Cooper Street is a 7 storey residential flat building at 8 Cooper Street and the 'Evening Star Hotel' at 360-370 Elizabeth Street.
7. The site is not identified as a heritage item and is not located within a heritage conservation area.
 8. The site is located within the Surry Hills Central locality and is not identified as being subject to flooding.
 9. A site visit was carried out on 5 December 2025. Photos of the site and surrounds are provided below:
 10. Photos of the site and surrounds are provided below.

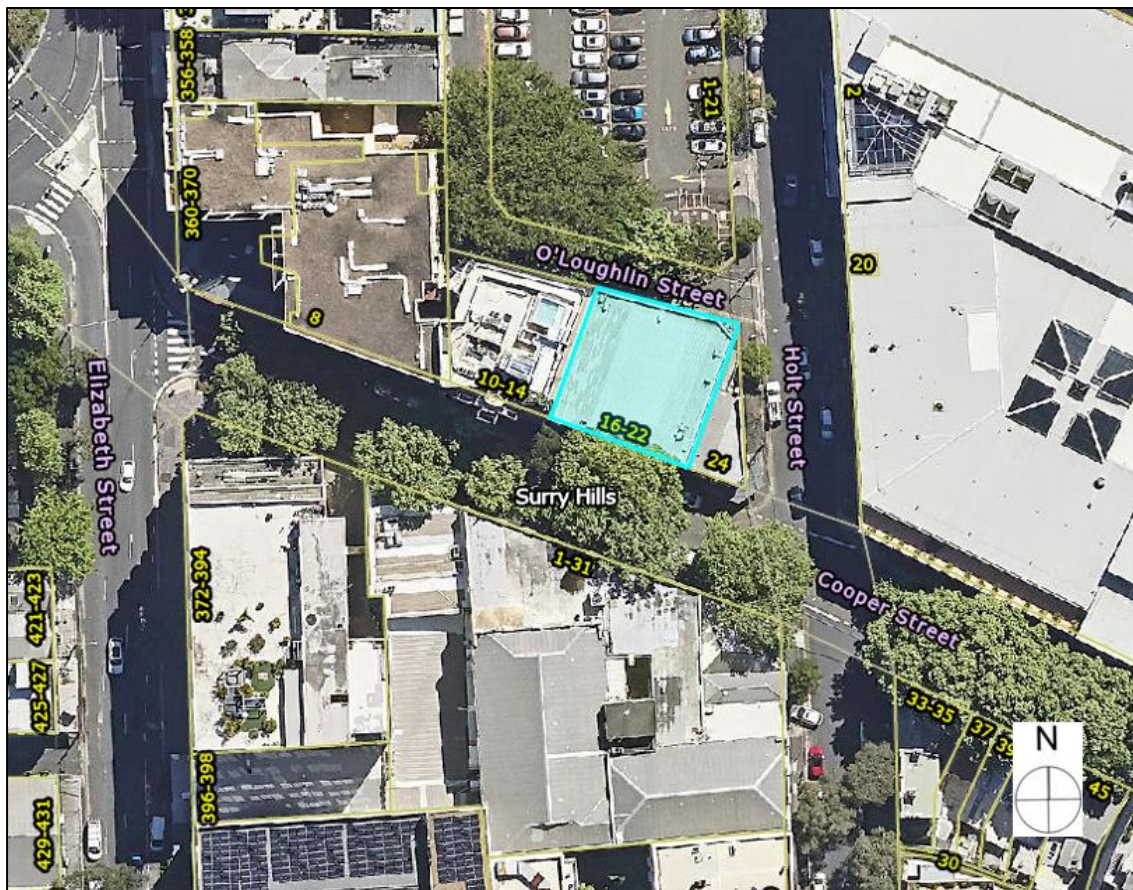


Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Cooper Street



Figure 3: Site viewed from the corner of Cooper Street and Holt Street



Figure 4: Site viewed from Cooper Street looking north-east



Figure 5: Site viewed from Holt Street looking west



Figure 6: Site viewed from open carpark on the opposite side of O'Loughlin Street



Figure 7: Site viewed from Holt Street looking south-west

History Relevant to the Development Application

Development Applications

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

- **D/1965/554** – Development consent was granted on 9 September 1965 for the construction of a 2-storey building with lower ground floor car parking and loading facilities. The building was approved for use as factory units for industrial purposes.
- **D/1999/746** – Development consent was granted on 8 October 1999 for the use and fit out of levels 1 and 2 as an educational establishment.
- **D/2008/2149** – Development consent was granted on 29 January 2009 for the change of use and fitout of the premises as a dance studio.
- **D/2020/426** – Development consent was granted on 9 June 2020 for the use and fitout of suite 1 as an office with a retail space and coffee bar.
- **D/2023/904** – Development consent was granted on 5 June 2024 for the demolition of existing structure and construction of a 6-7 storey commercial building. It should be noted that the proposed scheme before the LPP is generally consistent with the envelope and architectural detailing of the approved commercial building. This consent has not been activated.
- **PDA/2025/33** – Pre-DA written advice was given on 4 April 2025 relating to the demolition of the existing building and construction of an 8-storey shop-top housing development on the subject site. The following advice was provided by the Chief Planner / Executive Director City Planning Development and Transport:
 - While the pre-DA scheme largely replicates the bulk, scale and materiality of that approved under D/2023/904, the conversion of the commercial office floors to residential apartments raises a number of key amenity issues including the provision of genuine communal open space. Any future development application must conform within the approved height established by D/2023/904 and the SLEP 2012 FSR control.
 - The location of communal open space on the roof is preferred, however, the maximum building height must not exceed 29.67m (approved height of the building envelope approved under D/2023/33).
 - Given the existing approval and neighbouring site context, a 3-storey street frontage is not required to Cooper Street.
 - The south-western balconies at all levels are positioned both forward and higher than the adjacent building and should be deleted to minimise bulk.

- Any future development application based on the pre-DA scheme should include an acoustic report, an updated Detailed Environmental Site Investigation (DESI), detailed landscape plans, an Arboricultural Impact Assessment (AIA) report (to assess impact to street trees) and a concept stormwater plan.
- The deep soil zone should match the deep soil zone of the commercial building approval (D/2023/904).
- The use of a mechanical car lift is discouraged, as car lifts are generally only considered appropriate for development involving the adaptive reuse of existing buildings, particularly when site or building constraints prohibit standard parking arrangements without causing inconvenience.
- A public art offering similar to that approved by way of D/2023/904 should be provided.
- A Preliminary Public Art Plan should be provided in any new application.

The proposed scheme submitted as part of the subject application is based on the pre-DA scheme and subsequent advice from Council.

Amendments

12. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 10 February 2026. The following additional information and amendments were requested:
 - The communal open space area is to be relocated from the ground floor to the roof to provide improved amenity for the communal space and a genuinely open area.
 - A back of house area is required to allow waste to be transferred directly from the retail tenancies to the waste storage area.
 - Clarification of the materiality of the full height metal mesh to the lift lobby areas on each level.
 - Incorporate sun shading devices to the north facing windows.
 - Further refinement to the Cooper Street facade.
 - Amended stormwater concept plan and public domain levels and gradients plan to resolve minor technical issues.
 - A construction methodology and amended Arborist Report to confirm the continued viability of the street tree to the Cooper Street frontage.
 - Reconsider the provision and location of proposed canopy trees to ensure they have sufficient soil volumes, and sufficient clearance is provided from the parapets of the building.

13. The applicant responded to the request on 1 April 2026, and submitted revised architectural and landscaping plans, and updated consultant reports including updated Waste Management Plan, Updated Arborist Report, updated Traffic Report and updated draft subdivision plans. The submitted amendments and additional information generally address Council's concerns. The following amendments to the design were made:
- Amend the Cooper Street facade to better reinforce the 3 storey street wall height, incorporate greater setback to the western portion of the upper levels and redesign the lower level balconies.
 - Amend the layout of the ground floor to incorporate back of house access for waste management.
 - Minor amendments to the ground floor communal areas to provide a kitchenette within the indoor area and raise the level of the outdoor landscaped area to provide level access between the indoor and outdoor areas.
 - Slight increases to the size of the north facing apartment balconies and providing an overhang and sun shading to the Level 7 apartment balconies.
 - Amend the Level 7 rooftop to incorporate a non-trafficable green roof.
 - Provision of a bike storage area in the basement and converting one resident car space into a service vehicle space.

Proposed Development

14. The application seeks consent for the demolition of the existing building and construction of an 8-storey mixed-use development comprising retail tenancies on the ground floor fronting Cooper Street, 2 levels of basement carparking, 10 residential apartments and associated rooftop mechanical plant equipment, inaccessible green roof, and ground floor landscaped communal open space fronting O'Loughlin Street. Consent is also sought for strata and stratum subdivision. The proposed development consists of:

Basement Level 01 and 02

- 10 car spaces, 1 service vehicle space, bike storage areas, waste storage areas, building services and a car lift to O'Loughlin Street

Ground Level

- 2 separate retail tenancies fronting Cooper Street
- commercial waste storage area and bin room
- internal and external communal areas and associated landscaping fronting O'Loughlin Street
- main residential lobby to Cooper Street

Level 1

- 2 residential apartments comprising 1 x 2 bedroom unit and 1 x 3 bedroom unit

Levels 2-3

- 2 residential apartments comprising 1 x 2 bedroom unit and 1 x 3 bedroom unit on each level

