

Item 4.**Development Application: 1-17 Euston Road, Alexandria**

File No.: D/2017/1297

Summary

Date of Submission:	20 September 2017 Amended plans submitted 16 March 2018, 7 May 2018 and 25 June 2018
Applicant:	Carlisle Architects Pty Ltd
Architect:	Carlisle Architects Pty Ltd
Developer:	Erolyarn Pty Ltd
Owner:	Erolyarn Pty Ltd
Cost of Works:	\$14,115,902
Zoning:	The site is zoned B4 Mixed Use and SP2 Infrastructure (Classified Road). The proposed development is permissible with consent.
Proposal Summary:	<p>This application is for demolition of existing structures and construction of a new 4 storey mixed use development, comprising 2 levels of basement car parking for 36 vehicles, 2 ground floor retail tenancies and 27 residential dwellings on the ground and upper floors.</p> <p>The application is referred to the Local Planning Panel for determination as the proposal:</p> <ul style="list-style-type: none">• Involves a variation of a development standard by more than 10%• Is subject to the State Environmental Planning Policy No 65—Design Quality of Residential Flat Development• Attracted more than 25 submissions in the first notification period

Proposal Summary:
(continued)

- Is accompanied by a Public Benefit Offer and is subject to a Voluntary Planning Agreement (VPA)

The preliminary assessment of the application, including consideration of the proposal by the City's Design Advisory Panel, identified issues relating to non-compliances with height and Floor Space Ratio (FSR) standards, storey height, noise and natural ventilation, solar access, floor to ceiling and floor to floor heights, waste management, communal open space and deep soil provision.

The proposal has been amended during the assessment of the application to address concerns raised in the preliminary assessment. Amendments to the development application were submitted to Council on 16 March 2018, 7 May 2018 and on 25 June 2018.

The application was originally advertised and notified for a period of 30 days from 3 October 2017 to 3 November 2017. The final amended scheme was re-notified for a period of 14 days from 27 June 2018 to 12 July 2018. In response to the first period, a total of 29 submissions were received and in response to the second period, a total of 12 submissions were received.

The submissions raised the following matters, which have been addressed within this report:

- Height, bulk and scale
- Traffic congestion and impacts on street parking
- Insufficient setback along the Euston Road frontage
- Insufficient public infrastructure, amenities and transport in the area to provide for the proposed development
- Overpopulation of the area
- Unsympathetic to the adjacent heritage conservation area, which is predominately low-scale residential
- Amenity impacts on neighbours and the public domain including overlooking, overshadowing, wind tunnel effects, noise and pollution
- Excessive glazing and balcony design to the Euston Lane elevation
- Insufficient and inappropriately located communal open space

Proposal Summary:**(continued)**

- Insufficient detail on the proposed retail premises
- Excavation impacts and dilapidation reports
- Potential for unauthorised works

The proposal exceeds the maximum 15 metre height of buildings development standard pursuant to Clause 4.3 of the Sydney Local Environmental Plan 2012 (SLEP 2012) by 3.25 metres (21.7%).

A written request has been provided with the amended application which seeks a variation to the development standard in accordance with Clause 4.6 of the SLEP 2012.

A public benefit offer to enter into a planning agreement with the City accompanies the application and relates to the dedication of approximately 29.3 square metres of land and its embellishment for footpath widening along Euston Lane. A draft Voluntary Planning Agreement (VPA) is currently being prepared in relation to this offer. The development does not receive any additional floor space or height as a result of the offer.

The proposal is Integrated Development, as it comprises an aquifer interference activity that is likely to intercept groundwater, and requires approval under the Water Management Act 2000. General Terms of Approval have been provided by Water NSW.

As a result of design modifications made to the scheme throughout the assessment of the application, the proposal does not rely on the inclusion of SP2 zoned land for the calculation of site area, or the provision of deep soil and communal areas, and is considered to comprise a satisfactory response to the conditions of the site and locality. The amended proposal is generally compliant with relevant planning controls, and results in a built form that achieves the desired future character of the area.

The application is recommended for an approval, subject to the imposition of deferred commencement conditions requiring the exhibition, execution and registration of the draft VPA.

Summary Recommendation:

The development application is recommended for deferred commencement approval, subject to conditions.

Development Controls:

- (i) Environmental Planning and Assessment Act 1979
- (ii) Environmental Planning and Assessment Regulation 2000
- (iii) Roads Act 1993
- (iv) Airport Act 1996
- (v) Water Management Act 2000
- (vi) State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55) and Managing Land Contamination Planning Guidelines (SEPP 55 Guidelines)
- (vii) State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development (SEPP 65) and Apartment Design Guide (ADG)
- (viii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX)
- (ix) State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure)
- (x) Sydney Local Environmental Plan 2012 (SLEP 2012)
- (xi) Sydney Development Control Plan 2012 (SDCP 2012)
- (xii) City of Sydney Development Contributions Plan 2015
- (xiii) City of Sydney Landscape Code Volume 2: All Development Except for Single Dwellings
- (xiv) City of Sydney Interim Floodplain Management Policy
- (xv) City of Sydney Guidelines for Waste Management in new developments

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Photomontage and Perspectives
- D. Clause 4.6 Variation Request
- E. Public Benefit Offer

Recommendation

It is resolved that:

- (A) The variation sought 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 supported in this instance.
- (B) Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2017/1297, subject to the conditions set out in Attachment A to this report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposed development is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979, in that, subject to the design amendments and the imposition of appropriate conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the assessment report to the Local Planning Panel.
- (B) The proposed development has a height, built form and design which is suitable for the condition of the site and its context. The proposal satisfactorily addresses the heights and setbacks of neighbouring developments and is appropriate within the streetscape and broader locality. Subject to the recommended conditions, the proposal will ensure that design excellence is met in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012, and that good quality materials and facade detailing is achieved.
- (C) The proposed development is generally consistent with the provisions of the Apartment Design Guide (ADG) in that, subject to the recommended design modification and ventilation chimney conditions, it will achieve high amenity for the future residents of the building with regard to communal open space, landscape treatment, solar access, natural ventilation, private open space and privacy.
- (D) The public interest is served by the deferred commencement approval of the proposal, as amendments to the development application have addressed the matters raised by the community, subject to compliance with the conditions imposed relating to excavation, acoustic and visual privacy, transport and parking and development contributions.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 1 DP 85578 and Lots 87 - 94 Section 5 DP 1881 and is commonly known as 1-17 Euston Road, Alexandria.
2. The site is located on the north-western side of Euston Road, between Harley Street to the north-east and Maddox Street to the south-west, in the suburb of Alexandria. It is generally rectangular in shape, with corner splays along the Harley Street frontage.
3. The site has an area of approximately 1,457 square metres, with a 45 metre primary street frontage to Euston Road, a 24.4 metre secondary street frontage to Harley Street and a 45 metre rear frontage to Euston Lane. The site is relatively level, with a slight cross fall from the rear boundary to Euston Road of approximately one metre.
4. The site currently contains a two storey commercial/industrial building with ground floor car parking and ground and first floor retail uses. Vehicle access to the site is from Euston Road. Currently occupying the building is a Victoria's Basement retail premises.
5. Euston Road is identified as a Roads and Maritime Services (RMS) classified road. The site contains a 7.68 metre wide strip of land (the RMS Land) on the south-eastern portion of the site alongside Euston Road that is affected by an RMS road proposal.
6. The site is not listed as a Heritage Item or located within a Heritage Conservation Area within the Sydney Local Environmental Plan 2012, however it is directly adjacent to the Cooper Estate Heritage Conservation Area (C2) along Euston Lane. To the south of the site on the opposite side of Euston Road, at 16 Euston Road, is a Heritage Item (I2232) consisting of an electricity substation.
7. Surrounding land uses comprise larger scale retail outlets, commercial and industrial premises and mixed use developments along Euston Road.
8. To the north-east, on the opposite side of Harley Street at 175-177 McEvoy Street, is a Petbarn retail premises and veterinary clinic.
9. To the east, on the opposite side of Euston Road at 6 Euston Road is a concrete hardstand that covers a Sydney Water stormwater drain.
10. To the south, on the opposite side of Euston Road at 8-40 Euston Road, is a large Bunnings Warehouse hardware retail premises with on-grade car parking. Further down the western side of Euston Road, there are 3 one and two storey masonry warehouses at 21-25 Euston Road and a four storey mixed use development comprising ground floor retail and upper floor residential dwellings at 33 Euston Road.
11. To the north-west, on the opposite side of Euston Lane, there are lower scale residential developments including a two storey with attic residential flat building at 7 Harley Street and two storey terrace dwelling houses with two storey rear lane developments at 138 to 140B Lawrence Street.
12. Photos of the site and surrounds are provided below.



Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from the intersection of Euston Road and Harley Street



Figure 3: Site viewed from Euston Road looking north



Figure 4: Site viewed from the intersection of Harley Street and Euston Lane



Figure 5: Adjoining development to the southwest along Euston Lane (19-21 to 33 Euston Road)



Figure 6: Adjoining development to the north along Harley Street (7 Harley Street)



Figure 7: Surrounding development along Euston Road (19-21 to 33 Euston Road)



Figure 8: Surrounding development along Euston Road (175-177 McEvoy Street)



Figure 9: Surrounding development along Euston Road (33 Euston Road)



Figure 10: Surrounding development along Euston Road (8-40 Euston Road)

Proposal

13. The application seeks consent for the demolition of existing structures, excavation to a depth of approximately 6 metres and the construction of a new four storey mixed use development, consisting of:

(a) Basement Levels 1 and 2

- (i) Parking for 35 cars, 4 motorcycles and a service vehicle
- (ii) Storage rooms for residential apartments and commercial tenancies
- (iii) Bulky items bin storage
- (iv) Fire hydrant pump, electrical and communication rooms
- (v) Parking for 36 bicycles

(b) Ground Floor

- (i) Two retail tenancies fronting Euston Road and Harley Street
- (ii) Substation, fire hydrant booster assembly and water main meter to Euston Road
- (iii) Two residential entry lobbies fronting Euston Road and a residential entry lobby fronting Harley Street
- (iv) 3 x 2 bed residential dwellings with separate pedestrian access to Euston Lane
- (v) Vehicle access ramp to Euston Lane
- (vi) Residential and retail waste rooms to Euston Lane
- (vii) Landscaped setbacks along Euston Road and Euston Lane

(c) Levels 1 - 3

- (i) 24 residential dwellings (6 x 1 bed, 15 x 2 bed and 3 x 3 bed)

(d) Roof

- (i) Communal roof terrace with BBQ and sink facilities and pergolas over
- (ii) Ventilation chimneys, air-conditioning plant
- (iii) Lift and stair access
- (iv) Landscaped planters