Levels 4-6

- One x 4 bedroom residential apartment on each level

Level 7

- One x 3 bedroom residential apartment

Roof Level

- mechanical plant equipment, solar panels, and an inaccessible green roof

15. Plans and elevations of the proposed development are provided below.

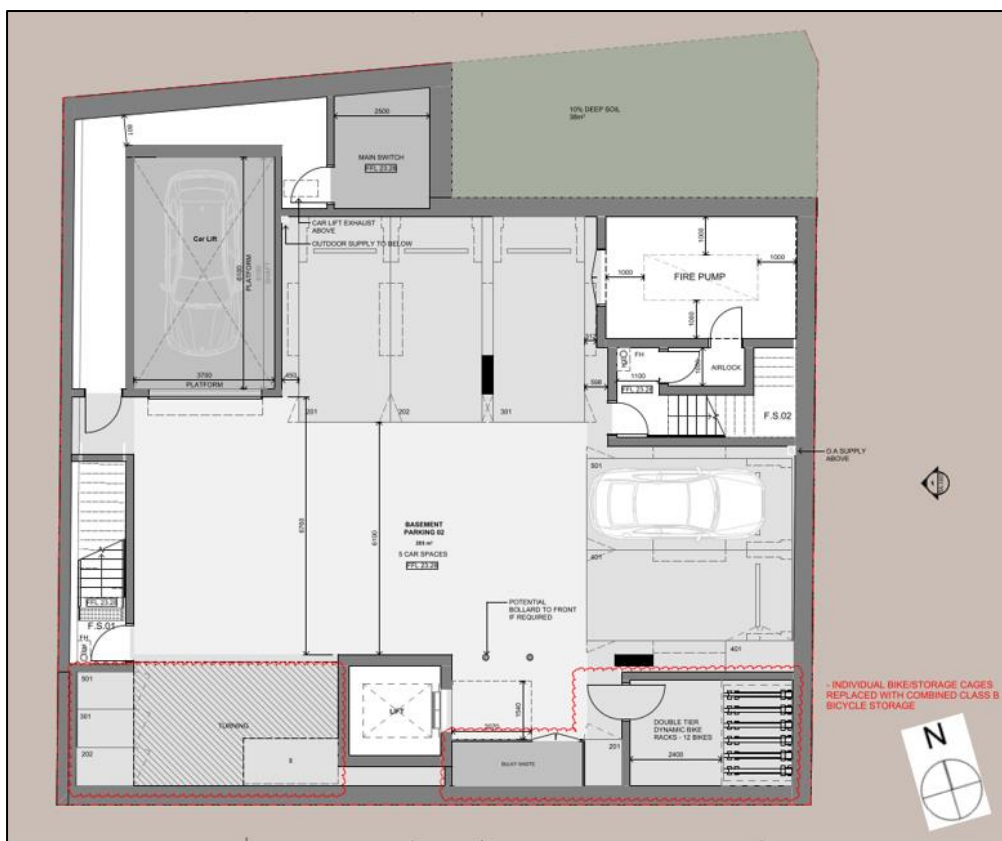


Figure 8: Proposed basement level 2 plan

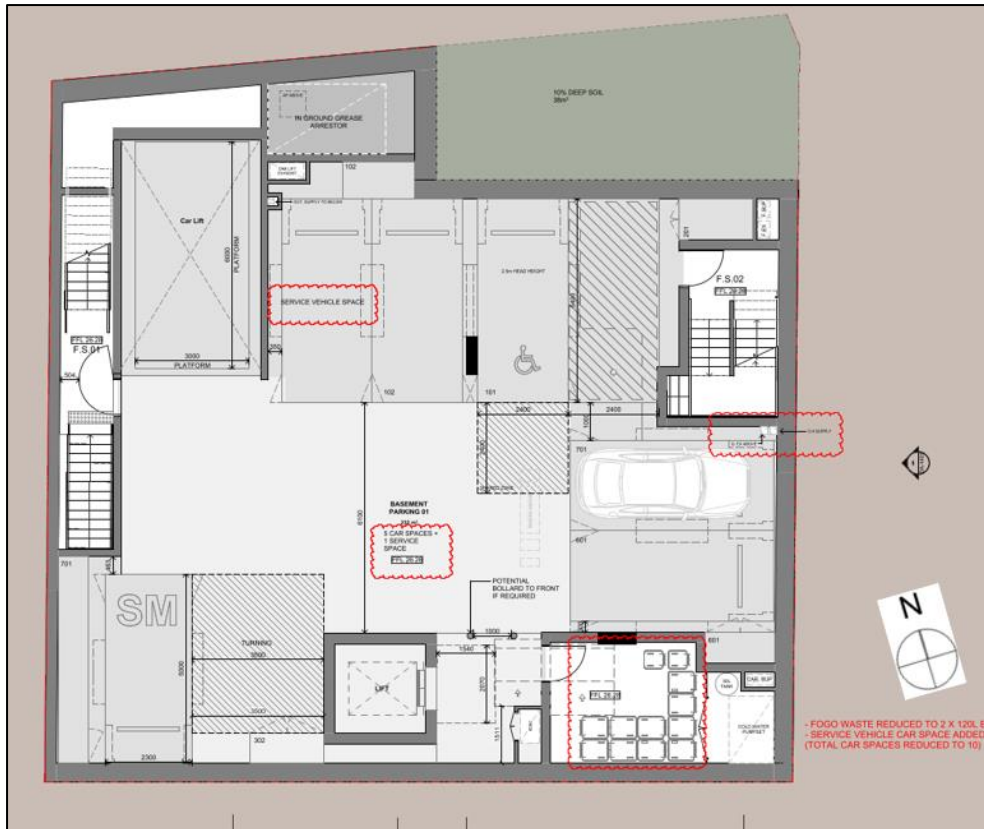


Figure 9: Proposed basement level 1 plan

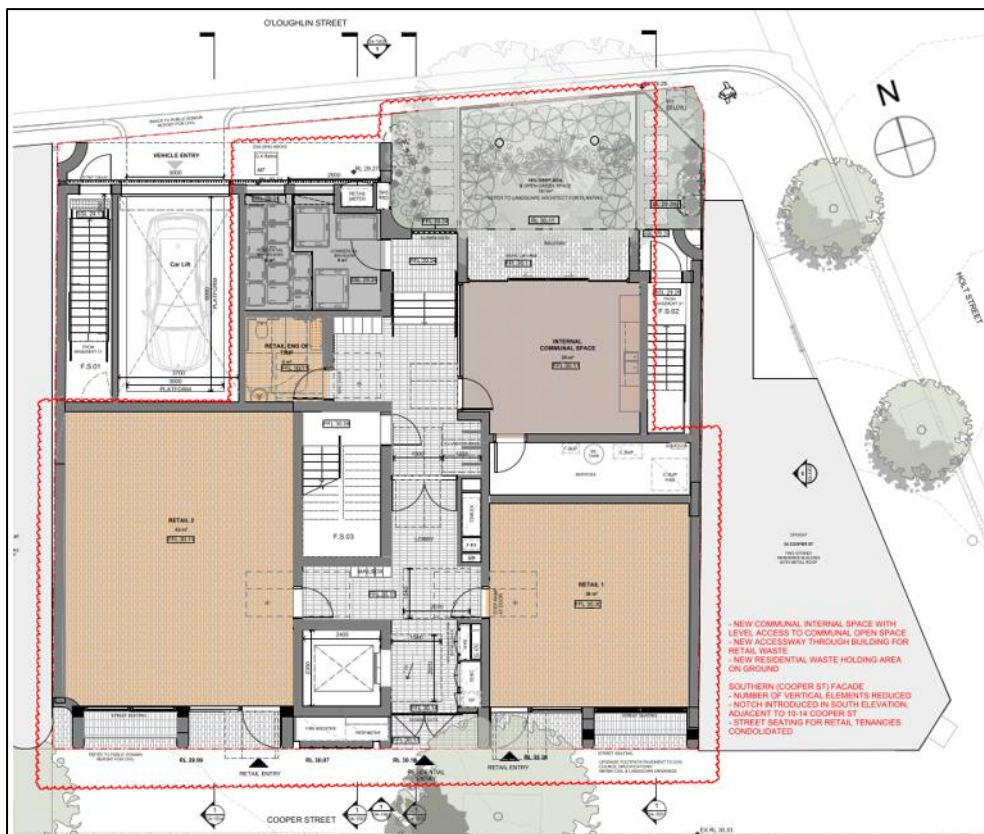


Figure 10: Proposed ground floor plan



Figure 11: Proposed Levels 1-3 typical floor plan

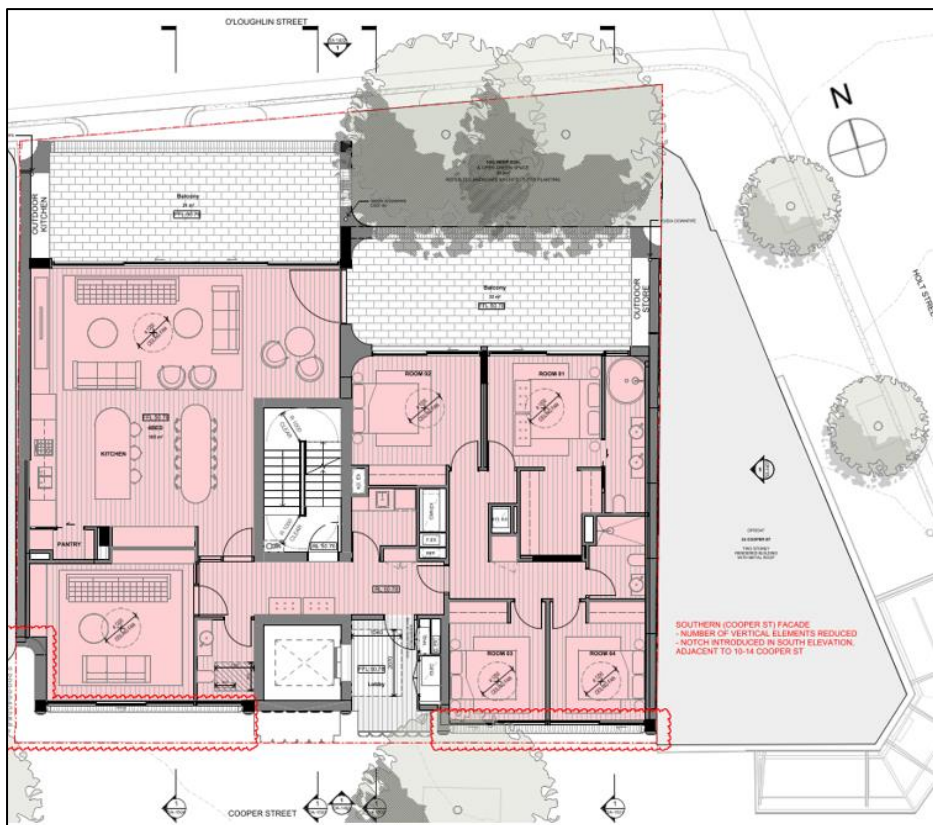


Figure 12: Proposed Levels 4-6 typical floor plan

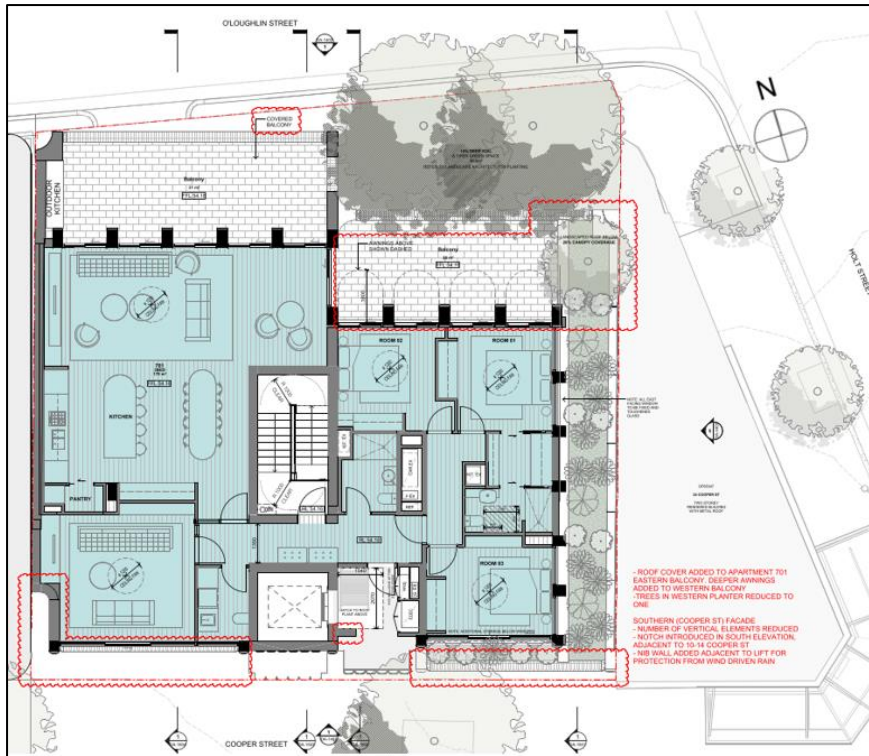


Figure 13: Proposed Level 7 floor plan

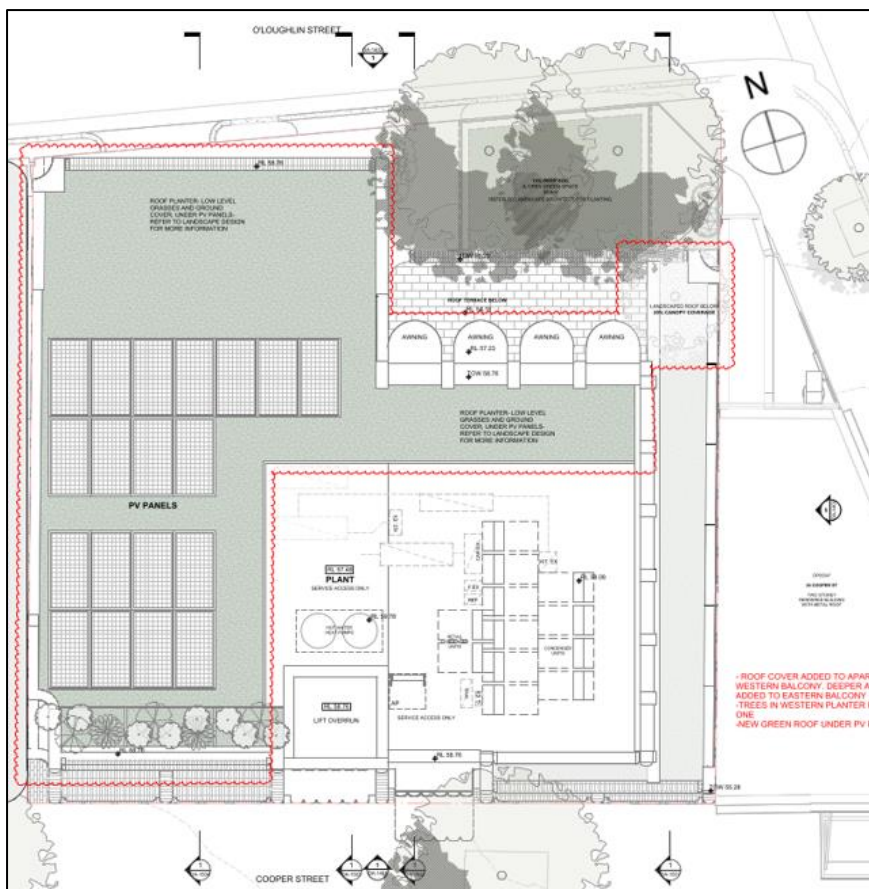


Figure 14: Proposed roof plan

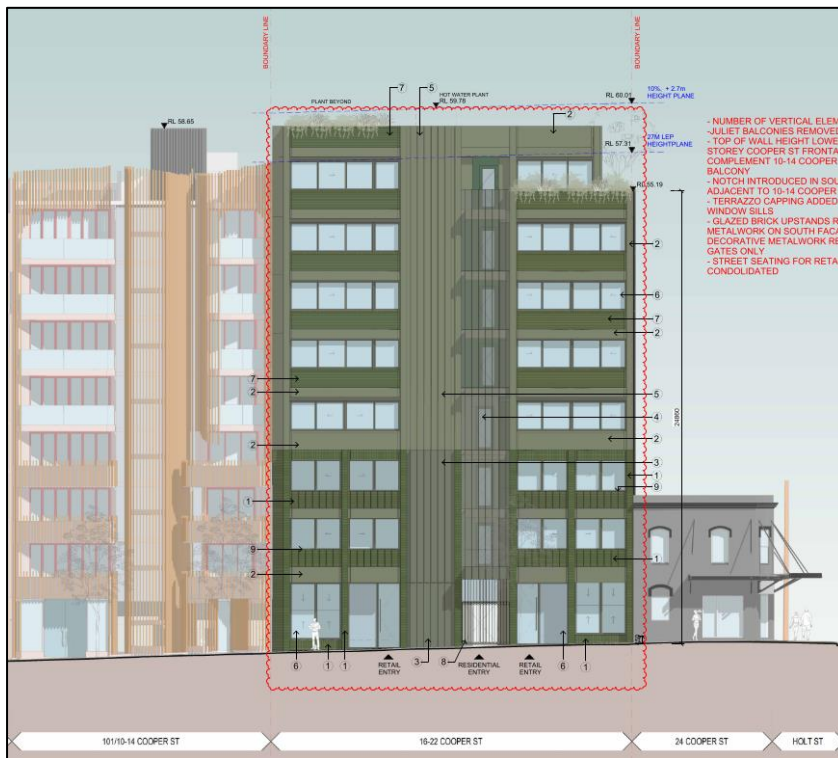


Figure 15: Proposed south (Cooper Street) elevation

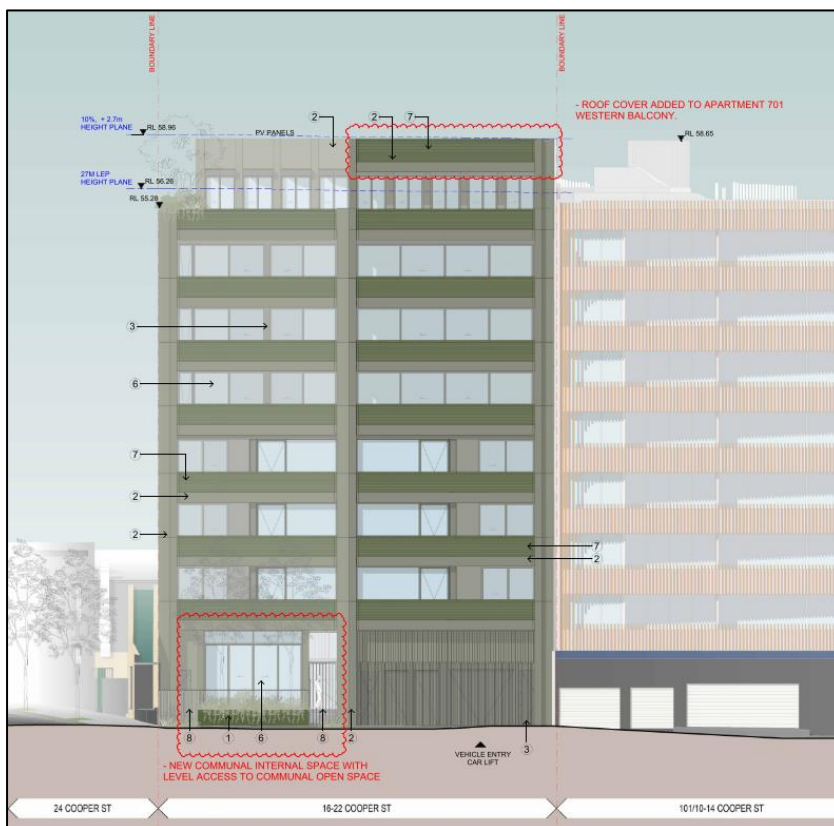


Figure 16: Proposed north (O'Loughlin Street) elevation

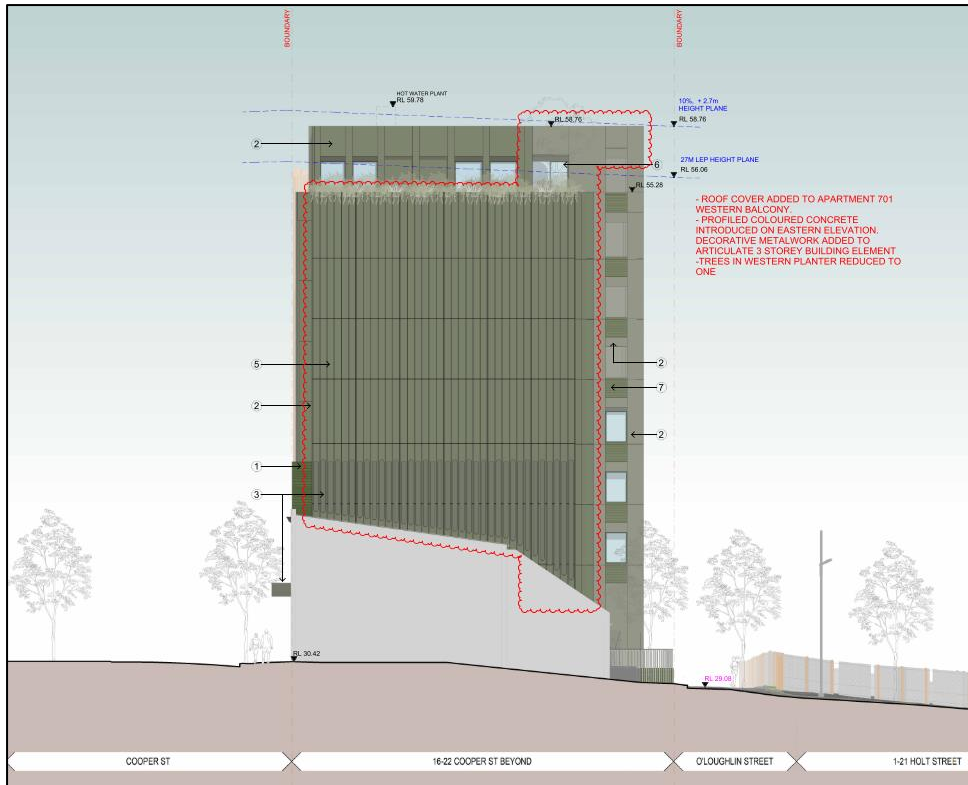


Figure 17: Proposed east elevation

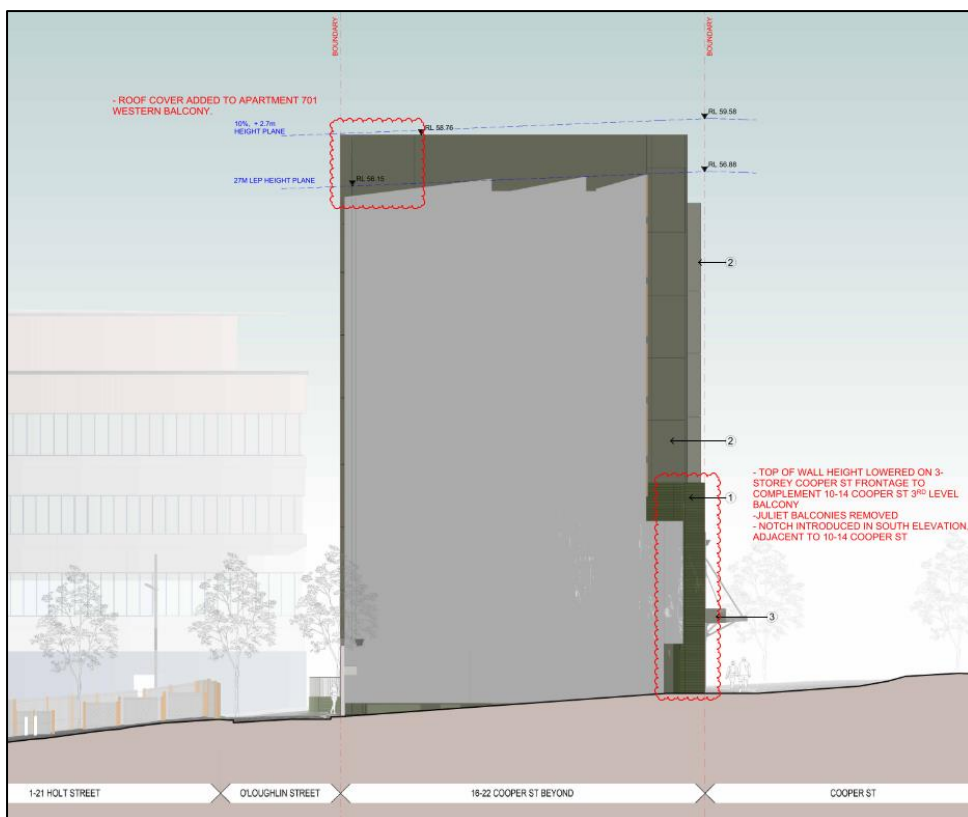


Figure 18: Proposed west elevation

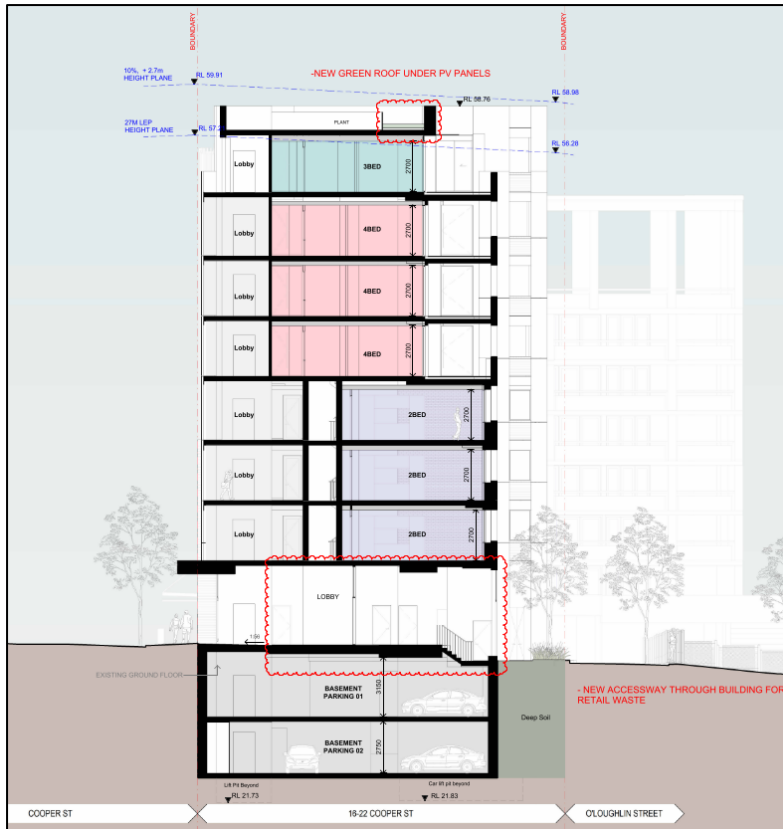


Figure 19: Proposed section plan



Figure 20: 3D perspective of the proposed development from Cooper Street looking north



Figure 21: 3D perspective of the proposed development from Cooper Street looking north-east



Figure 22: 3D perspective of the proposed development from Holt Street looking south-west

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. The subject application has not been nominated as integrated development. The application was referred to WaterNSW, who responded, advising that the proposed development requires separate approval for dewatering under Section 60 of the Water Management Act 2000. Therefore, conditions of consent are recommended to ensure that the relevant dewatering approvals are obtained from WaterNSW prior to construction works commencing.

State Environmental Planning Policies

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

32. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
33. A Detailed Site Inspection (DSI) dated 13 March 2024, was undertaken as part of the previous development application (D/2023/904) for a commercial building on the site. The DSI has been peer reviewed by a Site Auditor (dated 21 November 2025). The findings indicate the site can be made suitable for the proposed residential use, noting the limited access to soil samples. The Site Auditor recommended that a Hazardous Material Survey be undertaken, as well as additional soil and ground water investigations to address data gaps, and a subsequent Dewatering Management Plan (DMP) be prepared prior to excavation works.
34. The Council's Health Unit has reviewed the information provided and is satisfied that the site can be made suitable for the proposed uses subject to recommended conditions of consent.
35. Standard conditions of consent are recommended to mitigate potential risks of contamination as a result of the proposed works, including requiring the recommendations of the Site Auditor to be carried out, all imported fill to be validated, and for Council to be notified of any new evidence of contamination during building works.
36. The consent authority may be satisfied that, subject to conditions, that the site can be made suitable for the proposed uses.

State Environmental Planning Policy (Housing) 2021

37. The aim of SEPP (Housing) 2021 is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.

38. Section 7.32 of the EP&A Act and states that where the consent authority is satisfied that the development meets certain criteria, and a Local Environmental Plan authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.
39. Clause 7.13 (Contribution for purpose of affordable housing) of the Sydney Local Environmental Plan 2012 allows for circumstances where an affordable housing contribution may be levied for development of land in residual lands being land outside of the Central Sydney, Ultimo-Pyrmont, and Green Square areas where an affordable housing contribution also applies.
40. This matter is discussed in further detail under the heading Financial Contributions below.

Chapter 4 - Design of Residential Apartment Development

41. The aim of Chapter 4 is to improve the design quality of residential apartment development in New South Wales.
42. When determining an application for a residential flat development of 3 or more floors and containing 4 or more apartments, the SEPP requires the consent authority take into consideration design quality, including the design quality principles as set out in Schedule 9.
43. The applicant has submitted a design verification statement and design report prepared by Adam Haddow of SJB Architects, registration number: 7188 (NSW), with the application, addressing the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement is deemed to satisfy Clause 29 of the Environmental Planning and Assessment Regulation 2021.
44. An assessment of the proposal against the design quality principles is provided as follows:

(a) Principle 1: Context and Neighbourhood Character

The proposed development is compatible with the context and neighbourhood character of the Surry Hills Central locality. In considering the context and neighbourhood character, the current need for additional housing is relevant to the context, not just within Surry Hills but more broadly. The development is largely consistent with the scale of immediately surrounding 3 to 8 storey residential and commercial buildings along Cooper Street.

(b) Principle 2: Built Form and Scale

The scale, bulk and height are appropriate having regard to the desired future character of the neighbourhood and context. The built form and modulation of the new building seeks to maximise internal amenity while responding to various constraints of the site, and to the existing adjoining residential apartment building to the east at No.10-14.

(c) Principle 3: Density

The proposed development provides additional diverse housing options within the locality and is generally consistent with density permitted by the relevant development controls for the site. The dwelling mix provides housing options, including 2, 3 and 4 bedroom apartments.

Notwithstanding the increased density, the proposed development achieves reasonable amenity and is further maximised through the provision of shared communal facilities and open space.

(d) Principle 4: Sustainability

The proposed development provides adequate internal residential amenity. Natural cross ventilation has been maximised to all apartments. The orientation of the upper levels has been designed to maximise solar access to habitable rooms and private balconies of the apartments.

Sustainability measures are also incorporated into the proposed development, including solar panels on the roof.

(e) Principle 5: Landscape

The proposal provides sufficient landscaping, including a genuine deep soil zone with new canopy tree planting adjoining the ground floor communal area, and planting on structures, which contribute to urban greening, offering an improvement over the existing development on the site which provides no landscaping.

(f) Principle 6: Amenity

The proposed development provides diverse apartment typologies. The internal layouts have been designed to provide flexibility and maximise amenity through cross-ventilation and generously sized private balconies with direct solar access.

The proposed development achieves reasonable levels of residential amenity, having regard to the design guidance in the ADG, and is further maximised through the provision of shared communal facilities adjoining landscaped open space.

(g) Principle 7: Safety

The development has been designed to appropriately separate residential and commercial uses. The proposed development minimises the opportunity for crime through principles of passive surveillance and active retail frontages at ground level.

Communal open space, and retail frontages are generally located at ground level, with private balconies and living room windows overlooking the street frontages. Separate retail and residential entrances are provided and are clearly identified along the building frontages. All apartments have secure lift access.

(h) Principle 8: Housing Diversity and Social Interaction

The development includes a mix of 2, 3 and 4 bedroom apartments, which contributes to housing diversity within the LGA providing much needed housing opportunities. The design of the building includes indoor and outdoor communal areas which provide a desirable environment for social interaction and will foster community.

(i) Principle 9: Aesthetics

The external appearance of the building is largely informed by the envelope and architectural design of the previously approved commercial building, using similar materials and facade detailing, with a 3 storey street wall to Cooper Street, and appropriate articulation to the interface with the adjoining mixed-use building to the east at No.10-14.

45. The development is acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These controls are generally replicated within the apartment design controls under the Sydney Development Control Plan 2012. Consequently, compliance with the SEPP generally implies compliance with Council's own controls. A detailed assessment of the proposal against the ADG is provided below.

3D Communal and Public Open Space	Consistency	Comment
Communal open space has a minimum area equal to 25% of the site.	No	The proposal provides a total of 53 sqm of communal area at ground level, which comprises 25 sqm internal area and 28 sqm external area. This equates to 14% of the site area. Refer to "discussion" section of this report for detailed assessment of the amenity of the communal areas.
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	The development achieves over 2 hours of direct sunlight to at least 50% of the usable areas of communal open space on 21 June and complies, noting that any future redevelopment of the open carpark directly north of the site will likely reduce the solar access achieved by the communal areas. Refer to "discussion" section of this report for detailed assessment of the amenity of the communal areas.

3E Deep Soil Zones	Consistency	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site.	Yes	The proposal provides a deep soil area of 38sqm, equivalent to 10% of the site area, which includes new canopy tree planting.

3F Visual Privacy	Consistency	Comment
<p>Up to 4 storeys (12 metres):</p> <ul style="list-style-type: none"> • 6m between habitable rooms / balconies • 3m between non-habitable rooms <p>5 to 8 storeys (25 metres):</p> <ul style="list-style-type: none"> • 9m between habitable rooms / balconies • 4.5m between non-habitable rooms 	Yes	<p>The residential component of the development is up to 8 storeys and provides separation distances of 15m across Cooper Street, and approximately 8m across O'Loughlin Street to the open carpark.</p> <p>It is noted that any future redevelopment of the carpark will likely incorporate a setback from O'Loughlin Street frontage to mitigate any impacts to the existing street trees.</p>
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	Apartment configuration provides appropriate separation between private habitable rooms and circulation spaces.

4A Solar and Daylight Access	Consistency	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	10 of 10 (100%) of apartments achieve the minimum 2 hours' direct sunlight at mid-winter to living rooms and private open spaces.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	None of the apartments receive no direct sunlight at mid-winter.

4B Natural Ventilation	Consistency	Comment
All habitable rooms are naturally ventilated.	Yes	All habitable rooms have a window to an external space and are therefore naturally ventilated.

4B Natural Ventilation	Consistency	Comment
Minimum 60% of apartments in the first 9 storeys of the building are naturally cross ventilated.	Yes	10 of 10 (100%) apartments are naturally cross-ventilated.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	None of the apartments exceeds 18m in depth.

4C Ceiling Heights	Consistency	Comment
Habitable rooms: 2.7m Non-habitable rooms: 2.4m	Yes	All apartments achieve a 2.7m floor to ceiling height.
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Partial	The site is zoned MU1 Mixed-Use. Floor-to-ceiling heights of 3.4 and 3.6m are provided for the ground floor retail tenancies fronting Cooper Street, and 3.87m for the ground floor lobby and communal indoor space. The first floor is proposed to be used exclusively for residential accommodation, and has a floor to ceiling height of 2.7m.

4D Apartment Size and Layout	Consistency	Comment
Minimum unit sizes: <ul style="list-style-type: none"> • Studio: 35sqm • 1 bed: 50sqm • 2 bed: 70sqm • 3 bed: 90sqm The minimum internal areas include only one bathroom. Additional bathrooms increase	Yes	All apartment sizes are compliant with the minimum unit size requirements of the ADG.

4D Apartment Size and Layout	Consistency	Comment
<p>the minimum internal area by 5sqm each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12sqm each.</p>		
<p>Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.</p>	Yes	All habitable rooms are naturally ventilated.
<p>Habitable room depths are to be no more than 2.5 x the ceiling height.</p>	Yes	All habitable rooms other than open plan layouts meet the minimum room depth requirement based on 2.7m ceiling heights.
<p>8m maximum depth for open plan layouts.</p>	Yes	All open plan living/dining/kitchen areas of the apartments do not exceed 8m in depth (excluding hallways and pantries).
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> • master bedroom: 10sqm • all other bedrooms: 9sqm <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>	Yes	All bedrooms are compliant with the minimum room size and minimum dimension requirements.
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> • Studio and one-bedroom: 3.6m • 2-bedroom or more: 4m 	Yes	All living room and dining room areas are compliant with the minimum room width requirements.
<p>4m minimum width for cross over and cross through apartments.</p>	Yes	All dual aspect apartments have minimum widths greater than 4m.