14. Plans of the proposed development, as amended, are provided below.

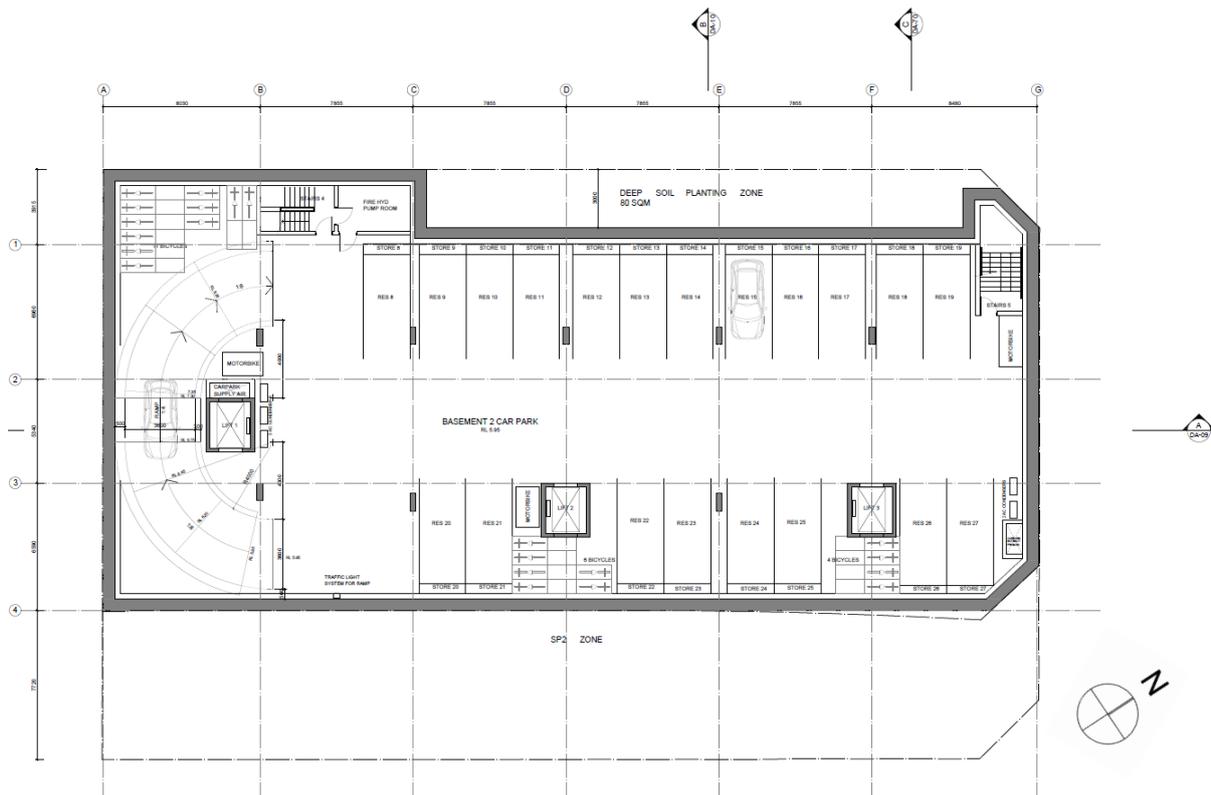


Figure 11: Lower basement level plan

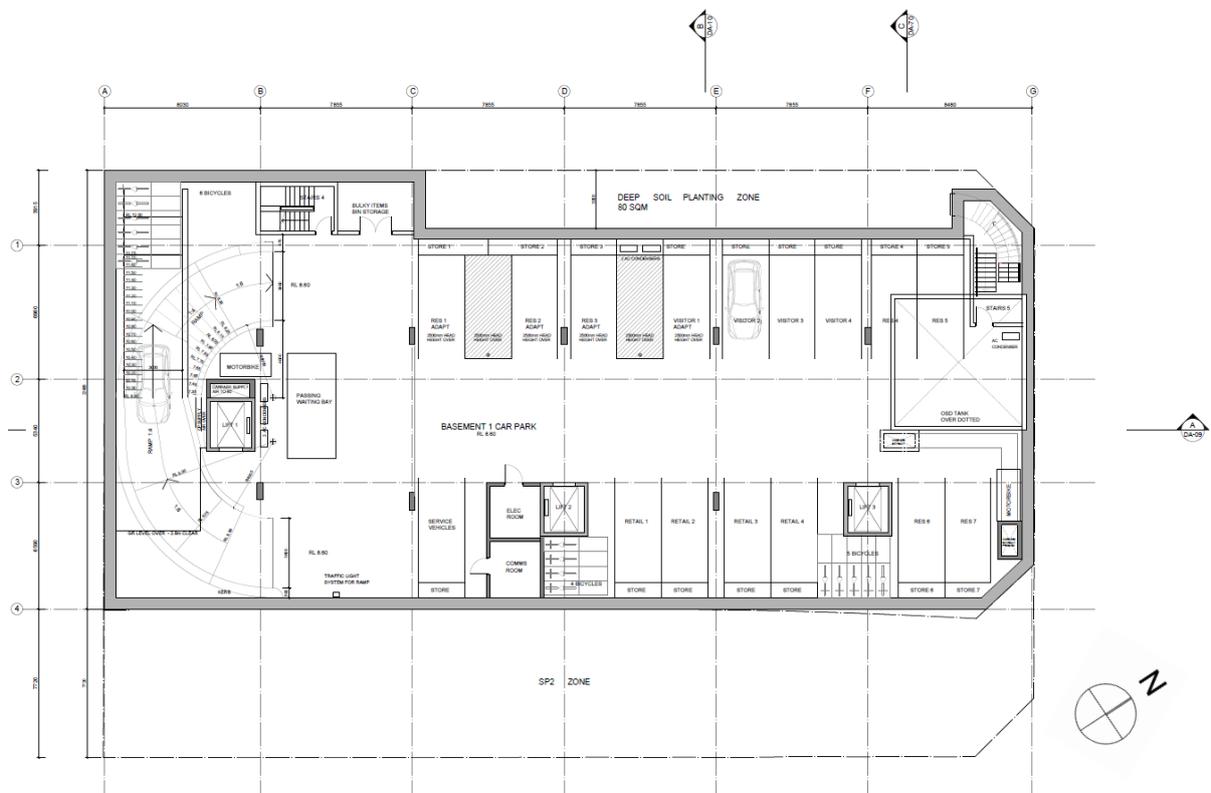


Figure 12: Upper basement level plan

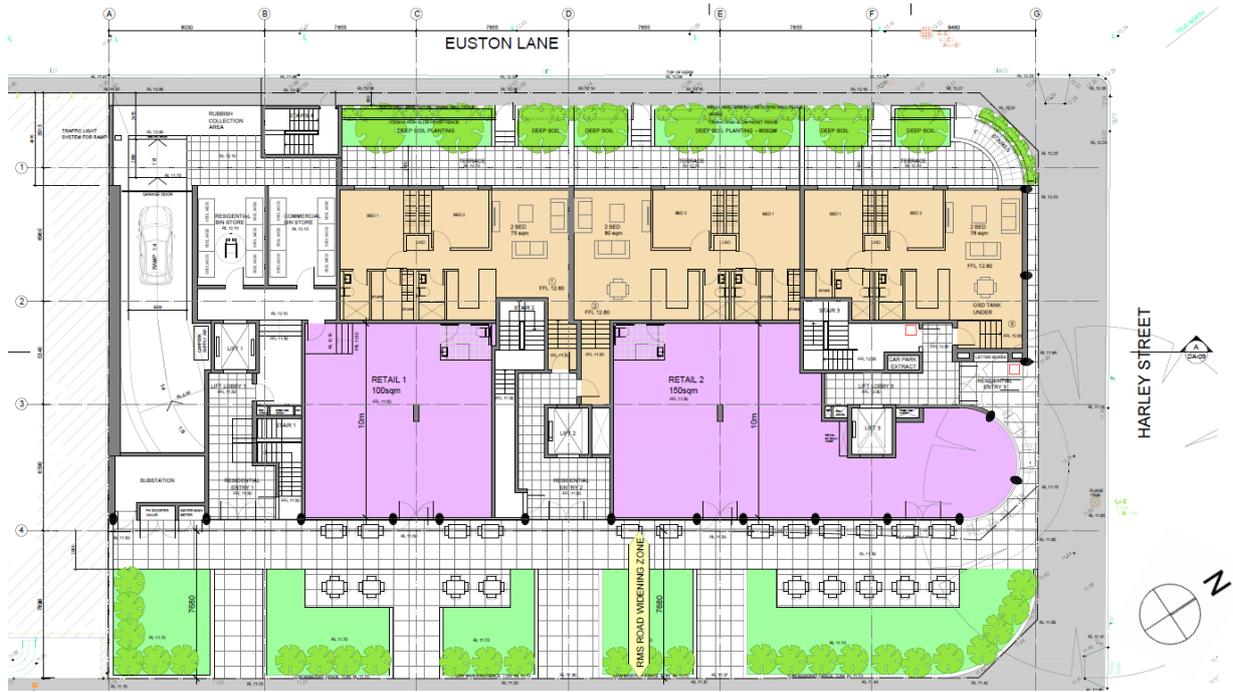


Figure 13: Ground floor plan

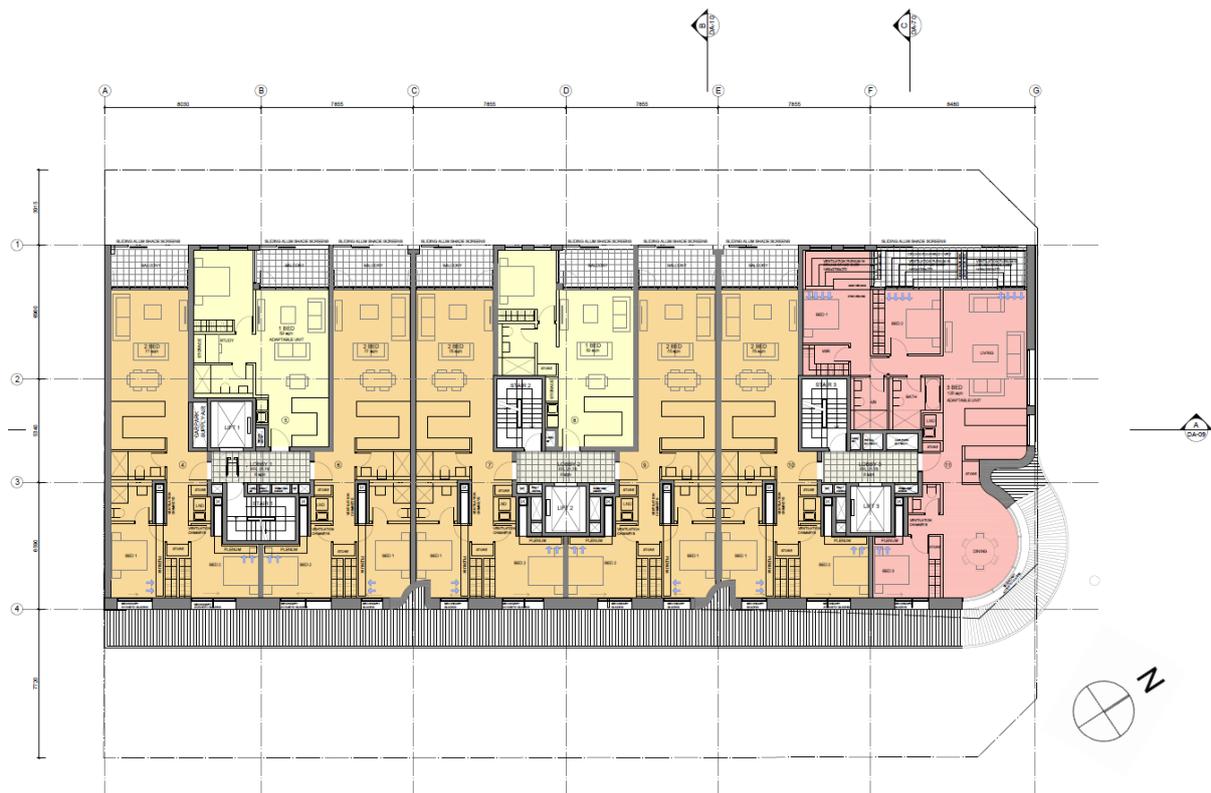


Figure 14: Typical floor plan (Levels 1-3)