4E Private Open Space and Balconies	Consistency	Comment
<p>Studio apartments are to have a minimum balcony area of 4sqm with a minimum depth of 1m.</p> <p>One bed apartments are to have a minimum balcony area of 8sqm with a minimum depth of 2m.</p> <p>2 bed apartments are to have a minimum balcony area of 10sqm with a minimum depth of 2m.</p> <p>3 bed apartments are to have a minimum balcony area of 12sqm with a minimum depth of 2.4m.</p>	Yes	All apartments comply with the minimum balcony size requirements in terms of overall area and depths.

4F Common Circulation and Spaces	Consistency	Comment
The maximum number of apartments off a circulation core on a single level is 8.	Yes	No more than 2 apartments are provided at each level, served by the central circulation core.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	Appropriate separation is generally provided between bedroom and living room windows and common circulation areas.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Perforated screening is provided to the lift lobby on each of the residential levels, in order to provide natural ventilation and daylight with appropriate weather protection.

4G Storage	Consistency	Comment
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ <p>(Minimum 50% storage area located within unit)</p>	Yes	Adequate storage space is provided in each apartment and in within the basement car parking area.

4J Noise and Pollution	Consistency	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	<p>The site is not located on a noisy road and is not significantly affected by vehicle noise and pollution.</p> <p>An acoustic report submitted with the application concludes that internal noise levels can be met provided acoustic treatment is provided to windows. This treatment forms part of the recommended conditions of consent.</p>

State Environmental Planning Policy (Sustainable Buildings) 2022

46. 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 2 Standards for residential development - BASIX

47. A NatHERS Certificate (Certificate No. 0012396490) and a BASIX Certificate (Certificate No. 1822567M_02) have been submitted with the development application.
48. The BASIX and NatHERS certificates lists measures to satisfy BASIX and energy efficiency requirements which have been incorporated into the proposal. The final set of architectural plans has also been stamped by the NatHERS assessor and achieves a 7.3 thermal performance star rating. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

Chapter 3 Standards for non-residential development

49. 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

50. 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.
51. 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 the installation of energy efficient appliances and solar panels on the roof.

52. With regard to section (2) above the applicant has adequately quantified the embodied emissions attributable to the development.

State Environmental Planning Policy (Transport and Infrastructure) 2021

53. 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

54. The application is subject to Clause 2.48 of the SEPP as the development will be carried out within 5m of an exposed overhead electricity power line.
55. As such, the application was referred to Ausgrid for a period of 21 days and a response was received, which recommended standard consent conditions requiring SafeWork procedures to be complied with, and appropriate clearances from existing power poles and infrastructure.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter

6 Water Catchments

56. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
57. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SEPP are not applicable to the proposed development.
58. The proposal is not anticipated to have any adverse impacts on stormwater quality and runoff from the site, subject to appropriate conditions of consent for erosion and sediment control measures to be implemented during building works, and for the stormwater drainage system to be designed in accordance with Council's Stormwater Drainage Manual.

Local Environmental Plans

Sydney Local Environmental Plan 2012

59. 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 site is located in the MU1 Mixed Use zone. The proposed development is defined as a mixed-use development comprising a "residential flat building" and "retail premises" and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	<p>A maximum building height of 27m is permitted.</p> <p>A maximum height of 29.7m is proposed to the top of the lift overrun and roof parapet.</p> <p>The proposed development does not comply with the maximum height of buildings development standard.</p> <p>A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p>
4.4 Floor space ratio	Yes	<p>A maximum floor space ratio of 4:1 or 1542.88 sqm is permitted.</p> <p>A floor space ratio of 4:1 or 1542 sqm is proposed.</p> <p>The proposed development complies with the maximum floor space ratio development standard.</p>
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the development standard prescribed under Clause 4.3 "Height of Buildings". A Clause 4.6 variation request has been submitted with the application.</p> <p>See further details in the 'Discussion' section below.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is not identified as a heritage item, is not located within a heritage conservation area, and does not directly adjoin any heritage items.</p> <p>The proposed development will not have a detrimental impact on the heritage significance of any nearby heritage items.</p>
5.21 Flood planning	Yes	The site is not identified as being subject to flooding.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21C Design excellence 6.21D Competitive design process	Assessed as acceptable	<p>Under cl 6.21D, a competitive design process is required as the proposal exceeds 25m in height and is located outside Central Sydney. The applicant has requested that the consent authority waive the requirement for a competitive design process on the grounds that this would be unreasonable or unnecessary in the circumstances.</p> <p>Under the circumstances, this request is supported, for the following reasons:</p> <ul style="list-style-type: none"> • Due to the sloping topography of the site, the proposal has a maximum height of 29.7m for the lift overrun and rooftop mechanical plant screening, and only the non-trafficable green roof and part of Level 7 exceed 25m in height. • The height of the proposed development is generally consistent with the previously approved building envelope for the site under D/2023/904, which had an approved maximum height of 29.67m.

Provision	Compliance	Comment
	Yes	<ul style="list-style-type: none"> • The proposal is of an appropriate massing and form, responds to the constraints and conditions of the site, and provides a high level of architectural detailing whilst providing a suitable level of amenity to future occupants. • A competitive design process in this instance is not considered to add any significant value to understanding the site constraints or informing a suitable building envelope and is therefore considered unnecessary. <p>Furthermore, the City has noted that it is unreasonable or unnecessary for developments such as this to be subject to the creation of a site specific DCP or a competitive design process, and as such an amendment to the relevant Clauses of the LEP has been endorsed by Council. This amendment involves the relevant development trigger, being development in respect of a building that had a height above ground level of 25 metres on any other land, is to be amended to 35 metres per the Policy and Housekeeping Amendments 2023 (PP-2024-709) which received Gateway approval in October 2024, pending Gazettal.</p> <p>With regard to design excellence considerations under cl 6.21C, 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 area.</p> <p>The proposal responds to the site constraints while providing an appropriate form and massing with a high level of architectural design and detailing, that is considered to provide sufficient amenity to the proposed residential apartments whilst adequately</p>

Provision	Compliance	Comment
		<p>mitigating any adverse impacts to the surrounding properties.</p> <p>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 development therefore achieves design excellence.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
<p>7.5 Residential flat buildings, dual occupancies and multi dwelling housing</p> <p>7.7 Retail premises</p>	Yes	<p>A maximum of 10 car parking spaces are permitted (9 spaces for the residential uses of the development and 1 space for the retail uses, rounded to the nearest whole number).</p> <p>The proposed development includes 10 car parking spaces and complies with the relevant development standards.</p>
Division 3 Affordable housing		
7.13 Contribution for affordable housing	Yes	<p>The site is identified as being on 'residual lands' under this clause.</p> <p>Clause 7.13(1) of the LEP advises that where there is a change of use of existing floor area from other than residential accommodation to residential accommodation, or for alterations and additions to an existing building that result in the creation of more than 200 sqm of GFA for residential accommodation, a contribution is required to be made for the purpose of affordable housing.</p> <p>The proposal involves the creation of over 200 sqm of GFA for the purpose of residential accommodation. As such, a contribution is required under this clause.</p>

Provision	Compliance	Comment
		See "financial contributions" section of this report below for details as to how the contribution is calculated.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils (ASS). The submitted Geotechnical Report identifies that there is a low probability of ASS occurrence on the site, and that there is no mapped occurrence of ASS risk within 500m of the site. Therefore, the proposed works do not require the preparation of an Acid Sulfate Soils Management Plan.
7.20 Development requiring or authorising preparation of a development control plan	Yes	As the proposal results in a building that exceeds 25m in height and is located outside Central Sydney, a site specific development control plan is required under the control. In this instance the preparation of a site specific development control plan is unreasonable and unnecessary in the circumstances. Refer to assessment against Cl 6.21 of the SLEP above.
7.26 Public art	Yes	Refer to Section 3.1 of the SDCP compliance table below.

Development Control Plans

Sydney Development Control Plan 2012

60. 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

61. The site is located within the Surry Hills Central locality. The proposed development is in keeping with the unique character and the design principles of the Surry Hills Central locality. The proposed development provides active retail uses to Cooper Street, reinforcing the retail centre of Surry Hills, whilst providing additional residential accommodation.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	<p><i>Public Art:</i></p> <p>As the estimated cost of works exceeds \$10 million, public art is required to be provided in accordance with the City of Sydney Guidelines for Public Art in Private Development and the Public Art Policy.</p> <p>A Preliminary Public Art Plan prepared by SJB Architecture has been submitted and identifies opportunities for public art on the external eastern boundary wall of the development, and the lobby entrance from Cooper Street. The potential public art opportunities include integrating decorative artwork into the entry gate to the lobby and improving the presentation of the blank eastern facade wall through decorative textural design.</p> <p>The preliminary public art plan is supported by Council's Public Art team subject to appropriate conditions requiring a detailed public art plan be submitted to and approved by Council prior to issue of a construction certificate.</p>
3.2. Defining the Public Domain	Yes	<p>Whilst none of the street frontages of the site are identified as requiring active frontages under the DCP controls, the proposal provides active retail uses to the Cooper Street frontage, with separate entrances to the retail tenancies. A separate entry lobby to the residential portion of the development is also provided to Cooper Street.</p> <p>Footpath awnings are not required by the DCP controls to either of the street frontages. A solid awning is proposed to the Cooper Street lobby entrance. The awning is of a sufficient height above the footpath (3.5m), is sufficiently setback from the nearby street tree, and generally complies with the DCP controls. The retail entrances to Cooper</p>

Provision	Compliance	Comment
		<p>Street are recessed to provide weather protection.</p> <p>The proposal is supported by Council's Public Domain team subject to recommended conditions of consent to ensure the public domain is appropriately protected and upgraded in accordance with Council's Public Domain Policies and technical specifications, to improve pedestrian and public access and remove hazards.</p>
3.3 Design Excellence and Competitive Design Processes	Assessed as acceptable	<p>Under clause 6.21D of the SLEP, a competitive design process is required as the proposal exceeds 25m in height and is located outside Central Sydney. The applicant has requested that Council waive the requirement for a competitive design process, and this waiver is supported on the grounds that this would be unreasonable or unnecessary in the circumstances.</p> <p>Refer to assessment against CI 6.21 of the SLEP in the SLEP compliance table above.</p>
3.5 Urban Ecology	Yes	<p>Minor pruning of the street tree directly fronting the site along Cooper Street is required to facilitate the proposed building envelope. An Engineers Report has been submitted which outlines the construction methodology for the excavation for the proposed basement and how the soil profile will be retained to protect the existing tree roots during construction, demolition and excavation works.</p> <p>The submitted Engineers Report and Arborist Report have been peer reviewed by Council's Tree Management Officer, who raise concerns that although the submitted reports have outlined the excavation sequencing and required protection measures, they do not address how the roots will be protected when encountered during the demolition of the existing retaining wall and subsequent installation of a perimeter retention system. A condition of consent is therefore recommended to require an updated Arborist Report be</p>

Provision	Compliance	Comment
		<p>submitted and approved by Council prior to issue of a construction certificate, which outlines the methodology of root protection during the demolition of the retaining wall and installation of the perimeter retention system that is outlined in the Engineer's Report.</p> <p>In addition to the above, appropriate conditions of consent are recommended to ensure the protection and retention of the existing street trees along the Cooper Street and O'Loughlin Street frontages from any adverse impacts as a result of construction activities, and to ensure that the roots of the existing street tree along the Cooper Street frontage is adequately protected from the proposed works to facilitate the new basement levels.</p>
3.6 Ecologically Sustainable Development	Yes	<p>A BASIX and NatHERS certificate, and Design for Environmental Performance report, have been submitted as part of the application to demonstrate compliance with the relevant energy performance requirements of BASIX and the National Construction Code under Section J.</p> <p>The proposal satisfies BASIX and environmental requirements. Refer to SEPP (Sustainable Buildings) as well as the DCP controls. In addition, the proposal includes several positive measures relating to sustainability, including the rooftop solar panels, and the installation of energy efficient appliances.</p> <p>Council's Environmental Projects team supports the proposal, noting that the BASIX Certificate identifies an all-electric development in operation. Consent conditions are recommended to ensure that the development incorporates energy and water efficient appliances, and for the measures outlined in the submitted Design for Environmental Performance report to be incorporated into the relevant construction drawings.</p>

Provision	Compliance	Comment
		Refer to SEPP (Sustainable Buildings) section of this report above.
3.7 Water and Flood Management	Yes	<p>The site is not identified as being on flood prone land.</p> <p>Concept Stormwater Drainage plans have been submitted, and confirmation from Sydney Water has been provided to demonstrate that On Site Detention (OSD) is not required.</p> <p>Conditions of consent are recommended to ensure that the drainage system is constructed in accordance with the City's Stormwater Drainage Manual.</p>
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	<p>The proposed development includes strata and stratum subdivision of the retail and residential portions of the development.</p> <p>The application was referred to Council's Specialist Surveyor, who supported the proposal, subject to conditions of consent requiring various restrictions and easements be registered to ensure the orderly operation of the land and appropriate use of the subject lots.</p> <p>A separate application must be made to obtain any Subdivision or Strata Certificate.</p>
3.9 Heritage	Yes	The site is not identified as a heritage item and is not located within a heritage conservation area.
3.11 Transport and Parking	Yes	<p><i>Bike parking</i></p> <p>The DCP requires a minimum of 11 bike spaces for the residential component (10 spaces for residents and 1 space for visitors), and 3 bike spaces for the retail uses (1 spaces for employees and 2 spaces for customers) for a total of 14 bike spaces to be provided.</p> <p>Personal lockers are required as well as shower and change facilities.</p> <p>A total of 15 bike spaces are provided for the development (12 spaces for the residential component and 3 visitor</p>

Provision	Compliance	Comment
		<p>spaces for the retail component). The residential bike spaces are located in a consolidated area within the basement, while the visitor spaces are provided within the entrance lobby adjacent to the end of trip facilities. The overall bike parking location and configuration are considered acceptable.</p> <p><i>Car parking and loading</i></p> <p>The proposed development provides one space for service vehicles within the basement car parking area, which is accessed from O'Loughlin Street via a car lift.</p> <p>The proposed development is acceptable, subject to recommended conditions to manage the operation of the loading dock and car lift, including requiring traffic signals to be installed, and a Loading Dock Management Plan to be approved by the Principal Certifier and made available to all residents and tenants of the building.</p>
3.12 Accessible Design	Yes	<p>Accessible design requirements must be complied with at the certification stages.</p> <p>An Access Report prepared by Vista Access Architects has been submitted to demonstrate that the proposal can comply with the accessibility requirements of the Disability Discrimination Act 1992 (DDA), National Construction Code and Australian Standards.</p> <p>Appropriate accessible facilities are provided within the development including an accessible car space, as well as an adaptable apartment. This satisfactorily addresses this control.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposal includes active retail uses to the Cooper Street frontage, which includes large glazed entrance doors and shopfront windows to ensure passive surveillance to the street. The communal open space area at ground level for the residents of the building will</p>

Provision	Compliance	Comment
		<p>provide passive surveillance to O'Loughlin Street.</p> <p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p>
3.14 Waste	Partial compliance	<p>A Waste Management Plan (WMP) has been submitted in accordance with Council requirements.</p> <p>The proposal includes separate waste storage areas for the residential and retail components of the development (including bulky waste storage), within the basement levels and ground floor with back of house access to the collection point at the rear of the site.</p> <p>The proposal has been reviewed by Council's Cleansing and Waste team, who generally support the proposal, noting the location of the waste holding area at the rear of the building at ground level is acceptable, however, concern is raised that the space provided is insufficient to allow the bins to be accessed individually and wheeled out, as the waste streams will not be serviced simultaneously. A condition is recommended for waste holding area to be reconfigured to improve the functionality of the space. Refer to "discussion" section for details.</p> <p>Consent conditions are recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development, and for an updated WMP to be submitted to and approved by Council prior to issue of a construction certificate.</p>
3.15 Late Night Trading Management	Yes	<p>No proposed trading hours are provided for the retail tenancies.</p> <p>The site is located within a "Local Centre" late-night trading area under the DCP. The DCP permits base indoor trading hours between 7am to 11pm for Category B low impact premises, and</p>

Provision	Compliance	Comment
		<p>between 7am to 2am (the following day) for Category C (unlicensed retail) premises.</p> <p>As no specific use is proposed for the retail tenancies, a condition of consent is recommended to clarify that consent is not given or implied for the specific use and operation of the retail tenancies, and that separate future development applications or complying development certificates (if applicable) for the fit out and use of the retail tenancies will be required. It is noted that the standard operating hours for a commercial premises under complying development are between 7am to 10pm, Monday to Saturday, and 7am to 8pm on Sunday and public holidays.</p>
3.16 Signage and Advertising	Yes	<p>Signage has not been proposed as part of this application.</p> <p>As the proposal includes 2 separate commercial tenancies, a signage strategy is required. Although signage zones have been indicated on the submitted architectural plans, insufficient details have been provided to confirm the type of signage proposed. Therefore, a condition of consent is recommended to require a separate signage strategy to be submitted and approved by Council prior to issue of a construction certificate.</p>
3.17 Contamination	Yes	<p>The proposal is not considered to result in any significant risk of contamination subject to appropriate conditions of consent.</p> <p>Refer to above discussion under SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land.</p>
3.18 Acoustic Amenity	Yes	<p>Although the proposal involves new residential accommodation, the site is not on land identified as "Sensitive receivers - Radius 1 or 2" on the</p>

Provision	Compliance	Comment
		Entertainment Sound Management Map, and the site does not have uninterrupted exposure (direct line of site) to any mapped "existing live music and performance venue". Therefore, the provisions of this section of the DCP do not apply.

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	Partial compliance	<p>The site is permitted a maximum building height of 8 storeys, is subject to a 3 storey street frontage height to Cooper Street and an 8 storey street frontage height to O'Loughlin Street.</p> <p>The proposed development is 8 storeys in height and complies with the DCP height control.</p> <p>While the proposed development does not provide a substantial setback above the 3 storey street wall to the full length of the Cooper Street frontage, the proposal does provide a visual distinction between the lower 3 storeys and the upper levels, through changes in the materiality of the facade, and setting back the western portion of the facade from Levels 3 to 7 by approximately 1m from the boundary by deleting some of the front apartment balconies to the upper levels. This provides an appropriate interface with the adjoining apartment building at No.10-14 Cooper Street.</p> <p>See further details under the 'Discussion' section below, relating to clause 4.6 variation to the LEP height control and recommendations from the Design Advisory Panel Residential Subcommittee.</p>

Provision	Compliance	Comment
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	<p>The proposed development achieves the minimum floor to floor height of 4.5m at ground floor for the retail tenancies and residential lobby and communal area.</p> <p>Residential apartments on the levels above are provided with minimum 3.2m floor to floor heights that will achieve 2.7m ceiling heights in accordance with the ADG and DCP controls.</p> <p>Refer to ADG compliance table under SEPP (Housing) 2021, above.</p>
4.2.2 Building setbacks	Yes	<p>The site is not identified as requiring specific setbacks as shown on the "Building Setbacks and alignment map" under the DCP.</p> <p>The DCP specifies that "(1) where no setback or alignment is shown on the map, the setback and alignment must be consistent with adjoining buildings".</p> <p>The proposed development has stepped setbacks to both street frontages. This, is generally consistent with the envelope of the previously approved commercial building (D/2023/904) and provides visual interest and articulation to the design of the new building. The proposed street setbacks also correspond with the existing setbacks of the adjoining mixed-use building at No.10-14 Cooper Street and provides an appropriate visual transition from the adjoining building.</p>
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	<p>Shadow diagrams submitted with the application have been assessed against and meet the provisions of the ADG regarding achieving adequate solar access to the residential apartments and communal open space area.</p> <p>The proposed development does not result in any unreasonable overshadowing to neighbouring properties, noting that additional</p>

Provision	Compliance	Comment
		<p>overshadowing from the proposal generally falls onto commercial buildings to the south along Cooper Street from 9am to 2pm mid-winter, with some additional overshadowing to the existing boarding house to the south-east at No.33-35 Cooper Street from 3pm mid-winter.</p> <p>The proposal is acceptable in that adequate solar access and natural light will be provided to the subject site and adjoining sites.</p> <p>Refer to ADG compliance table under SEPP (Housing) 2021, above, and "discussion" section below relating to solar access to the communal areas.</p>
4.2.3.3 Internal common areas	Yes	Lift lobbies have access to natural daylight via perforated screens to the Cooper Street façade and achieve the minimum 2m width requirement.
4.2.3.4 Design features to manage solar access	Yes	Awnings are provided to the north-eastern balcony of the Level 7 apartment to provide appropriate protection from direct sunlight in summer. The overhang of the apartments directly above, provide sufficient sun protection to the balconies of the apartments below.
4.2.3.5 Landscaping	Yes	<p>The proposed development provides deep soil landscaped area within the setback to O'Loughlin Street within the communal open space area, as well as landscaping on structures along the eastern boundary at Level 7, and an inaccessible green roof.</p> <p>The landscaping elements of the proposal are generally supported by Council's Landscape team, subject to recommended conditions of consent for minor amendments to the plant selection to include more native species, increased soil depth for the green roof,</p>

Provision	Compliance	Comment
		and additional details of the planters and green roof (including maintenance strategy, and structural and waterproofing certification) to be submitted to and approved by the Certifier prior to issue of a construction certificate.
4.2.3.6 Deep Soil	Yes	<p>The deep soil requirements of the SEPP (Housing) 2021 and ADG prevail over the DCP controls.</p> <p>The proposal provides a deep soil area of 38 sqm (10% of the site) within the setback to O'Loughlin Street. Adequate canopy trees are provided within the deep soil area.</p> <p>Refer to ADG compliance table under SEPP (Housing) 2021, above.</p>
4.2.3.7 Private open space and balconies	Yes	<p>All apartments are provided with private open space that meets the minimum requirements of the ADG. The private open spaces are directly accessible from the living areas of the dwellings.</p> <p>Refer to ADG compliance table under SEPP (Housing) 2021, above.</p>
4.2.3.8 Common open space	Partial compliance	<p>Communal open space is provided on the ground level at the rear of the development which incorporates landscaping. The communal area is orientated to the north to achieve sufficient sunlight and will provide sufficient amenity for future residents.</p> <p>Refer to "discussion" section below for detailed assessment of the communal areas against the DCP controls and design criteria of the ADG.</p>
4.2.3.9 Ventilation	Yes	<p>All apartments are naturally cross-ventilated.</p> <p>Refer to ADG compliance table under SEPP (Housing) 2021, above.</p>

Provision	Compliance	Comment
4.2.3.10 Outlook	Yes	All apartments are provided with a reasonable outlook and will not result in any unreasonable impacts to outlook from any neighbouring properties.
4.2.3.11 Acoustic privacy	Yes	<p>An acoustic report prepared by Rodney Stevens Acoustics has been submitted to demonstrate that the proposed development can achieve compliance with the noise criteria outlined in Section 4.2.3.11 of the DCP, as well as Council's noise policy (NSW EPA Noise Policy for Industry 2017), subject to recommend acoustic treatment to glazing.</p> <p>Whilst it is noted that the specifications for the rooftop mechanical plant have not been selected, it is noted that based on the proposed location of the mechanical plant area on the roof, potential noise mitigation measures including acoustic screening and treatment can be implemented to achieve compliance with the required noise criteria. It should be noted that any future acoustic screening to the rooftop plant is unlikely to be visible from the public domain or significantly contribute to the bulk and scale of the development, as the parapet at a height of approximately 1.3m above the roof level will provide additional screening.</p> <p>The acoustic report was reviewed by Council's Environmental Health Officer team, who advised that the noise assessment is generally satisfactory. Standard noise conditions are recommended to ensure compliance with Council's noise policy, and for the recommendations of the acoustic report to be implemented.</p>
4.2.3.12 Flexible housing and dwelling mix	Yes	The development provides a range of dwelling types, comprising 3 x 2 bedroom apartments (30%), 4 x 3

Provision	Compliance	Comment
		<p>bedroom apartments (40%), and 3 x 4 bedroom apartments (30%).</p> <p>The proposed dwelling mix is acceptable given that less than 20 total dwellings are proposed, and one adaptable apartment is provided. The design of the larger apartments on Levels 4-7 can allow these apartments to be flexibly converted to different apartment configurations in the future.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The development provides appropriate articulation through the use of varying materiality, architectural elements including balconies and perforated metalwork, facade indentations and staggered setbacks.</p> <p>The scale, modulation and facade articulation of the development responds suitably to its context.</p>
4.2.6 Waste and recycling Management	Yes	<p>All apartments have adequate space to manage waste, and residential and commercial waste storage areas are separated. A suitably sized separate bulky waste storage area is also provided.</p> <p>Refer to Section 3.14 above of the DCP compliance table.</p> <p>A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>
4.2.7 Heating and cooling infrastructure	Yes	<p>The mechanical plant and services are generally located within consolidated areas on the roof level.</p> <p>Standard consent conditions are recommended for the operation of the mechanical plant equipment to comply with the City's Noise Policy.</p>
4.2.8 Letterboxes	Yes	<p>The letterboxes are provided within the residential lobby of the building, and a</p>

Provision	Compliance	Comment
		condition has been recommended to ensure that they are installed with non-master key locks for security.
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	<p>The site is located within the MU1 Mixed Use zone, which is equivalent to the former B4 Mixed Use zone.</p> <p>Subject to conditions, the development will not adversely impact the amenity of neighbouring residential properties.</p>

Discussion

Clause 4.6 Request to Vary a Development Standard - Building Height

62. The site is subject to a maximum height control of 27m.
63. The proposed development exceeds the height control, with a maximum height of 29.7m above existing ground level to the top of the lift overrun and roof parapet (RL 58.76), resulting in a variation of 2.7m or 10% from the development standard.

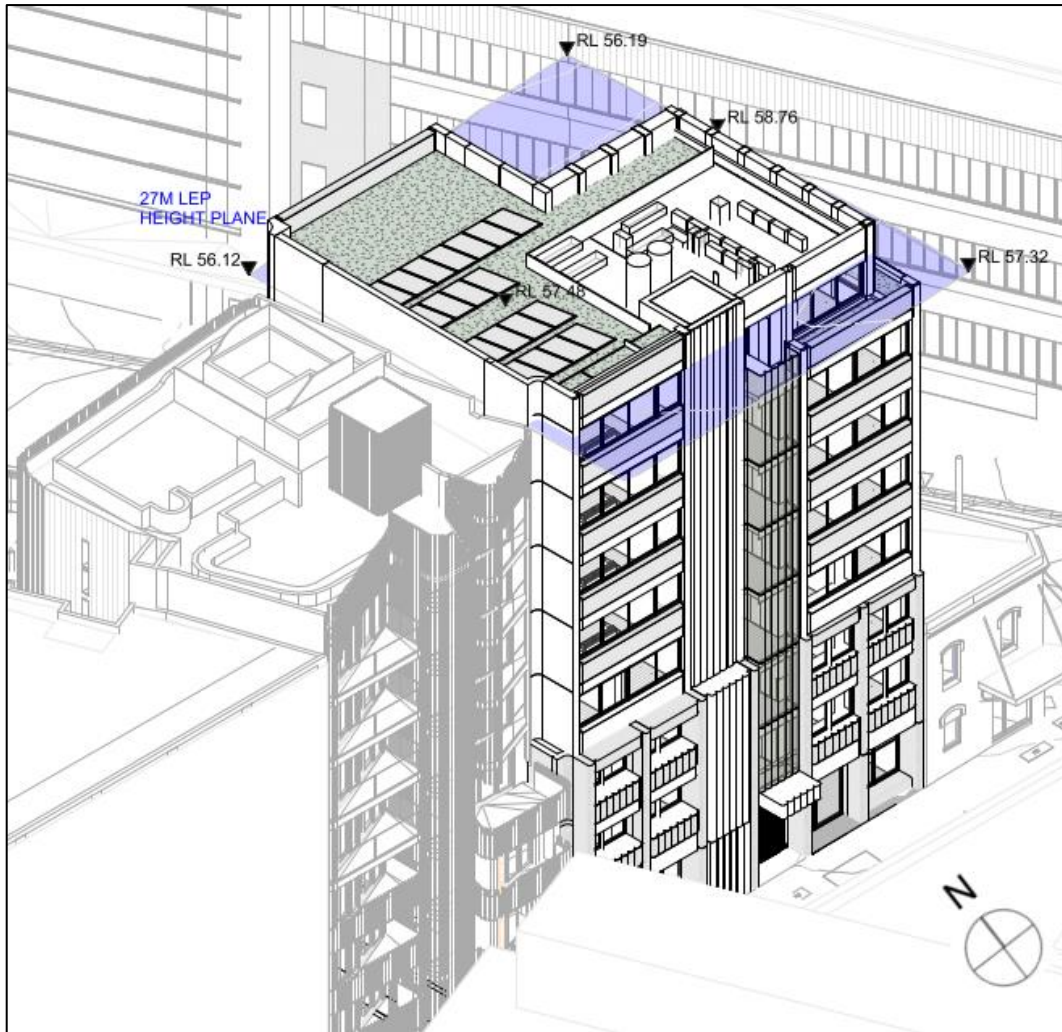


Figure 23: 3D perspective of the proposed development showing the 27m height plane

64. Pursuant to the requirements of Regulation 35B of the Environmental Planning and Assessment Regulation 2021, the application has been accompanied by a document setting out the grounds on which the applicant seeks to demonstrate:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard;

Applicant's regulation 35B document

65. The applicant seeks to justify the contravention of the building height development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) The proposal meets the objectives of the building height standard in that the height of proposed development is appropriate within the context of the site, noting there are several developments in close proximity to the site which are a similar height to the proposal, including 10-14 Cooper Street and 360-370 Elizabeth Street x 8 Cooper Street.
 - (ii) The exceedance relates to parapets and services which are set within the roof top level. This minimises their visibility and reinforces the overall heights appropriateness.
 - (iii) There are no significant private or public views across the site that would be impacted by the portion of the building exceeding the height limit.
 - (iv) The part of the building exceeding the height is setback from the prominent frontages of the site and will not be readily perceptible in the surrounding public domain. The proposed height variation does not interrupt the nominated height transitions from Central Sydney towards Surry Hills, ensuring that these appropriate transitions are maintained.
 - (b) That there are sufficient environmental planning grounds to justify contravention of the standard:
 - (i) The proposal does not result in any unreasonable environmental impacts. In particular, there are no unreasonable view, privacy, overshadowing or traffic impacts;
 - (ii) The extent of the non-compliance, being the equivalent to no more than 10% of the standard, is minor;
 - (iii) The majority of the roof top level is for environmentally sustainable measures such as photovoltaic panels hot water heat pumps, as well as roof top landscaping; and
 - (iv) the proposal satisfies the relevant objectives of the subject MU1-Mixed Use zone.