Figure 15: Roof terrace plan

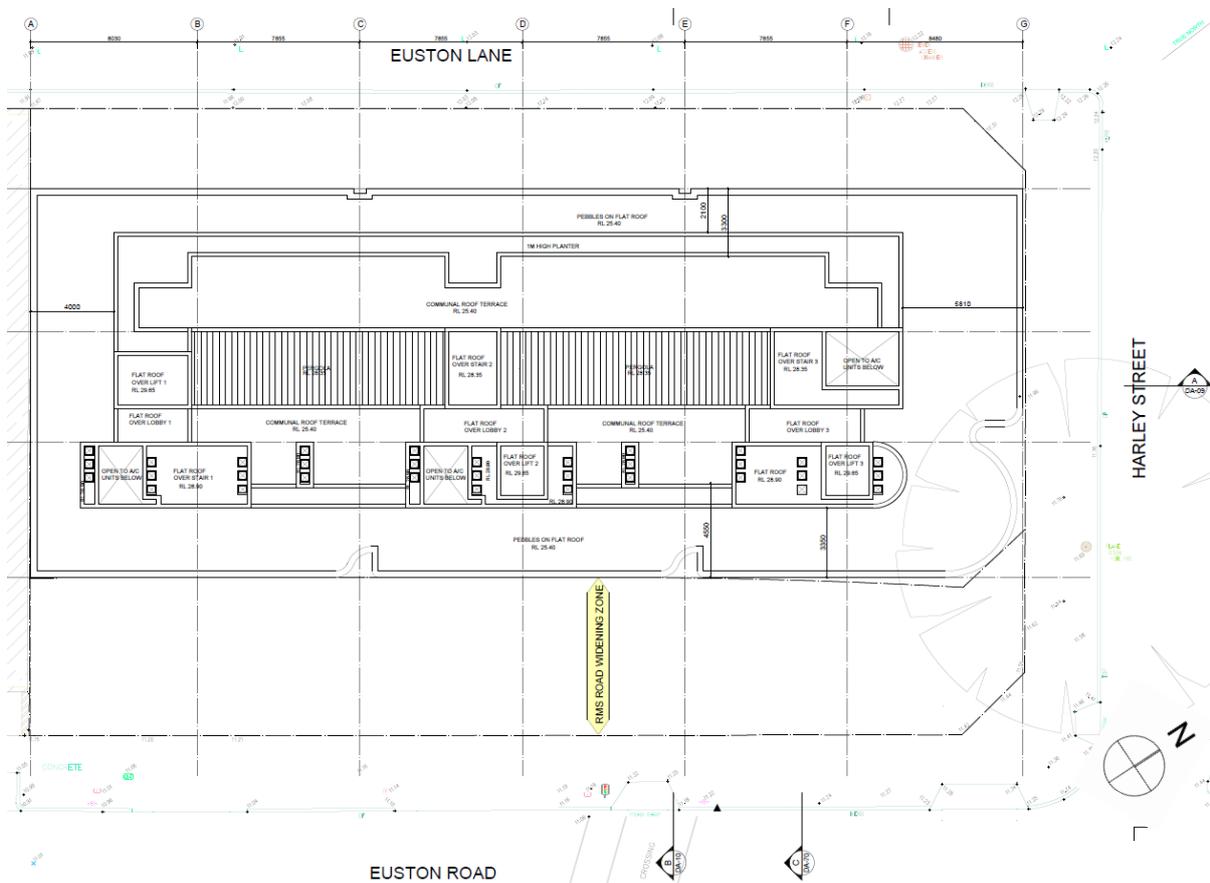


Figure 16: Roof plan

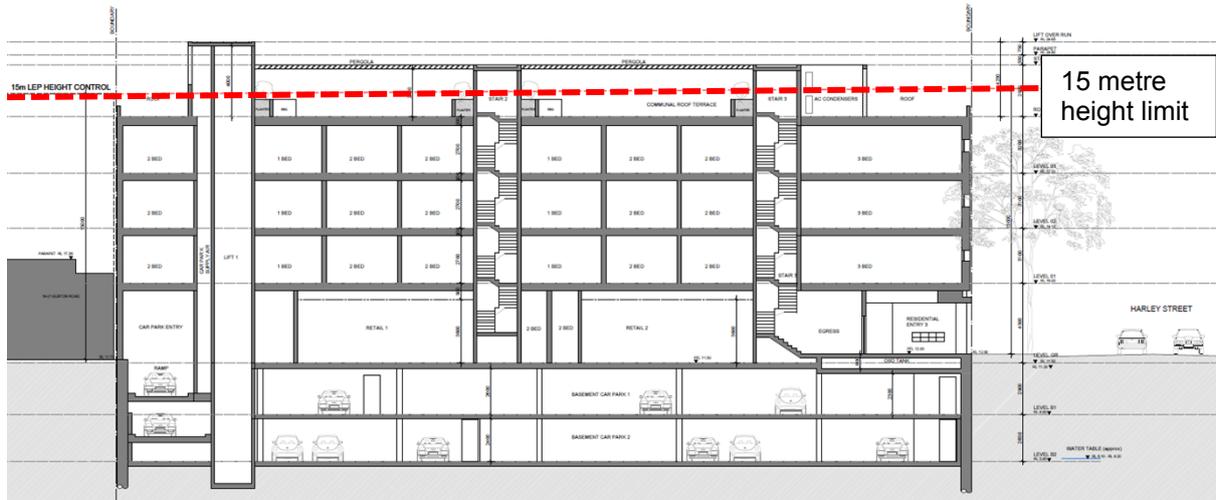


Figure 17: Long section plan



Figure 18: Euston Road elevation



Figure 19: Euston Lane elevation

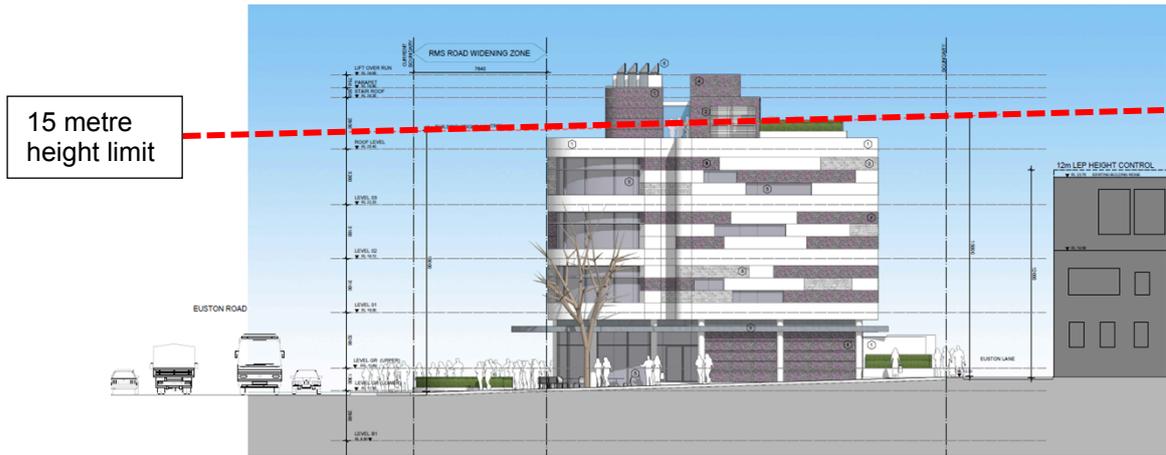


Figure 20: Harley Street elevation



Figure 21: Euston Road photomontage



Figure 22: Northern elevation (Harley Street) perspective

History Relevant to the Development Application

15. In correspondence dated 11 April 2016, the applicant was provided pre-development application (PDA/2016/29) advice for a five storey mixed use development proposal with ground floor retail and residential uses and upper floor residential uses.
16. Issues identified in the pre-development application advice related to:
 - (a) Departures with the height of building and FSR development standards
 - (b) Deep soil zones and communal open space
 - (c) Acoustic treatment and ventilation concerns for dwellings fronting Euston Road
 - (d) Floor-to-ceiling heights on the ground and first floors
 - (e) Depths of retail tenancies
 - (f) Waste management
 - (g) Car parking
 - (h) Heritage
 - (i) Separation distances to adjoining development
 - (j) Building expression and design excellence
17. On 20 September 2017, the current application was lodged with Council.

18. In correspondence dated 27 November 2017, the applicant was advised that an initial review of the application had identified a number of significant issues, which had been raised in the pre-development application advice letter and had not been addressed prior to the lodgement of the application.
19. The issues raised related to variations to the height of building and FSR development standards, communal open space and deep soil, noise and natural ventilation, ground floor retail tenancies layout and depths, common circulation spaces, waste management, solar access, tree management, floor-to-ceiling heights and an objection raised by RMS with regards to works on land to be dedicated to the RMS.
20. On 5 December 2017, a meeting was held with the applicant to discuss the matters raised in the City's correspondence.
21. The original lodged proposal was presented to the City's Design Advisory Panel (DAP) on 7 December 2017, with the Panel concurring with the concerns raised by Council officers.
22. Amended drawings were submitted for discussion on 16 March 2018 and on 7 May 2018 to address the issues identified. Feedback from relevant City officers was provided in response to each set of plans. A final set of amended drawings was submitted to Council on 25 June 2018.
23. The amended scheme was presented to the DAP on 2 August 2018.
24. The assessment provided below is based on the most recent set of amended drawings.