Precondition to granting consent where a development standard has been contravened.

66. Where a development standard has been contravened, development consent must not be granted unless the consent authority is satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard.

67. The applicant has demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the standard for the following reasons:

- (a) The overall height of the proposal is appropriate within the context of the site and surrounding development, including adjoining the 8 storey mixed-use building at 10-14 Cooper Street (approved by the LEC under D/2016/684), and the 9 storey mixed-use building further west on the corner of Cooper Street and Elizabeth Street. It is noted that although the overall height of the proposed development is similar to the height of the neighbouring properties at No.10-14, and No.8, the RLs of the proposal are higher due to the slope of the street falling to the west. The context of the surrounding buildings is shown in the below figure.

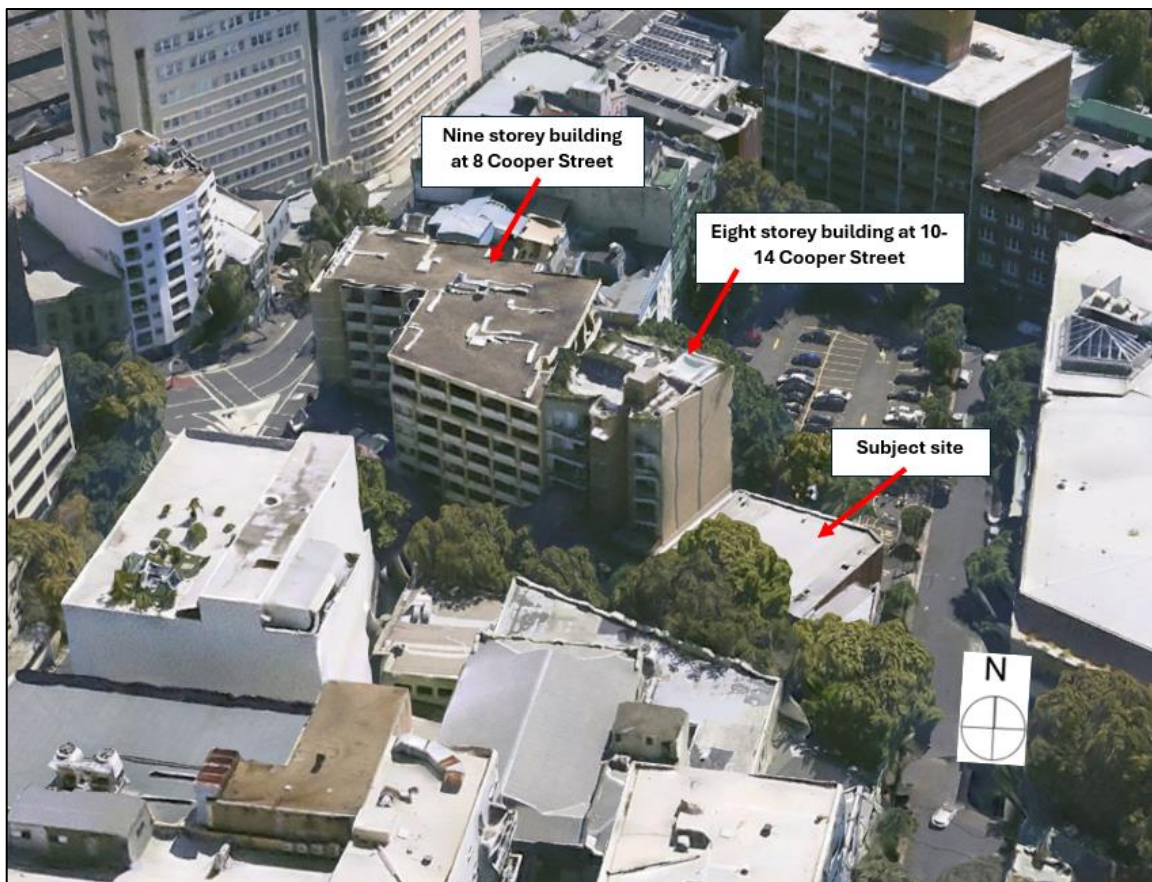


Figure 24: 3D aerial view of surrounding context

- (b) The overall height of the proposed development is generally consistent with the previously approved building envelope for a commercial building on the site under D/2023/904, which has a maximum approved height of 29.67m. A visual comparison of the proposed scheme against the approved building is provided in the below figure.

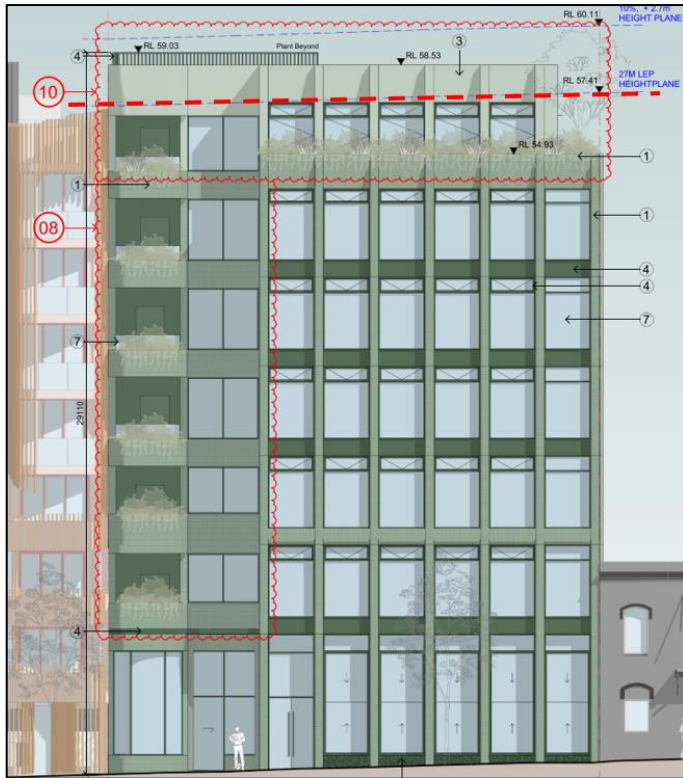


Figure 25: Cooper Street elevation of the approved commercial building under D/2023/904 showing the 27m height control in red dash

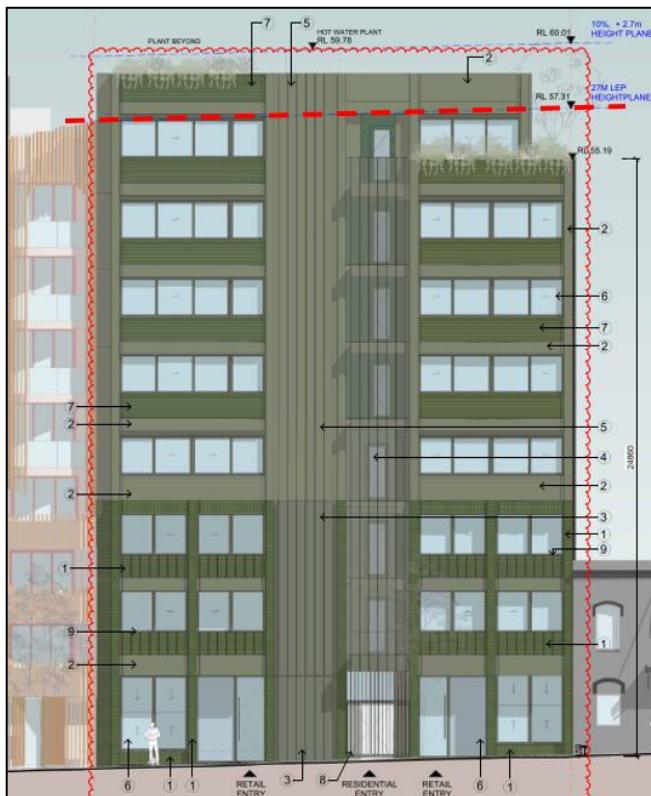


Figure 26: Cooper Street elevation of the proposed building showing the 27m height control in red dash

- (c) The portion of the development which breaches the height control comprises the non-trafficable green roof, rooftop plant, solar panels and building services which are screened behind the roof parapet, and will not be visible from the public domain, and will not result in any unreasonable overshadowing or visual privacy impacts to surrounding properties.
- (d) The proposal does not obstruct any significant views from surrounding properties.
- (e) The proposal provides an appropriate transition from the taller buildings along Elizabeth Street and around Central Station to the west, to the 5 storey Newscorp building and residential terraces further east along Cooper Street.
- (f) The proposal is in keeping with the objectives of the MU1 Mixed Use Zone, as it will provide residential accommodation with ancillary retail uses within an accessible area.
- (g) The proposal is of an appropriate bulk and scale within the context of the site and surrounding development and complies with maximum permitted FSR for the site and generally complies with the minimum floor to ceiling heights of the ADG and DCP.

Conclusion

68. For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant has demonstrated the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012.

Communal Open Space

69. Part 3D of Apartment Design Guide (ADG) requires that an area of communal open space be provided for the residential portion of the development, with a minimum area equal to 25% of the site and which achieves 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm mid-winter. The objectives of Section 3D of the ADG are to ensure that:
- (a) "an adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping",
 - (b) "Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting"; and
 - (c) "Communal open space is designed to maximise safety".

70. In addition to the ADG requirements for communal open space, the SDCP includes controls for communal open space under Section 4.2.3.8, which generally replicate the ADG controls, with additional requirements, including:
- (6) unpaved soft landscaping area must comprise a minimum of 50% of the total area of common open space", and that the
 - (5) Common open space is to be located and designed to: (a) be seen from the street between buildings; (b) have a northerly aspect where possible; (c) be additional to public and common thoroughfares; (d) be clearly demarcated as a private area for use by residents only; (e) include passive surveillance from adjacent internal living areas or pathways; (f) provide for active and passive recreation needs of all residents; and (g) provide soft landscaping".
71. The proposed development includes a communal area at ground floor level in the north-eastern portion of the site. The communal area comprises an internal space of 25 sqm, and a landscaped outdoor area of 28 sqm, for a total area of 53 sqm, which equates to 14% of the site area. This area is outlined in the below figure.

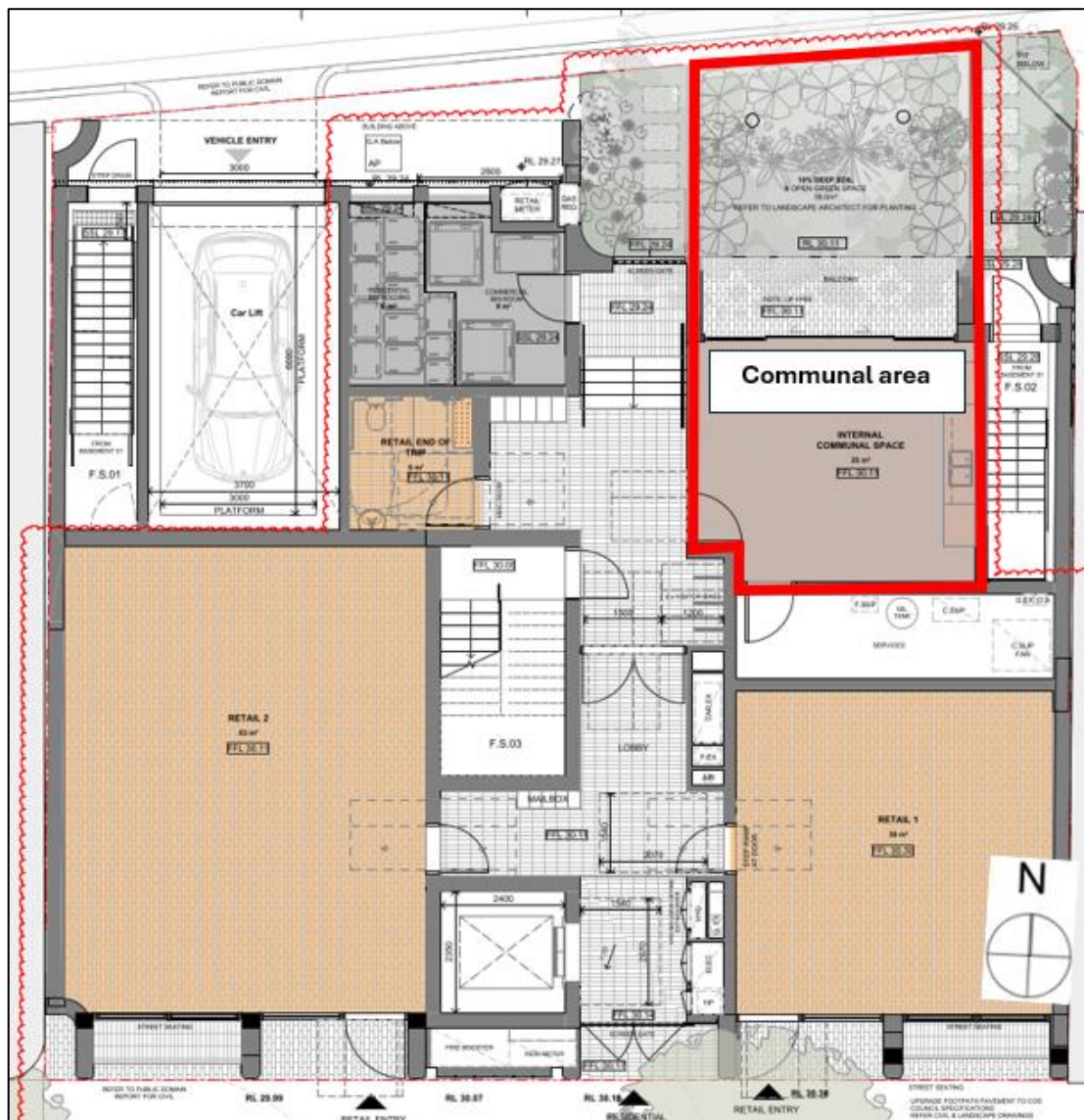


Figure 27: Ground floor plan showing the location of the communal area



Figure 28: 3D render of the communal area viewed from Holt Street

72. The submitted shadow diagrams indicate that the communal area will receive direct sunlight to at least 50% of both the indoor and outdoor space from 11am to 2pm mid-winter. Whilst this strictly complies with ADG requirements for solar access, it is noted that any future development of the open carpark to the north will reduce the amount of direct sunlight to the communal areas. This is demonstrated in the below figures.