Economic/Social/Environmental Impacts

25. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:
 - (a) Integrated Development - Section 4.46 Environmental Planning and Assessment Act, 1979

Water Management Act 2000

26. The application was referred to the NSW Office of Water on 21 September 2017 as the proposal involves development that comprises Integrated Development under Section 4.46 of the Environmental Planning and Assessment Act 1979.
27. The groundwater table will be intercepted as a result of excavation for the proposed basement car parking level. The dewatering proposed during the excavation of the site is considered to be an aquifer interference activity. An authorisation to intercept or extract groundwater is therefore required under the relevant provisions of the Water Management Act 2000. Water NSW provided General Terms of Approval (GTA) for the proposed aquifer interference activity on 31 October 2017. These have been included in Schedule 3 of the recommended conditions in Attachment A to this report as General Terms of Approval.
28. The amended scheme was referred to Water NSW on 27 June 2018. Water NSW advised the City on 23 July 2018 that no amendment to the GTA was required.

- (b) Environmental Planning Instruments and Development Control Plans

State Environmental Planning Policy No 55—Remediation of Land (SEPP 55)

29. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to human health, particularly in circumstances where a more sensitive land use is proposed.
30. The proposed development results in a change from a non-residential use to a residential use and is therefore subject to the requirements of SEPP 55. The application was accompanied by a Phase 1 Preliminary Site Investigation Report.
31. The application was referred to the City's Health and Building Unit, who advised that the site is considered suitable for the proposed use, subject to conditions including an unexpected finds protocol being implemented, appropriate waste classification upon removal of fill and requirements relating to acid sulphate soils.

State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (SEPP 65)

32. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including 9 design quality principles, being:

(a) **Principle 1: Context and Neighbourhood Character**

- (i) The character of development on the north-western side of Euston Road has changed over time as historical warehouse and industrial uses are being replaced by residential and mixed use buildings.

The proposed design for the redevelopment of the site for a mixed use development, as amended, is considered to appropriately respond to the context of the site and the desired future character of the area

(b) **Principle 2: Built Form and Scale**

- (i) The proposed built form and scale of the proposed development is considered appropriate for the site and the surrounding area and prevailing streetscape to Euston Road. It is considered to provide an appropriate transition to the heritage conservation area to the north of the site.

Refer to the further discussion and assessment provided below in the **Issues** section of this report relating to the height of the development.

(c) **Principle 3: Density**

- (i) The proposed density of the development complies with the FSR development standard under Clause 4.4 of the SLEP 2012 and responds well to the existing and future context of the area. The proposed form and density does not result in any unreasonable impacts on existing or future adjoining development, subject to the recommended conditions included in Attachment A to this report.

(d) **Principle 4: Sustainability**

- (i) The proposal is compliant with the requirements of SEPP BASIX and appropriate conditions are recommended to ensure the development complies with those requirements.

The design achieves the principles of ecologically sustainable development, incorporating passive ventilation and solar design measures, thermal massing. The proposal achieves natural cross ventilation to a satisfactory number of apartments within the development.

(e) **Principle 5: Landscape**

- (i) The proposal includes landscaped deep soil zone areas and landscaped private open space at the ground floor level and landscaped communal open spaces at the roof top level.

The communal areas provide for a variety of recreational uses, incorporate fixed seating and amenities including BBQs, shade structures and gardens, achieve equitable access and provide an opportunity for the planting of trees.

Conditions are recommended to require the provision of an additional deep soil area to the Euston Lane frontage of the site and that landscape planters are provided to the Euston Lane elevation of the development to encourage greater articulation, modulation and opportunities for landscaping to this facade.

Refer to the further discussion and assessment provided below in the **Issues** section of this report relating to deep soil provision.

(f) **Principle 6: Amenity**

- (i) An acceptable level of amenity is provided for the future occupants of the proposed development. The proposal provides a suitable range of dwelling sizes, with apartments including practical room dimensions and configurations, storage space, and outdoor open space.

Compliance with the relevant objectives, design criteria, design guidance and controls in the Apartment Design Guide (ADG) and Sydney Development Control Plan 2012 (SDCP 2012) are detailed in the tables below.

(g) **Principle 7: Safety**

- (i) The safety and security of the public domain is enhanced by the activation provided by the proposed retail premises tenancies to the Euston Road frontage of the site, casual surveillance provided from the ground floor residential apartments and entry points to the site.

(h) **Principle 8: Housing Diversity and Social Interaction**

- (i) The proposal includes an appropriate mix of 1 bedroom (22%), 2 bedroom (67%) and 3 bedroom (11%) dwellings which complies with the dwelling mix provisions within Section 4.2.3.12 of the SDCP 2012.

The proposal also provides 6 adaptable dwellings, double the number required under Section 3.12.2 of the SDCP 2012, which have an acceptable range of adaptable apartment sizes.

The proposal provides equitable access to appropriately located rooftop communal open space that will provide opportunities for social interaction among residents.

(i) **Principle 9: Aesthetics**

- (i) The proposed development provides a contemporary building form which is compatible with the desired future character of the area. The proposal provides a high quality and visually attractive building, with good articulation and a varied palette of materials and finishes, resulting in a well composed architectural scheme.

33. The development is considered generally acceptable when assessed against the above stated principles and SEPP 65 generally, which are replicated in large part within Council's planning control
34. A design verification statement prepared by Matt Carlisle (NSW Registered Architect 7739) accompanied the development application, verifying that he has directed the design of the project and certifying that the proposed development satisfies the design principles set out in Schedule 1 of SEPP 65.

Apartment Design Guide (ADG)

35. Clause 28 of SEPP 65 requires consideration of the ADG, which provides additional detail and guidance for applying the design quality principles outlined in SEPP 65 to residential apartment developments. Compliance with the guidelines within the ADG is addressed in the table below, wherever relevant to the proposal.

2E Building Depth	Compliance	Comment
12-18 metres (glass to glass)	Yes	The proposed development has a maximum glass to glass line of approximately 16.4 metres.

2F Building Separation	Compliance	Comment
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> • 12 metres between habitable rooms / balconies • 9 metres between habitable and non-habitable rooms • 6 metres between non-habitable rooms 	No, but acceptable	<p>The proposed development provides a separation distance of at least 10 metres between habitable rooms and balconies to the habitable windows of neighbouring buildings on the opposite side of Euston Lane.</p> <p>Refer to the further discussion and assessment provided below in the Issues section of this report relating to building separation.</p>
<p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> • 18 metres between habitable rooms / balconies • 12 metres between habitable and non-habitable rooms • 9 metres between non-habitable rooms 	No, but acceptable	<p>The proposal provides a 13.3 metre separation distance from the rooftop communal open space to the habitable windows of neighbouring buildings on the opposite side of Euston Lane.</p> <p>Refer to the further discussion and assessment provided below in the Issues section of this report relating to building separation.</p>
<p>At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3 metres.</p>	No, but acceptable	<p>The property on the opposite side of Euston Lane is zoned R1 - General Residential and the separation distances between habitable rooms / balconies should be 15 metres and 21 metres for up to four storeys and for development above this height.</p> <p>The proposal provides between 10 metres and 13.3 metres building separation to habitable windows of the neighbouring buildings on the opposite side of Euston Lane, as discussed above.</p> <p>Refer to the further discussion and assessment provided below in the Issues section of this report relating to building separation.</p>

3B Orientation	Compliance	Comment
Overshadowing of neighbouring properties is minimised during midwinter.	Yes	The proposal does not result in any overshadowing to any residential properties.

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	No, but acceptable	<p>The proposal provides approximately 23% (250 square metres) of the site area as rooftop level communal open space.</p> <p>Despite the minor non-compliance with the relevant design criterion, the proposed development achieves Objective 3D-1 of the ADG. The design of the communal open space area allows for a range of active and passive activities for the benefit of the residents and includes a number of seating areas, two BBQ and dining areas.</p> <p>Raised landscaped planters are proposed around the perimeter of the space and screening provided to the three lift and stair overruns.</p>
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (midwinter solstice).	Yes	The communal open space for the proposed development achieves direct solar access for more than 2 hours during midwinter to at least 50% of the principal usable space.

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 3 metres.	Acceptable, subject to conditions	The proposal provides a deep soil zone to the Euston Lane frontage of approximately 4% (43.2 square metres) of the site area, with a dimension of 2 metres, adjacent to the area proposed for footpath widening.

3E Deep Soil Zones	Compliance	Comment
		<p>The non-compliance with the design criteria is considered acceptable, given that the proposal meets the relevant design guidance under Objective 3E-1. The proposal provides for acceptable stormwater management (including on-site detention). The recommended conditions provide for an additional area of deep soil zone and alternative forms of planting on the building, including landscaped planters to the Euston Lane facade and rooftop terrace.</p> <p>Refer to the further discussion and assessment provided below in the Issues section of this report relating to deep soil provision.</p>

Separation between windows and balconies is required to ensure visual privacy is achieved. Minimum separation distances from buildings to the side and rear boundaries are outlined below.

3F Visual Privacy	Compliance	Comment
<p>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> • 6 metres between habitable rooms / balconies • 3 metres between non-habitable rooms 	Yes	Up to four storeys, the proposed development provides more than 6 metres between its habitable rooms / balconies and the adjacent neighbours on the opposite side of Euston Lane.
<p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> • 9 metres between habitable rooms / balconies • 4.5 metres between non-habitable rooms 	Yes	The proposed development provides more than 9 metres between the communal rooftop open space and the adjacent neighbours on the opposite side of Euston Lane.

3F Visual Privacy	Compliance	Comment
At the boundary between a change in zone from apartment buildings to a lower density area, increase the separation from the boundary by 3 metres.	Yes	The proposed development provides more than 9 metres separation for the first four storeys and more than 12 metres separation for the communal rooftop open space and the adjacent neighbours on the opposite side of Euston Lane.
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	Bedrooms, living spaces and other habitable rooms are generally separated from the front door and open circulation spaces by the apartments' kitchens, bathrooms and other service areas.

4A Solar and Daylight Access	Compliance	Comment
70% of apartments to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	All proposed dwellings receive at least 2 hours of solar access during midwinter. This is due to the orientation of the site, the low-scale nature of existing developments to the north-west, setbacks to adjoining properties, and the configuration of the residential dwellings.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	All proposed dwellings receive direct sunlight between 9.00am and 3.00pm, midwinter.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes, subject to conditions	<p>All habitable rooms are provided with windows capable of providing adequate natural ventilation.</p> <p>As discussed below in relation to Objective 4J-1, the apartments to Euston Road and Harley Street are affected by external noise.</p> <p>The acoustic assessment submitted with the application concludes that internal noise levels within the dwellings can only be met with an alternative form of ventilation and acoustic attenuation treatment.</p> <p>The amended proposal relies on a plenum and ventilation chimney system which serves to provide a passive source of acoustically attenuated natural ventilation to the noise-affected dwellings.</p> <p>Refer to the further discussion and assessment provided below in the Issues section of this report.</p>
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	67% (18 of 27) of the proposed apartments are capable of achieving natural cross ventilation.
Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.	Yes	<p>All proposed cross-through apartments do not exceed 16.4 metres in length, measured glass line to glass line.</p> <p>The development proposes no cross-over apartments.</p>

Measured from finished floor level to finished ceiling level, minimum ceiling heights are as follows in the table below.

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7 metres	Yes	All proposed apartments meet these requirements.

4C Ceiling Heights	Compliance	Comment
Non-habitable rooms: 2.4 metres	Yes	All proposed apartments meet these requirements.
If located in mixed use areas – 3.3 metres for ground and first floor to promote future flexibility of use.	No, but acceptable.	<p>The site is located in a mixed use area. The development has proposed a floor to ceiling height of 2.7 and 2.8 metres to apartments at the ground and first floor levels.</p> <p>This is considered to be acceptable in this instance as the proposed development provides a floor to ceiling height in excess of 3.3 metres to the retail premises tenancies fronting Euston Road, which satisfies the intent of the provision which is to ensure that retail uses are provided with sufficient ceiling heights for services and plant.</p>

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum apartment sizes:</p> <ul style="list-style-type: none"> • Studio: 35 square metres • 1 bed: 50 square metres • 2 bed: 70 square metres • 3 bed: 90 square metres <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5 square metres each.</p>	Yes	The proposal complies with the minimum internal dwelling sizes.
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.	Yes	All proposed apartments meet these requirements.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	All proposed apartments meet these requirements.

4D Apartment Size and Layout	Compliance	Comment
8 metre maximum depth for open plan layouts.	Yes	All proposed apartments meet these requirements.
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> • master bedroom: 10 square metres • all other bedrooms: 9 square metres <p>Minimum dimension of any bedroom is 3 metres (excluding wardrobes).</p>	Yes	All proposed apartments meet these requirements.
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> • Studio and one-bedroom: 3.6 metres • Two-bedroom or more: 4 metres 	Yes	All proposed apartments meet these requirements.
4 metre minimum width for cross over and cross through apartments.	Yes	All proposed cross through apartments meet these requirements.

4E Private Open Space and Balconies	Compliance	Comment
<p>Studio apartments are to have a minimum balcony area of 4 square metres with a minimum depth of 1 metre.</p> <p>One bed apartments are to have a minimum balcony area of 8 square metres with a minimum depth of 2 metres.</p> <p>Two bed apartments are to have a minimum balcony area of 10 square metres with a minimum depth of 2 metres.</p>	Yes	All proposed apartments meet these requirements.

4E Private Open Space and Balconies	Compliance	Comment
Three bed apartments are to have a minimum balcony area of 12 square metres with a minimum depth of 2.4 metres.		
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15 square metres and a minimum depth of 3 metres.	Yes	All proposed ground floor apartments meet these requirements.

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is 8.	Yes	The maximum number of dwellings off each circulation core on a single level is 3.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed.	Yes	Primary living room and bedroom window do not open directly onto common circulation spaces.
Daylight and natural ventilation are provided to all common circulation spaces.	No, but acceptable	The common circulation spaces on Levels 1 to 3 do not have window openings and no daylight or natural ventilation is provided to these areas. This is considered acceptable in this instance, given the common areas are small, serving 3 apartments each.

4G Storage	Compliance	Comment
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> • Studio: 4 cubic metres • 1 bed: 6 cubic metres • 2 bed: 8 cubic metres • 3 bed: 10 cubic metres <p>(Minimum 50% storage area located within apartment)</p>	Yes	<p>The development provides storage within each apartment and in the basement in the form of storage lockers.</p> <p>An appropriate condition has been recommended to ensure that the storage areas depicted in the drawings are provided in accordance with the ADG.</p>

4H Acoustic privacy	Compliance	Comment
Is noise transfer minimised through the siting of buildings and building layout?	Yes	Window and door openings to primary living rooms and habitable spaces have generally been oriented away from the noise source of Euston Road.

4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	<p>The proposal, as amended, has been designed with careful siting and layout to address the significant traffic noise and pollution concerns arising from Euston Road.</p> <p>The development incorporates a passive plenum and ventilation chimney system, with double glazing provided along the Euston Road elevation.</p> <p>These measures are considered to be acceptable in order to address to address noise and pollution impacts.</p> <p>Refer to the further discussion and assessment provided below in the Issues section of this report.</p>

State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure)

36. The provisions of the SEPP Infrastructure have been considered in the assessment of the development application and are summarised and addressed below.

Clause 45

37. The application is subject to Clause 45 of the SEPP Infrastructure as the development involves the penetration of ground within two metres of an electricity distribution pole. Furthermore, the proposed development also makes provision for a substation to the Euston Road frontage of the site.
38. In accordance with the requirements of the Clause, the application was referred to Ausgrid who provided a written response raising no objections to the proposal, subject to a number of conditions which have been included with the recommended conditions in Schedule 4 at **Attachment A** to this report.

Clauses 101, 103 and 104

39. The application is subject to Clause 101, 103 and 104 of the SEPP Infrastructure as the site has frontage to Euston Road, which is a classified road, the proposal involves excavation immediately adjacent to the road reserve and provides a connection to the development within proximity to the classified road.
40. The proposed development is considered to satisfy the requirements of these clauses, given that it:
 - (a) Provides vehicle access via Euston Lane, which will not compromise the effective and ongoing operation of Euston Road.
 - (b) Will be subject to Council's standard excavation conditions at Attachment A.
 - (c) Provides an acceptable solution to traffic noise and emissions impacts, subject to the recommended conditions requiring the provision of further details of the proposed plenum and ventilation chimney system at Attachment A.
41. In accordance with the requirements of the above-mentioned clauses, the application was referred to Roads and Maritime Services (RMS) on 29 September 2017. The RMS provided concurrence conditions on 19 October 2017, which have been included in Schedule 4 of the recommended conditions in Attachment A to this report.
42. The amended scheme was referred to the RMS on 27 June 2018. The RMS advised on 2 July 2018 that no change to the concurrence conditions was required.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX)

43. A BASIX Certificate has been submitted with the amended development application.
44. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal.
45. Appropriate conditions are recommended to ensure that the measures detailed in the BASIX certificate are implemented.

Sydney Local Environmental Plan 2012 (SLEP 2012)

46. As shown in Figure 23, below, the site is located within two zones. The majority of the site is located within the B4 Mixed Use zone. The remainder of the site comprises a 7.68 metre band along the south-eastern portion of the site along Euston Road which is located within the SP2 Infrastructure - Classified Road zone.

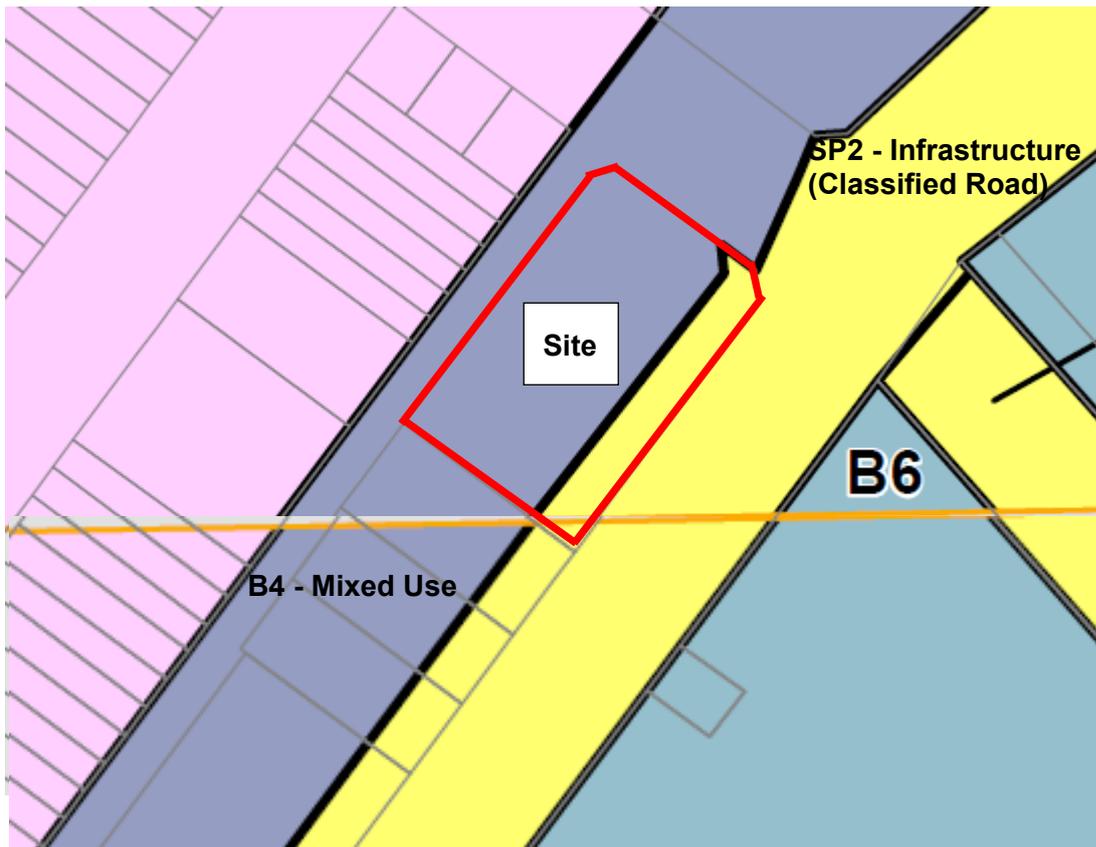


Figure 23: Extract from the Land Zoning Map in the SLEP 2012 with the site outlined in red.

47. The proposed uses in the B4 - Mixed Use zone are defined as multi dwelling housing and commercial premises and are permissible with consent.
48. The proposed works in the SP2 - Infrastructure (Classified Road) zone comprise minor landscaping and paving works. These are considered to be incidental and ancillary to road construction, and as such are permissible with consent. The works will not prevent the future development of this land as a road.
49. The relevant matters to be considered under the SLEP 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of buildings	No	<p>A maximum building height of 15 metres is permitted on the site.</p> <p>A building height of 18.25 metres is proposed, which breaches the development standard by 3.25 metres (or 21.7%).</p> <p>Refer to the further discussion and assessment provided below in the Issues section of this report.</p>
4.4 Floor space ratio (FSR)	Yes	<p>A maximum FSR of 2.5:1 is permitted.</p> <p>An FSR of 2.4:1 is proposed.</p>
4.5 Calculation of floor space ratio and site area	Yes	<p>The SP2 - Infrastructure (Classified Road) zoned land has been excluded from the calculation of FSR and site area, in accordance with Clause 4.5(4) of the SLEP 2012</p>
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the maximum 15 metre Height of buildings development standard prescribed under Clause 4.3 of the SLEP 2012.</p> <p>The application was accompanied by written objections pursuant to Clause 4.6 seeking to vary the development standards.</p> <p>Refer to the further discussion and assessment provided below in the Issues section of this report.</p>
5.1 and 5.1A Development on land intended to be acquired for public purposes	Yes	<p>The RMS Land, a 7.68 metre wide portion of the site running alongside Euston Road is identified for future acquisition for road.</p>

Development Control	Compliance	Comment
		<p>RMS is the relevant acquisition authority for this land. No structures are proposed on the portion identified for acquisition, with only minor paving and landscaping works proposed, which will not preclude the future development of this land for road widening purposes.</p> <p>The RMS have not made any objection to these proposed works. Appropriate conditions are recommended to ensure that no other works or uses are approved on land zoned as classified road.</p>
5.10 Heritage conservation	Yes	<p>The site is not a Heritage Item, nor is it located within a Heritage Conservation Area. However, the site directly adjoins the Cooper Estate Heritage Conservation Area (C2) to the west.</p> <p>The amended application was referred to Council's Heritage Specialist, who advised that the demolition of the existing building and the form of the amended proposal is acceptable from a heritage perspective. A condition requiring the photographic archival recording of the existing building prior to demolition has been recommended for imposition.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
6.21 Design excellence	Yes	<p>The proposal was amended during the course of assessment, in response to issues raised by the Design Advisory Panel and by City staff.</p> <p>The amendments to the proposal will ensure that the proposal will achieve an acceptable built form and a high standard of architectural design, internal amenity, materials and finishes and interface with the public domain.</p> <p>The development is therefore considered to exhibit design excellence.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
		The site area, height of development and estimated cost of work do not trigger the requirement for a competitive design process for the proposed development.