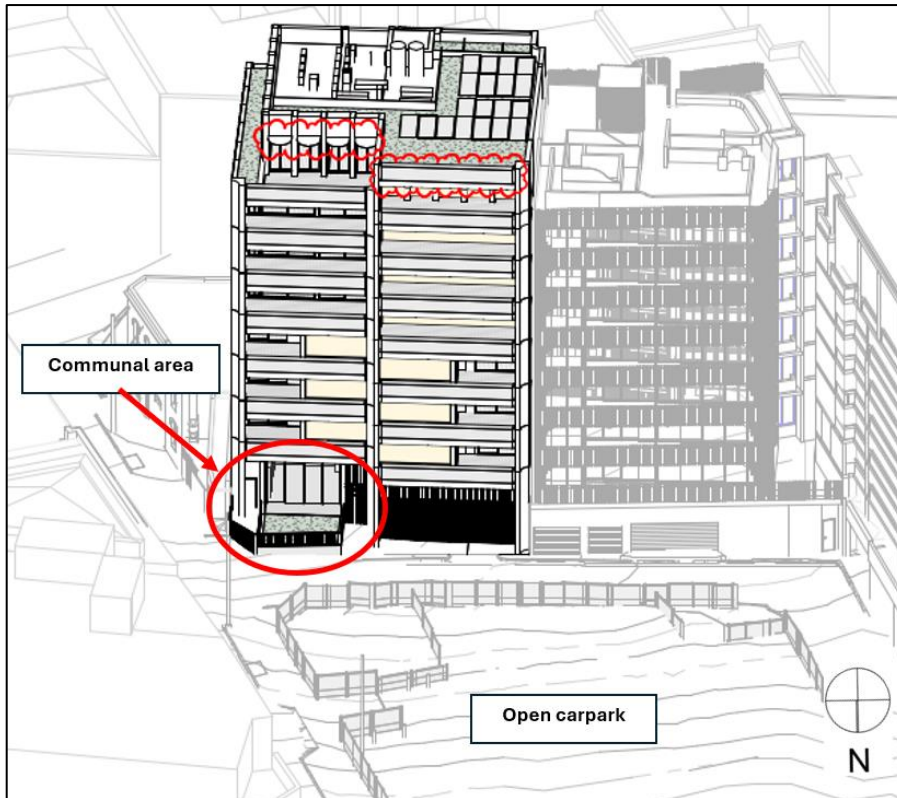


Figure 29: View from the sun diagram at 11am mid-winter

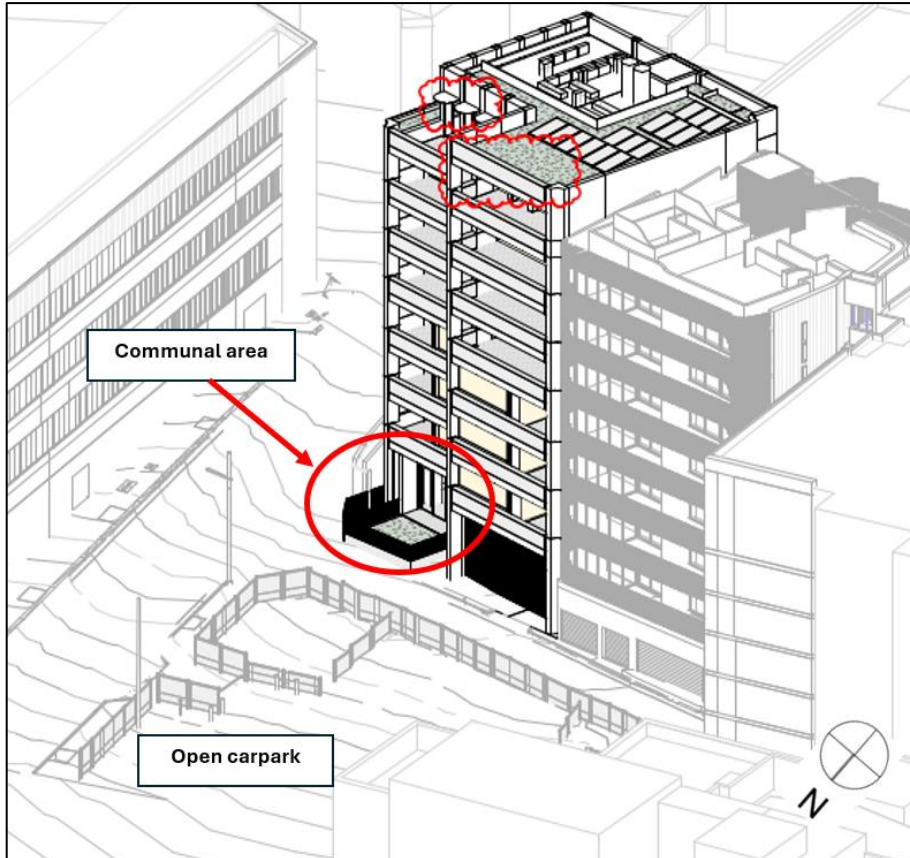


Figure 30: View from the sun diagram at 2pm mid-winter

73. It should however also be noted that any future redevelopment of the carpark is likely to include setbacks to O'Loughlin Street and Holt Street in order to provide sufficient clearances from the existing street trees along Holt Street and O'Loughlin Street.
74. Notwithstanding the above, the location of the communal area generally meets the design guidance of Section 3D of the ADG, which recommends that "communal open space be co-located with deep soil areas" and where development is unable to achieve the design criteria (solar access and minimum area), other measures should be considered to improve amenity for residents including providing a common room, or providing larger private balconies for apartments.
75. Whilst the proposed communal area is under the minimum area required by the ADG by 43.5 sqm, the outdoor area incorporates landscaped deep soil area and includes an internal common room which features kitchen facilities and is directly adjacent to the accessible bathroom on the ground floor. In addition, all apartments feature private balconies that exceed the minimum area requirements of the ADG by between 4 and 45 sqm. The DCP controls also encourage communal open space at ground level, and only permit communal open space above ground level where it is not possible to provide ground level communal open space due to the site constraints, and where the proposed communal open space will achieve a similar amenity as at ground level and will not result in any significant loss of privacy to surrounding properties.
76. Furthermore, whilst relocating the communal open space to the roof was explored by the applicant during the assessment of the current application, the amended design retains the location of the communal area at ground floor, with minor amendments to improve the amenity and functionality of the communal area, including incorporating a kitchenette into the internal space, and raising the external landscaped area to be level with the internal floor level.
77. Within the context of the subject site, the proposed location and configuration of the communal open space area is on balance acceptable as the communal area is consistent with the DCP controls and meets the objectives of Section 3D of the ADG, in that it enhances residential amenity through incorporating landscaping, provides an indoor weather protected area with kitchen facilities that is designed to allow for a range of activities, and maximises safety through passive surveillance.

Waste Holding Area

78. The proposed development includes separate waste storage areas for residential and commercial waste, and a waste holding area at ground level at the rear of the building, adjacent to the collection area along O'Loughlin Street.
79. Council's Cleansing and Waste Management Team have advised that whilst the location of the waste holding area is acceptable, the space provided is insufficient to allow each waste stream to be wheeled out independently. As the 3 waste streams will not be serviced simultaneously, each stream must be able to be serviced independently without requiring bins to be moved or rearranged. A condition of consent is recommended requiring the waste holding area to be reconfigured and for the rear external opening to be widened by removing or relocating the retail meter, to allow for improved access and sufficient circulation space for each waste stream to be wheeled out and serviced independently. See below figure.

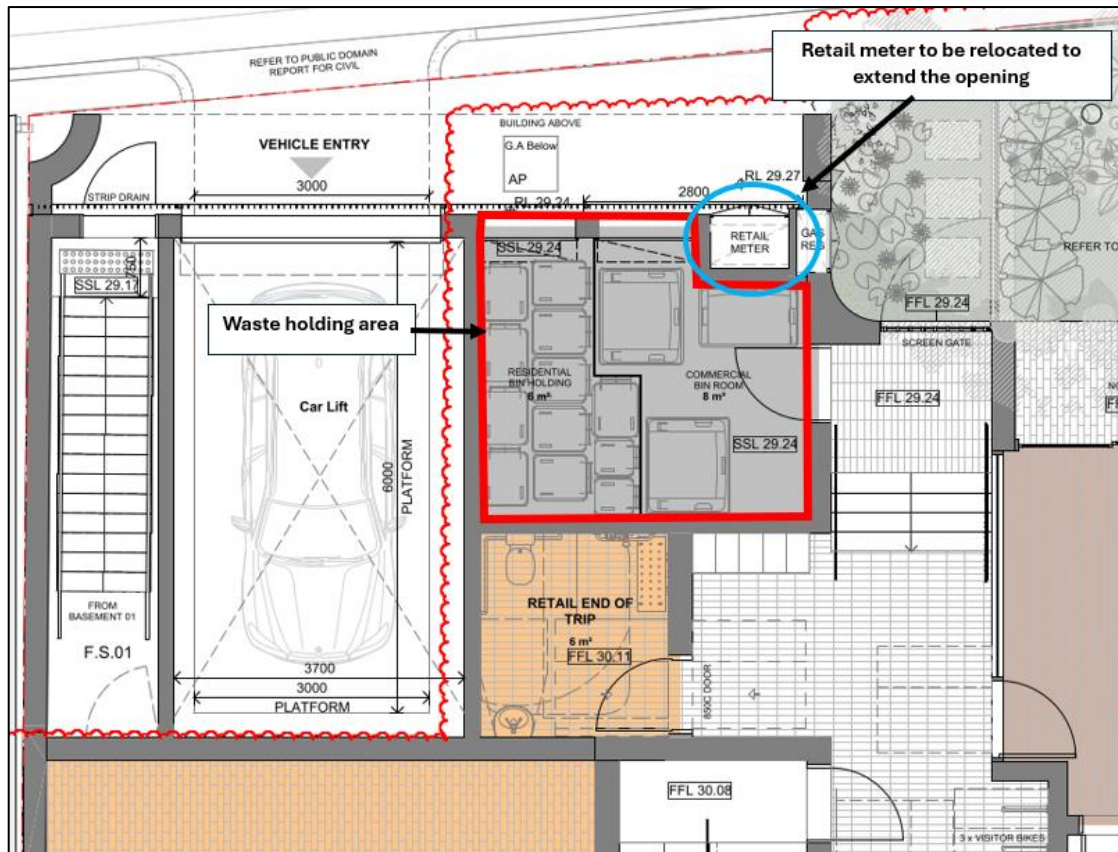


Figure 31: Ground floor waste holding area fronting O'Loughlin Street

80. The transfer paths for the commercial waste are acceptable as they are all internal, and the transfer paths for the residential bins in the basement to the waste holding area on ground floor via the car lift is acceptable subject to a recommended consent condition requiring an updated Waste Management Plan being submitted which includes adequate management procedures to demonstrate safe and efficient transfer of residential bins via the car lift, including contingency measures for lift unavailability.

Design Advisory Panel Residential Subcommittee

81. The proposed scheme was presented to the City's Design Advisory Panel Residential Subcommittee for review and comments on 27 January 2026. The panel was generally supportive of the proposed scheme overall design of the building. Amendments were subsequently made to the proposed scheme which address and respond to the Panel's recommendations and comments, which are summarised as follows:
- (a) *The Apartment Design Guide (ADG) implications of any future development on the adjacent Newscorp carpark site to the north should be considered. It is understood that significant existing trees on this site may necessitate increased setbacks for any future development on the Newscorp site.*

Response: Refer to ADG compliance table and "discussion" section above regarding assessment of the proposal and communal open space in relation to potential future development of the carpark to the north. Whilst the north facing apartment balconies and communal open space rely on some borrowed amenity across the carpark, the location of the primary balconies and common open space are considered appropriate, as the common open space is consistent with the design guidance of the ADG, and relocating the private balconies to the Cooper Street frontage would result in these balconies receiving no direct solar access mid-winter. Sufficient separation distances are also achieved across O'Loughlin Street to adequately mitigate any potential visual privacy impacts from future redevelopment of the carpark.

- (b) *Further detail is required regarding proposed material and detail.*

Response: An updated external materials and finishes schedule has been submitted with the amended architectural drawings and provides additional clarity regarding the materiality of the perforated metal screen to the lift lobbies, glazed brick, terrazzo capping and coloured concrete. The proposed materials are generally supported by Council's Urban Designer, subject to a condition requiring a physical materials and samples board to be submitted and approved by Council prior to issue of a construction certificate.

- (c) *The depth of the north-facing balconies on the upper levels may adversely affect winter solar access.*

Response: The updated view from the sun diagrams demonstrate that the living room and bedroom glazing to the upper level balconies receive sufficient direct sunlight during mid-winter, consistent with the ADG requirements.

- (d) *The absence of overhangs to the north-facing openings on the uppermost level limits passive solar control and weather protection. An awning/overhang with weather protection should be added.*

Response: The amended design incorporates awnings to the eastern balcony of the Level 7 apartments, and the roof has been extended to overhang the western balcony of the Level 7 apartment.

- (e) *The façade rhythm to Cooper Street appears complex and does not achieve the façade depth of the previously approved commercial building. Generally, the proposal for a fine vertical expression is supported; however, the façade design to Cooper Street should be further developed.*

Response: The materiality and architectural expression of the Cooper Street facade has been amended to better acknowledge the 3 storey street wall DCP control and respond to the street setbacks of the neighbouring building at 10-14 Cooper Street. The western portion of the Cooper Street facade is setback 1m from the street boundary above the 3 storey street wall and features a splayed interface with No.10-14 Cooper Street. This is demonstrated in the below figures.

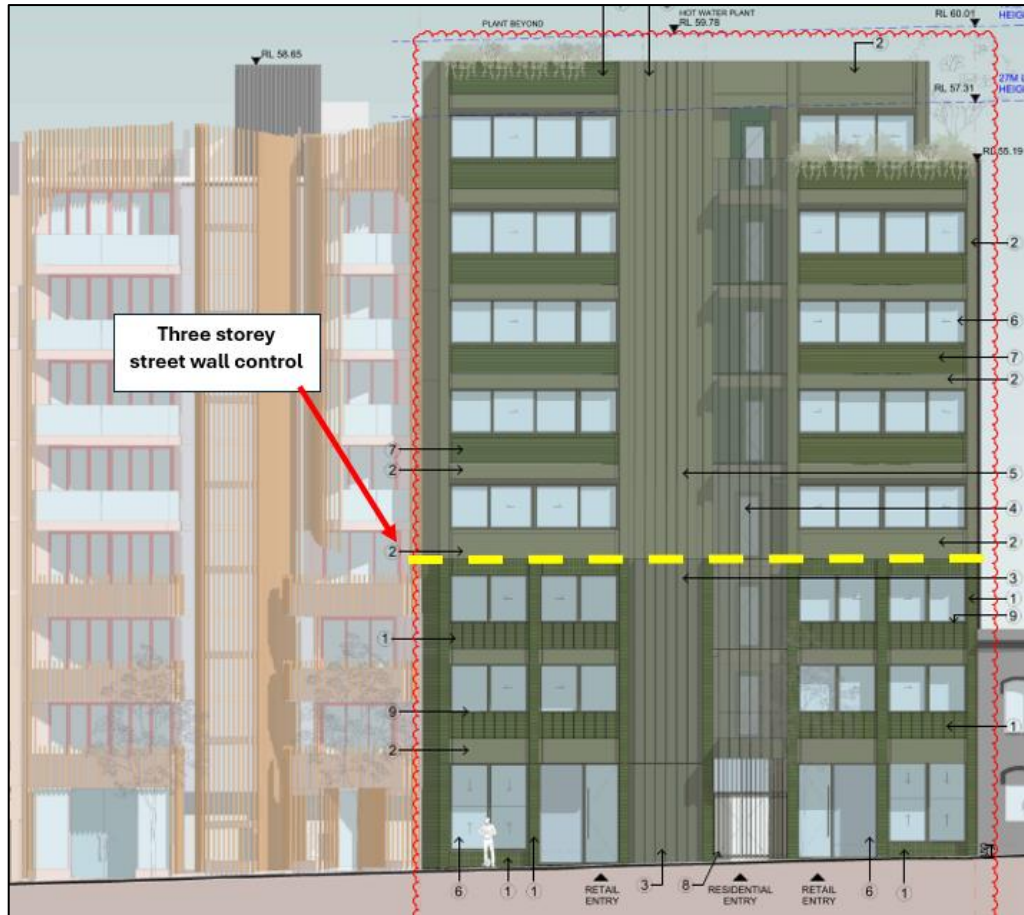


Figure 32: Cooper Street elevation, showing the change in architectural expression above and below the street wall