Part 7 Local Provisions - General	Compliance	Comment
<p>Car parking ancillary to other development</p> <p>7.5 Residential flat buildings, dual occupancies and multi dwelling housing</p> <p>7.7 Retail premises</p>	Yes, subject to conditions	<p>A maximum of 24 residential, 5 visitor and 5 retail car parking spaces is permitted for the development.</p> <p>The proposed development provides 27 residential, 4 visitor and 4 retail car parking spaces.</p> <p>Appropriate conditions have been recommended to require the deletion and reallocation of parking spaces to ensure that the proposal does not exceed compliance with the maximum requirements and to provide for additional basement waste storage facilities.</p>
7.13 Contribution for purpose of affordable housing	Not applicable	<p>The site is not located within the boundaries of either Green Square or the Southern Employment Lands.</p> <p>No affordable housing levy contribution is applicable to the proposal.</p>
7.14 Acid Sulphate Soils	Yes, subject to conditions	The site is identified as being Class 5 Acid Sulphate Soils, and is less than 500 metres from adjacent Class 3 land. The application involves excavation to accommodate 2 basement car parking levels, which will likely extend below the groundwater table.

Part 7 Local Provisions - General	Compliance	Comment
		<p>The Acid Sulphate Soils Assessment Guidelines recommend that acid sulphate soils may be present if works are conducted on Class 5 land within 500 metres of adjacent Class 1, 2, 3 or 4 land and are likely to lower the water table below 1 metre AHD on the adjacent land.</p> <p>The application was not accompanied by any Acid Sulphate Soils reports, however the application was referred to the City's Health and Building Unit who provided conditions of consent requiring Acid Sulphate Soils investigation and assessment to be carried out prior to the issue of a Construction Certificate.</p>
7.15 Flood planning	Yes	<p>The site is not identified as being flood affected by the 1% Annual Exceedance Probability or the Probable Maximum Precipitation flood event.</p> <p>The minimum ground floor level required under the City's Interim Floodplain Management Policy is 300mm above surrounding ground. The proposal complies and is acceptable.</p>
7.16 Airspace Operations	Yes	The proposal will not penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport.
7.19 Demolition must not result in long term adverse visual impact	Yes	The proposal involves the demolition of the existing warehouse building and the comprehensive redevelopment of the site.
7.23 Large retail development near Green Square Town Centre	Yes	The proposal does not include shops or markets with a gross floor area greater than 1,000 square metres.

Sydney Development Control Plan 2012 (SDCP 2012)

50. The relevant matters to be considered under the SDCP 2012 for the proposal are outlined below.

2.7.10 Locality Statements – Euston Road and McEvoy Street

The site is located in the Euston Road and McEvoy Street locality. The proposal is considered to be in keeping with the character of the area and design principles contained in Section 2.7.10 of the SDCP 2012 in that it:

- Contributes to the revitalisation of Euston Road by improving the presentation of built form to Euston Road and providing a mix of uses on the site.
- Aligns with and addresses Euston Road, Harley Street and Euston Lane at the ground floor level.
- Provides satisfactory modulation and articulation to the horizontal and vertical proportions of the building facades, including changes in materials to reduce bulk and scale.
- Provides a mixed use development comprising ground floor retail premises and residential uses above.

3. General Provisions	Compliance	Comment
3.1 Public Domain Elements 3.1.1 Streets, lanes and footpaths	Yes	The proposal will make a positive contribution to the public domain by providing a landscaped treatment along the site frontage to Euston Road and a widened footpath area along the site frontage to Euston Lane. Refer to further discussion on the Voluntary Planning Agreement (VPA) in the Issues section of this report.
3.2 Defining the Public Domain 3.2.2 Addressing the street and public domain 3.2.3 Active frontages 3.2.4 Footpath awnings 3.2.7 Reflectivity	Yes	The proposed development will generally enhance the public domain by including measures which ensure provision of appropriate interfaces between the building and the surrounding streets and lane. These include a widened footpath, individual apartment entries and deep soil landscape elements to Euston Lane. The proposal includes multiple points of entry to the residential lobbies from both Euston Road and Harley Street.

3. General Provisions	Compliance	Comment
		<p>The site is identified in the Active Frontages Map accompanying the DCP as being required to have an active frontage to Euston Road. The proposal provides an active frontage including two retail tenancies fronting Euston Road, each with a depth of 10 metres. A footpath awning to Euston Road with height above the footpath level of 3.4 metres is provided in accordance with the provisions in Sections 3.2.3 and 3.2.4 of the SDCP 2012.</p> <p>An appropriate condition has been recommended to ensure that the development complies with the provisions of Section 3.2.7 of the SDCP 2012 relating to reflectivity.</p>
3.5 Urban Ecology	Yes	<p>The proposed development does not involve the removal of any trees and does not present any significantly adverse impacts upon the urban ecology of the locality.</p> <p>Conditions of consent are recommended requiring the retention and protection of the existing street tree to the Harley Street frontage of the site.</p>
3.6 Ecologically Sustainable Development	Yes	<p>The proposal satisfies BASIX and requirements relating to ESD principles in Section 3.6 of the SDCP 2012.</p>
3.7 Water and Flood Management	Yes	<p>The proposal satisfies BASIX and is capable of satisfying stormwater management requirements in Section 3.7 of the SDCP 2012.</p> <p>The proposal has been reviewed by the City's Public Domain and Water Assets Units who have advised that the site is not identified as being on flood prone land.</p> <p>Appropriate conditions of consent relating to stormwater management have been recommended and are included in Attachment A to this report.</p>

3. General Provisions	Compliance	Comment
3.9 Heritage	Yes	<p>The subject site is not identified as a heritage item and is not located within a heritage conservation area.</p> <p>The site does however accommodate a building which is older than 50 years and directly adjoins the Cooper Estate Heritage Conservation Area (C2) to the north-west.</p> <p>Council's Heritage Specialist has advised that the demolition of the existing building is acceptable with regard to the requirements of Section 3.9.1(2) of the SDCP 2012. A condition of consent is recommended for imposition requiring a photographic archival recording of the existing building prior to its demolition.</p>
3.11 Transport and Parking 3.11.3 Bike parking and associated facilities	Acceptable, subject to conditions	<p>The proposal includes the provision for 36 bicycle parking spaces, separate from the residential storage cages, spread between the two basement levels.</p> <p>The location of visitor bicycle parking spaces in the basement levels does not comply with the provisions of the DCP and is undesirable.</p> <p>In accordance with this provision, appropriate conditions have been recommended to relocate all visitor bicycle parking in an accessible on-grade location near the public entrances to the development.</p>
3.11.4 Vehicle parking 3.11.14 Parking area design	Acceptable, subject to conditions	An appropriate condition has been recommended to require the car parking configuration complies with the controls in Sections 3.11.4 and 3.11.14 of the SDCP 2012 and Australian Standards for off-street car parking.
3.11.6 Service vehicle parking	Yes	The proposal provides a service vehicle parking space in the basement parking facility.

3. General Provisions	Compliance	Comment
3.11.7 Motorbike parking	Yes	The proposal provides 4 motorcycle parking spaces in the basement parking facility
3.11.9 Accessible parking	Yes	The proposed development provides 3 accessible residential car parking spaces and 1 accessible retail car parking space.
3.11.10 Vehicle access for developments greater than 1000sqm GFA	Yes	<p>The proposal provides vehicle access to the site via Euston Lane.</p> <p>The proposal will not compromise the safety of Euston Lane in terms of pedestrian and vehicle safety, subject to the recommended conditions.</p>
3.11.11 Vehicle access and footpaths	Acceptable, subject to condition	An appropriate condition has been recommended to ensure that the design of the vehicle access point ensures pedestrian priority.
3.11.13 Design and location of waste collection points and loading areas	No, but acceptable	<p>The DCP requires that waste collection is to be accommodated within new development.</p> <p>The proposal relies on the collection of residential waste from Euston Lane and does not comply with this provision.</p> <p>Council's Waste and Transport Planning Units have advised that on-street collection is acceptable with consideration to the proposed small number of apartments within the building and that Euston Lane is not a busy road.</p>
3.12 Accessible Design	Yes	<p>Conditions have been recommended to require appropriate access and facilities in accordance with the SDCP 2012 and the Building Code of Australia</p> <p>The proposal includes provision for 6 adaptable dwellings, comprising 3 x 1 bedroom and 3 x 3 bedroom dwellings. This is double the DCP requirement for the provision of 3 adaptable dwellings.</p>

3. General Provisions	Compliance	Comment
3.13 Social and Environmental Responsibilities	Yes	The proposal provides adequate passive surveillance and is generally designed in accordance with the Crime Prevention Through Environmental Design (CPTED) principles.
3.14 Waste	Yes	<p>The proposed development has been reviewed by the City's Cleansing and Waste Unit who have advised that it is acceptable, subject to the recommended conditions. These include the provision of an additional basement bin storage room.</p> <p>Conditions have been recommended for the proposal to comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in new developments.</p>
3.16 Signage 3.16.1 Signage Strategy	Yes, subject to condition	<p>The application does not seek consent for the erection of any signage.</p> <p>An appropriate condition has been recommended to ensure that a signage strategy is prepared for the development in accordance with the requirements of Section 3.16.1 of the SDCP 2012.</p>

4. Development Types	Compliance	Comment
4.2 Residential flat, commercial and mixed use developments 4.2.1 Building height	Yes	<p>The DCP limits development on the site to a maximum of 4 storeys in height. The proposal complies.</p> <p>The site is not subject to a street frontage height control under Section 4.2.1.1 of the DCP.</p> <p>The proposal complies with the floor to floor height requirements for ground floor retail uses.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.2 Building setbacks	Yes	<p>The DCP requires that a minimum 6 metre building setback alignment is provided along the Euston Road frontage of the subject site.</p> <p>The proposed development provides a setback of more than 7 metres from the existing south-eastern boundary line to the Euston Road elevation of the development.</p>
4.2.3 Amenity 4.2.3.1 Solar access	Yes	<p>Shadow and solar access diagrams accompanied the application and have been assessed against the relevant provisions of the ADG.</p> <p>The proposal achieves a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June to at least 1 square metre of living room windows and to 50% of the minimum area of private open space for each apartment.</p> <p>The proposed development does not create any additional overshadowing to the habitable rooms or private open space of neighbouring dwellings between 9am and 3pm on 21 June.</p>
4.2.3.3 Internal common areas	Yes	Internal common areas have been generally designed to maximise safety and security and are at least two metres wide in front of lifts.
4.2.3.4 Design features to manage solar access	Yes	Shading devices have been provided to each apartment.

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.3.5 Landscaping	Acceptable, subject to conditions.	<p>Landscape drawings for the proposed development were submitted with the original and amended development application.</p> <p>Appropriate conditions have been recommended to require the Euston Lane elevation to be provided with additional landscaped planters to improve the articulation and modulation of the building facade,</p>
4.2.3.6 Deep soil	Acceptable, subject to conditions	<p>The proposed development provides approximately 4% (43.2 square metres) of the site as deep soil area with a minimum dimension of 2 metres, which does not comply with the DCP requirements for 10% of the site area with minimum dimension of 10 metres.</p> <p>The proposed non-compliance is considered acceptable, given that the proposal provides for acceptable stormwater management, the constraints posed by the road and lane widening and the recommended conditions provide for an additional area of deep soil zone and alternative forms of planting on the building.</p> <p>Refer to the further discussion and assessment provided below in the Issues section of this report relating to deep soil provision.</p>
4.2.3.7 Private open space and balconies	Yes	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.

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.3.8 Common open space	Acceptable, subject to conditions	<p>The proposal provides 23% (250 square metres) of the site area as common open space at the roof level.</p> <p>The communal open space areas are generally acceptable with regard to privacy, and will be further supplemented by additional landscape measures recommended as a condition of consent.</p>
4.2.3.9 Ventilation	Yes	All apartments are naturally ventilated and the building meets the requirements of the ADG in relation to natural cross ventilation, subject to the recommended conditions.
4.2.3.10 Outlook	Yes	Each apartment has been provided with an acceptable degree of outlook, either to the public domain to Euston Road, Harley Street or Euston Lane.
4.2.3.11 Acoustic privacy	Acceptable, subject to conditions	<p>An acoustic assessment accompanied the application which verifies that dwellings within the proposed development do not achieve the noise criteria for open windows and doors.</p> <p>The City's Senior Environmental Health Officer has recommended conditions requiring that the recommendations made in the acoustic assessment be adopted with the design and construction of the proposed development.</p>
4.2.3.12 Flexible housing and dwelling mix	Yes	The proposed development provides 22% 1 bedroom dwellings, 67% 2 bedroom dwellings and 11% 3 bedroom dwellings.
4.2.3.14 Apartments with setback bedrooms	Yes	The proposed development does not include any apartments with setback bedrooms.

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The scale, modulation and facade articulation of the proposed development is appropriate to its context. This includes masonry components in keeping with the character of the locality. The design provides visual interest, with clearly identified entry points and building expression through the use of indented facades and horizontal layering.</p> <p>These facade elements establish a fine grain articulation viewed from the public domain which, subject to the recommended conditions, will be supplemented by additional modulation in the form of landscape planters to its Euston Lane frontage.</p> <p>Further, individual residential entries to ground floor apartments are provided along the Euston Lane frontage to address the narrower scale of the lane and character of the adjoining Heritage Conservation Area.</p>
4.2.5 Types of development 4.2.5.3 Development on busy roads and active frontages	Yes	<p>Euston Road is a classified road, with annual average daily traffic (AADT) volumes to exceed 40,000 upon completion of Westconnex.</p> <p>The development has been defensively designed to address this hostile environment, with non-residential ground floor uses.</p> <p>Measures to ensure acoustic privacy and natural ventilation amenity are proposed to the upper level residential uses, including the use of solid masonry facades, double glazing and passive natural ventilation plenum and chimney systems.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.5.4 Residential uses on the ground and first floor	Acceptable, subject to conditions	<p>The proposed ground floor dwellings to Euston Lane are provided with a 3 metre setback, individual entries and landscaped deep soil areas as private front gardens.</p> <p>The form of these dwellings is generally acceptable, subject to conditions requiring the supplementary deep soil area and fence details in accordance with the DCP provisions.</p>
4.2.6 Waste minimisation	Yes	<p>The proposal has been amended to address waste collection and management issues in detail.</p> <p>All apartments have adequate space to manage waste and appropriate conditions have been recommended to ensure that an additional waste bin storage room is provided at the basement level.</p>
4.2.7 Heating and Cooling Infrastructure	Yes	Heating and cooling infrastructure is located in the basement and in screened masonry enclosures on the rooftop level.
4.2.8 Letterboxes	Acceptable, subject to condition	A condition is recommended requiring the details of letterboxes to be provided behind secure entry points in the building foyers to minimise mail theft.
4.2.9 Non-residential development in the B4 Mixed Uses zone	Acceptable, subject to conditions	Appropriate conditions have been recommended to require separate applications for the future fit out and precise use for the two proposed retail premises, establishing controls in relation to noise, hours of operation, deliveries and waste management.

Issues

Height of Building

51. The proposal results in a maximum height of building of 18.25 metres. This exceeds the 15 metre height of buildings development standard specified for the site by Clause 4.3 of the SLEP 2012 by 3.25 metres or 21.7%, as indicated in the figure below.

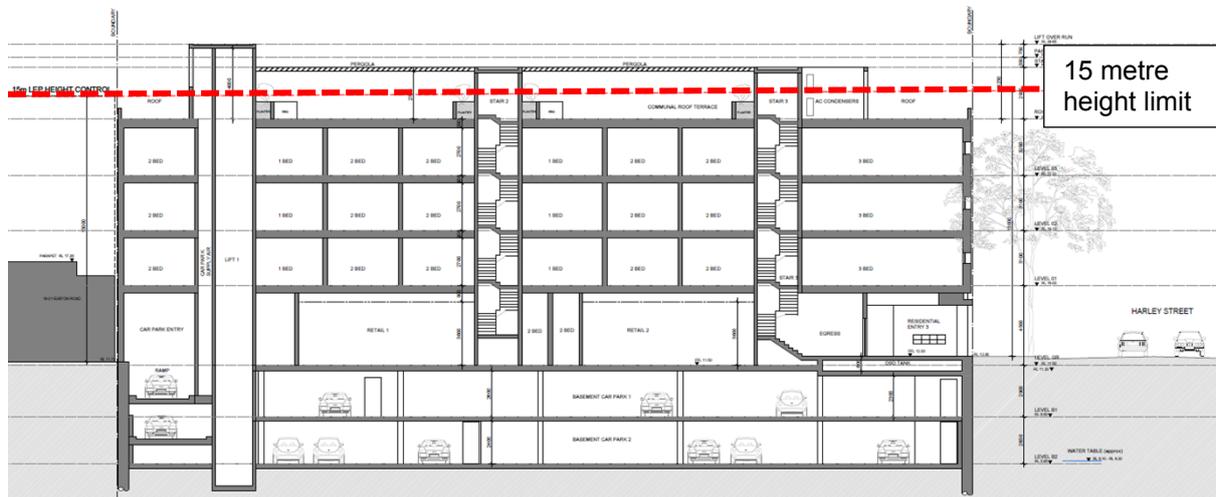


Figure 24: Long section plan with maximum building height marked in red

52. The application was accompanied by a written request made in accordance with Clause 4.6(3) of the SLEP 2012 for a variation of the development standard. The applicant's written request is summarised below:

The proposed development is permissible with consent and consistent with the applicable zone objectives. Strict compliance is both unreasonable and unnecessary for the following reasons:

- The proposed 4 storey building is compatible with the existing and desired future streetscape and the additional height permits the provision of rooftop communal open space.
- The site is located where differing building height controls converge. The proposed building height and form acts as a transition in the streetscape between the 22 metre height control on one side of the site and the 15 metre height control on the other.
- The roof terrace lifts and stairs are set back from the lower levels and provides a lighter appearance to the top to the building helping to break the mass and scale, do not have a detrimental streetscape effect and do not cause overshadowing of neighbouring building windows or outdoor space.
- Additionally, the mass and scale of the Euston Road facade is broken down in its length with curved indentations dividing it into three elements corresponding to the three residential lift cores.
- To the north facing Euston Lane the massing and scale is divided into a smaller elements with individual north facing balconies.

- The building height provides an appropriate height transition between the subject site and the adjacent Copper Estate Conservation Area (C2).
 - The non-compliance relates to integrated roof access and communal open space shade elements with the majority of the building compliant with the standard.
 - The additional height does not result in any adverse impacts on the amenity of the adjoining or adjacent properties in terms of solar access, visual bulk, privacy or private and public views.
53. The full text of the written request is reproduced at **Attachment D** to this report.
54. The purpose of Clause 4.6 is to provide an appropriate degree of flexibility in applying certain development standards in order to achieve better outcomes for and from development.
55. In order to demonstrate whether strict numerical compliance is unreasonable and unnecessary in this instance, the proposed exception to the FSR standard has been considered against the relevant objectives and provisions of Clause 4.6.
56. Clause 4.6(4)(a)(i) requires that the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).
57. There are sufficient environmental planning grounds to justify the contravention of the development standard and compliance with the development standard is deemed not reasonable or necessary in the circumstances of the case, subject to the recommended conditions.
58. Clause 4.6(4)(ii) requires the consent authority be satisfied that the proposed development is consistent with the objectives of Clause 4.3 of the SLEP 2012 and the objectives of the B4 Mixed Use zone.
59. The relevant objectives of Clause 4.3 are:
- (a) To ensure the height of development is appropriate to the condition of the site and its context.
 - (b) To ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas.
 - (c) To promote the sharing of views.
60. The proposed development is considered to be consistent with the objectives of Clause 4.3, subject to the recommended conditions, for the following reasons:
- (a) The exceedance of the building height development standard is appropriate to the condition of the site and its context as it is limited to lift overruns, stair wells, plant, ventilation chimneys and pergolas. These permit equitable access and shade amenity to the required area of communal open space and passive natural and mechanical ventilation to the dwellings within the development.