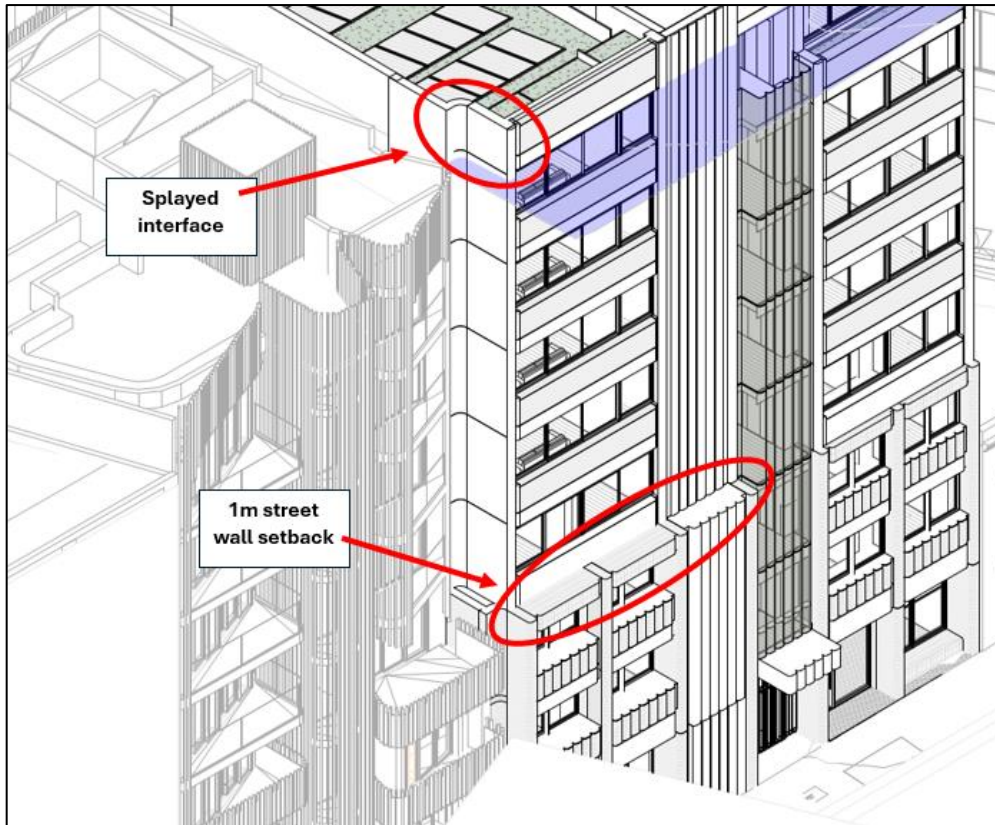


Figure 33: 3D perspective of the Cooper Street elevation, showing the setback above the street wall, and splayed interface to No.10-14 Cooper Street

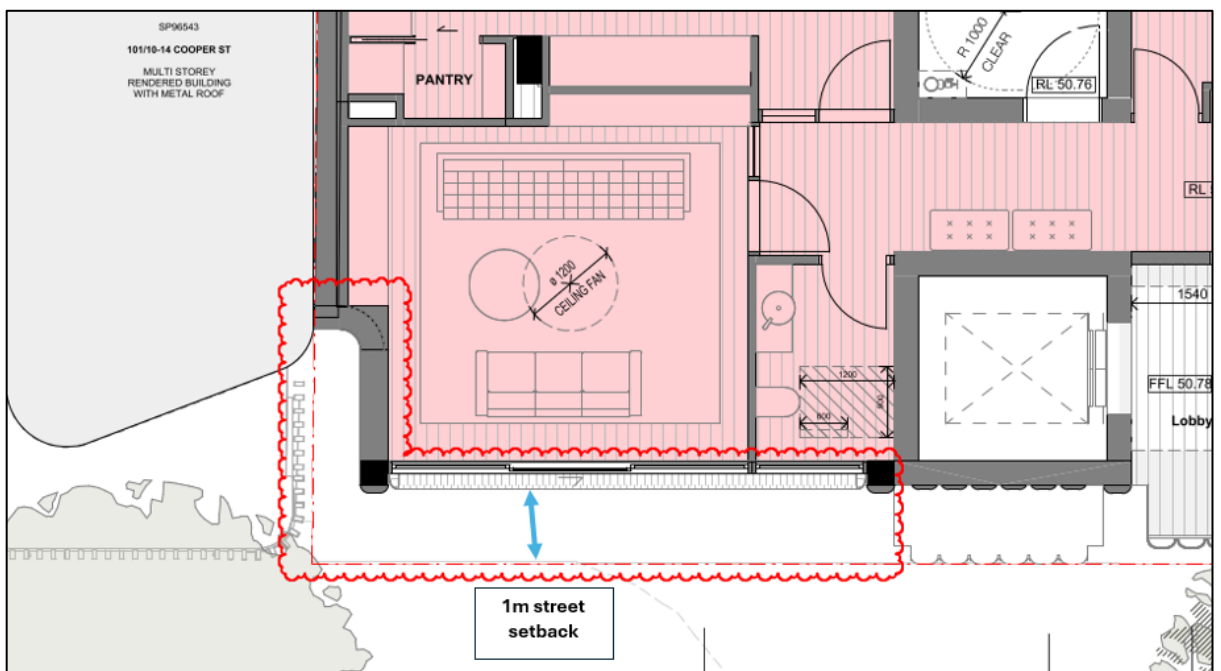


Figure 34: South-western corner of the typical Levels 4-6 floor plan showing splayed interface to No.10-14 Cooper Street

Council's Urban Designer supports the facade design, subject to additional details being provided for the terrazzo window sills, and for the glazed green brick balustrades to incorporate a stone or masonry capping to the top of the balustrade. A condition of consent is recommended to capture these recommendations.

The Cooper Street facade appropriately addresses the 3 storey DCP street wall control, responds to the return form of No.10-14 Cooper Street, and provides appropriate articulation and visual interest.

- (f) *It is understood that the proposed public art to the eastern wall will be a painted treatment. A solution that investigates other, more substantive architectural treatments of this large flat beyond painting its surface is encouraged, given that it is likely to be in place for an extended period of time. The proposed artwork should consider the future development potential of the adjacent corner shop building to the east, particularly in relation to its materiality and long-term durability and maintenance.*

Response: The blank eastern boundary wall has been redesigned to incorporate textured concrete materiality to improve the architectural expression and visual interest of the blank wall without relying on a public art mural. This response is supported by Council's Public Art Team.

- (g) *The location of the communal open space area compromises amenity value. At 13 metres deep, in an undercroft and enclosed on 3 sides, it will not function as a true outdoor area. The space may be more viable in the long term if repurposed as commercial floor space with access to the ground floor deep soil area, potentially delivering improved public domain outcomes and street activation. A well-designed rooftop outdoor space would be a superior outcome and would provide access to winter sun, which will be particularly important when the site to the north is redeveloped.*

Response: Amendments have been made to the ground floor communal area to improve the function, amenity and usability of the space, which now include a kitchenette into the indoor space, and raising the level of the outdoor space so that it is level with the floor level of the indoor space an balcony in order to provide better connection and integration between the indoor and outdoor spaces. Refer to "discussion" section above for detailed assessment of the communal open space area.

- (h) *Overlooking from the cantilevered Cooper St balconies to the adjacent property may be an issue. The extent of the cantilevers, balustrade design and likely balcony usage should be subject to further review and refinement.*

Response: The cantilevered balconies to Cooper Street of the lower levels have been redesigned so that the glass line has been pushed back further into the building envelope to mitigate any potential privacy and security impacts to the front balconies of the adjoining apartments at 10-14 Cooper Street. The Cooper Street balconies of the proposal are also designed as non-trafficable Juliette balconies with balustrades flush against the facade.

Consultation

Internal Referrals

82. The application was discussed with Council's:
- (a) Health and Building Unit
 - (b) Heritage and Urban Design Unit
 - (c) Public Domain Unit
 - (d) Surveyor
 - (e) Transport and Access Unit
 - (f) Environmental Projects Unit
 - (g) Landscaping Unit
 - (h) Tree Management Unit
 - (i) Cleansing and Waste Management Unit
83. 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

84. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
85. A response was received raising no objections to the proposed development subject to appropriate clearances from Ausgrid infrastructure and SafeWork standards and practices being adhered to during construction works.

Water NSW

86. Pursuant to Section 60 of the Water Management Act 2000, the application was referred to Water NSW for comment.
87. WaterNSW, advised that the proposed development requires separate approval for dewatering under Section 60 of the Water Management Act 2000. Therefore, conditions of consent are recommended to ensure that the relevant dewatering approvals are obtained from WaterNSW prior to construction works commencing. These advisory conditions have been included in the schedules within the recommended conditions of consent.

Advertising and Notification

88. In accordance with the City of Sydney Community Participation Plan 2024, the proposed development was notified for a period of 21 days between 4 December 2025 and 24 January 2026 (not including extended notification period from 20 December 2025 and 10 January 2026). A total of 467 properties were notified and 11 submissions were received.

89. The submissions raised the following issues:

- (a) **Issue:** Cumulative impacts from construction works on the amenity of neighbouring residential properties, as well as disruptions to the operation of nearby local businesses (including the NewsCorp office building to the north-west).

Response: Appropriate conditions of consent are recommended to mitigate any adverse impacts as a result of construction works, including requiring a Construction Noise and Vibration Management Plan and Traffic Management Plan to be submitted and approved by Council prior to issue of a construction certificate, requiring dilapidation reports to be prepared for adjoining properties, and for any construction works to be within the hours permitted by the *City of Sydney Code of Practice for Construction Hours/Noise 1992*. It should be noted that potential economic impacts to surrounding businesses as a result of construction activities is not a planning consideration for the purpose of assessment of the development application.

- (b) **Issue:** Impacts from the overall bulk and scale of the development, including overshadowing and loss of outlook, and appropriateness within the context of the streetscape and neighbouring properties.

Response: Notwithstanding the non-compliance with the 27m LEP height control, the bulk and scale of the proposed development is generally consistent with the building envelope of the previously approved commercial building on the site, and is also of a comparable scale with neighbouring 8 and 9 storey buildings along Cooper Street, including the adjoining 8 storey mixed-use building at 10-14 Cooper Street. The proposal is not considered to result in any unreasonable overshadowing impacts or impacts to outlook from neighbouring properties. Refer to assessment of the CI 4.6 variation to the height control, above.

- (c) **Issue:** The proposal does not specify operational details of the intended commercial uses at ground floor.

Response: Consent is not being sought for specific retail or commercial uses of the ground floor tenancies. A separate development application or complying development certificate (if applicable) will be required for the specific use (included operational details such as trading hours) and fitout of these tenancies.

- (d) **Issue:** The proposal provides a full-height wall to Cooper Street, with no meaningful upper level setback to manage bulk, and is inconsistent with the DCP street wall controls.

Response: Amendments have been made to the Cooper Street facade to provide more meaningful distinction of the 3 storey street wall height, through the addition of horizontal datums to the 3 storey component, and changes in materiality. The setbacks to the south-western corner of the Cooper Street facade have been adjusted on Levels 4 to 7 to better relate to the articulation and setbacks of the neighbouring building at 10-14 Cooper Street. Refer to discussion under "Design Advisory Panel Residential Subcommittee" above.

- (e) **Issue:** It is unclear whether the Juliet balconies on Levels 1-3 of the Cooper Street frontage are intended to be trafficable or only used for ventilation.

Response: These Juliet balconies are intended to be non-trafficable for internal amenity only and have been redesigned to delete the cantilevered balconies.

- (f) **Issue:** The proposed development heavily relies on borrowed amenity (solar access) through the undeveloped NewsCorp carpark to the north. It should be acknowledged that the proposed development is not to constrain any future redevelopment of the carpark.

Response: Whilst it is acknowledged that any redevelopment of the neighbouring carpark on the opposite side of O'Loughlin Street is likely to reduce direct solar access to the north facing apartment balconies and glazing, as well as the ground floor communal open space, it is noted that any future built form on the carpark site is likely to incorporate setbacks to preserve the existing street trees along O'Loughlin Street and Holt Street. Notwithstanding the implications potential future redevelopment of the carpark, the location of primary balconies and the communal open space on the northern portion of the site are considered appropriate within the context of the site, noting that the northern elevation is the only street facing elevation that will achieve any direct sunlight.

- (g) **Issue:** Whilst the proposal seeks a waiver for the requirement to undertake a design competition, the absence of such a process increases the risk that the built form has been optimised for the subject site only, without sufficient consideration of how it interacts with future development scenarios on adjoining land, such as the NewsCorp car park.

Response: The applicant has requested that Council waive the requirement for a competitive design process, and this waiver is supported on the grounds that this would be unreasonable or unnecessary in the circumstances, noting that an amendment to the relevant Clauses of the LEP has been endorsed by Council, which increases the threshold requirement for a design competition to be undertaken from 25m to 35m and is pending Gazettal. Refer to Clause 6.21 of the LEP compliance table above.

Financial Contributions

Levy under Section 7.12 of the Environmental Planning and Assessment Regulation 2000

90. The Central Sydney Development Contributions Plan 2020 applies to the site. The cost of the development is over \$250,000. The development is therefore subject to a s7.12 contribution under this Plan. A condition relating to this contribution has been included in the recommended conditions. The condition requires the contribution to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

91. 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.
92. 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. Clause 14 of the Housing SEPP identifies that there is a need for affordable housing within each area of the State.
93. 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) any other dedication or contribution required to be made by the applicant under this section or section 7.11.
94. The site is located within the residual lands affordable housing contribution area. As the proposed development involves the erection of a new building with a gross floor area of more than 200 sqm, a contribution is required.
95. For the purpose of calculating affordable housing contributions, Total Floor Area (TFA) plans have been submitted by the applicant. TFA of 2,522 sqm has been calculated for the development based on the definition of TFA contained in Clause 7.13 of the SLEP.
96. Having regard to the provisions of Section 7.32 of the Act, the imposition of an affordable housing contribution is reasonable. A condition of consent is recommended requiring the payment of an affordable housing contribution prior to the issue of a construction certificate.

Housing and Productivity Contribution

97. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
98. The site is located with the Greater Sydney region, the development is a type of residential and 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.
99. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent.

Relevant Legislation

100. Environmental Planning and Assessment Act 1979.

Conclusion

101. The application seeks approval for the demolition of the existing building, and construction of an 8-storey mixed-use development with retail tenancies on the ground floor, basement carparking, 10 residential apartments, and associated landscaping.
102. The non compliances with the building height development standard (Clause 4.3 of the Sydney LEP 2012), is supported.
103. The proposed development is not considered to have any unreasonable adverse impact in terms of overshadowing or visual privacy and is of an appropriate bulk and scale within the context of the subject site and streetscape.
104. The proposed residential apartments are generally consistent with the Apartment Design Guide and are considered suitable within the context of the site and desired future character of the area and responds to the demand for housing.
105. The proposed development is considered to exhibit design excellence in accordance with the provisions of Clause 6.21C of the Sydney LEP 2012.
106. It is recommended that the Panel support the request to waive the requirements for a competitive design process under Clause 6.21D and the preparation of a site-specific development control plan requirement of Clause 7.20 of the Sydney LEP 2012 as it is considered to be unreasonable and unnecessary for the reasons outlined in the body of the report.
107. Subject to conditions, the development is in the public interest and recommended for approval.

NICOLA REEVE

Acting Executive Manager Planning and Development

Nick Reid, Specialist Planner