- (b) The additional height is also considered appropriate as it has been appropriately located and set back from the building edges so that environmental impacts on the adjoining development and the public domain are minimised. Further, the ceiling heights of each of the levels of the development are acceptable and generally meet the minimum heights set out in the ADG and SDCP 2012.
 - (c) The site is located immediately to the east of a low-scale heritage conservation area comprising predominantly 1 to 2 storey residential buildings. The desired built form of development on the north-western side of Euston Road comprises buildings 4 storeys or lower. The proposal, being 4 storeys in height, is appropriate within the context of these lower-scale developments and fits with the desired future character of the area.
 - (d) There are no significant impacts on existing view corridors or views from the public domain, thereby achieving equitable view sharing within the locality.
61. The objectives of the B4 Mixed Use zone are:
- (a) To provide a mixture of compatible land uses.
 - (b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
 - (c) To ensure uses support the viability of centres.
62. The proposed development is considered to be consistent with the objectives of B4 Mixed Use zone, subject to the recommended conditions, for the following reasons:
- (a) It provides a land use compatible with the surrounding development, in a mixed use area and accessible to public transport.
 - (b) The proposed development will improve pedestrian access in the locality through the provision of a widened pedestrian pathway in the rear lane. It also provides bicycle parking facilities which will serve to encourage cycling.
 - (c) The proposed development will provide retail premises and residential accommodation in the locality, which would result in an increase in the provision of local services and local population accessing nearby businesses and services, thereby supporting the viability of nearby local centres.
63. Furthermore, it is considered that the proposal obtains a better outcome for and from the site and is in the public interest.
64. For the reasons outlined above, it is considered that the requirements of Clause 4.6 of the SLEP 2012 are satisfied to justify the departure from the building height development standard and it is recommended that the Clause 4.6 exception be granted.

Building Separation

65. Part 2F of the ADG provides considerations in setting building separation controls, including that, for buildings up to four storeys (approximately 12 metres in height), the following separation distance must be provided:
- (a) 12 metres between habitable rooms / balconies.

- (b) 9 metres between habitable and non-habitable rooms.
 - (c) 6 metres between non-habitable rooms.
66. It also requires that for buildings between five to eight storeys (approximately 25 metres in height), the following separation distance must be provided:
- (a) 18 metres between habitable rooms / balconies.
 - (b) 12 metres between habitable and non-habitable rooms.
 - (c) 9 metres between non-habitable rooms.
67. Where there is a change in zone from apartment buildings to a lower density area, it also requires that the building setback from the boundary should be increased by 3 metres. In the circumstances of the subject site, the properties on the opposite side of Euston Lane are zoned R1 - General Residential.
68. The proposed development provides a separation distance of at least 10 metres between habitable rooms and balconies to the habitable windows of neighbouring buildings on the opposite side of Euston Lane for the first four storeys of the building.
69. Above this height, the proposal provides for a 13.3 metre separation distance from the rooftop communal open space to the habitable windows of neighbouring buildings on the opposite side of Euston Lane.
70. Since building separation to buildings on adjoining sites should be distributed equally between sites, this separation distance is considered acceptable given that the separation is provided by the proposed development and the neighbours to the north-west provide no rear setback of their own.
71. The separation distances of 10 metres and 13.3 metres are considered acceptable given the following:
- (a) The design of the building to Euston Lane has an appropriate form, bulk, scale and massing, subject to the recommended design modification conditions which require additional facade modulation and landscape elements;
 - (b) The proposed building separation presents no significant impacts in terms of natural ventilation, sunlight and daylight access and outlook, either in terms of the subject site or neighbouring residential buildings;
 - (c) The proposal is compliant with the building separation distances required for visual privacy by the design criteria under Objective 3F-1 of the ADG and provides for external sliding screens to each balcony which assist in mitigating the potential for privacy impacts;
 - (d) Building separation distances between residential properties should be distributed equitably and the neighbouring sites to the north-west provide no setback to Euston Lane; and
 - (e) Strict compliance with the above-mentioned building separation considerations, in conjunction with the area of land required for road widening along Euston Road, would render the site unviable for development, as indicated in the figure below.

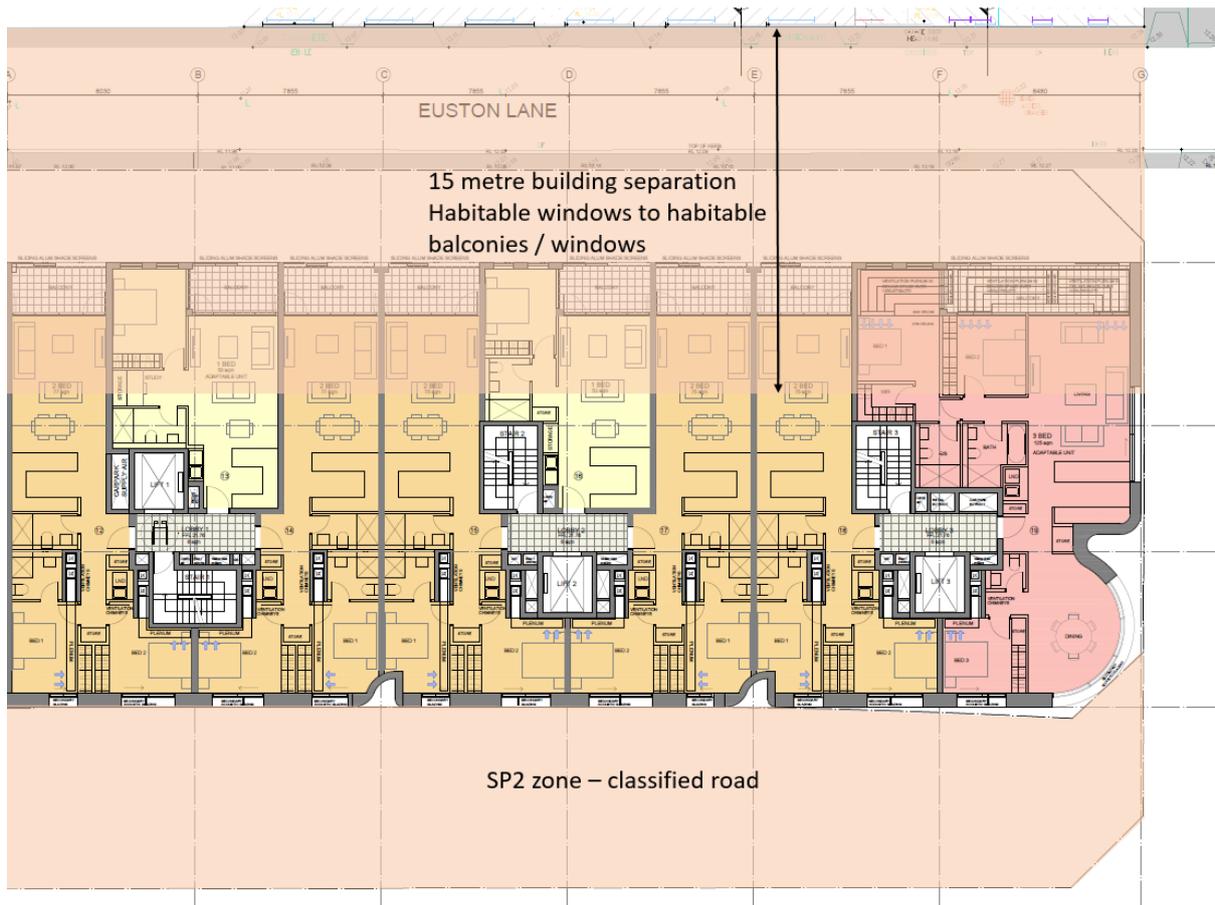


Figure 25: Extract from the 'Second Floor Plan' drawing by Carlisle Architects indicating the extent of building separation considerations under 2F of the ADG and SP2 zoned land.

Deep Soil

72. Part 3E of the ADG requires that for sites between 650 and 1500 square metres in area that 7% of the site area is provided as deep soil zones with minimum dimensions of 3 metres.
73. Section 4.2.3.6 of the SDCP 2012 requires that the minimum amount of deep soil is to be 10% of the site area and, on lots greater than 1000 square metres, consolidated with minimum dimensions of 10 metres.
74. The proposed development provides approximately 4% (43.2 square metres) of the site as a consolidated deep soil area along the Euston Lane frontage of the site, with a dimension of 2 metres, as indicated in the figure below. It does not comply with the requirements of either the ADG or SDCP 2012 as a result.



Figure 26: Extract from the 'Ground Floor Plan' drawing by Carlisle Architects indicating the proposed deep soil zone outlined in red.

75. The variation of these provisions is considered to be acceptable in this specific instance as:
- The design guidance under Objective 3E-1 of the ADG states that for some sites, including those which have 100% coverage or non-residential uses at the ground floor level, achieving the design criteria may not be possible. In these cases, it states that acceptable stormwater management should be achieved and alternative forms of planting on structure should be provided.
 - The proposed development proposes acceptable stormwater management, including the provision of on-site detention, and satisfies the relevant stormwater-related provisions of the SDCP 2012, subject to the City's standard stormwater condition.
 - The proposed development provides for alternative forms of planting on the structure of the building, including landscaped planters along the Euston Lane frontage of the site and to the communal open space at the rooftop level. This is further supplemented by the recommended design modification conditions in **Attachment A** to this report, which require the provision of appropriately sized planters to the Euston Lane facade of the building.
 - The design modification conditions in **Attachment A** to this report also require that the extent of non-compliance with the applicable deep soil controls is reduced via the deletion of a 10 square metre portion of the basement level adjacent to the proposed deep soil area.
 - As a result, the proposal meets both Objective 3E-1 and the objective in Section 4.2.3(a) of the SDCP 2012 as it enhances residential amenity with landscaping, provides a consolidated deep soil area which permits healthy plant and tree growth and appropriate water and air quality management measures.

- (f) Further, the constraints posed by the existing site configuration and surrounds and requirement for dedication of land along the Euston Road frontage of the site to RMS, strict compliance with the applicable deep soil provisions for the site in the SDCP 2012 would sterilise the site for residential apartment development.

Euston Road - Noise and Natural Ventilation

76. Part 4B of the ADG requires that all habitable rooms be naturally ventilated.
77. Part 4J of the ADG, Clause 101 of SEPP Infrastructure, and Sections 4.2.3.11 and 4.2.5.3 of the SDCP 2012 require noise and pollution impacts from major roads be minimised through the careful siting and layout of residential development and the preservation of residential amenity.
78. Euston Road is a RMS classified road. The traffic noise and pollution impacts caused by Euston Road on residential development are significant and are expected to increase, with annual average daily traffic volumes anticipated to exceed 40,000 following construction of Westconnex and the Alexandria to Moore Park Connectivity Upgrade.
79. The proposal has been designed with habitable rooms fronting Euston Road and Harley Street on Levels 1 to 3.
80. The Noise Impact Assessment prepared by Koikas Acoustic Pty Ltd states that as a consequence of the development's design, it will be necessary to provide double glazing and an alternative ventilation system for most habitable spaces. This includes all habitable rooms fronting Euston Road and Harley Street.
81. The amended proposal incorporates an acoustically attenuated passive natural ventilation plenum and chimney system to each noise affected dwelling (refer to the detail provided in the figures below). This system has been peer reviewed by a sustainable building consultant and is considered generally acceptable, subject to the conditions in **Attachment A** to this report.
82. The use of this type of system to ventilate the noise-affected habitable rooms within the development is supported. The proposal is considered to be capable of satisfying both the ADG requirement for all habitable rooms to be naturally ventilated and the SDCP 2012 requirements for acoustic privacy.

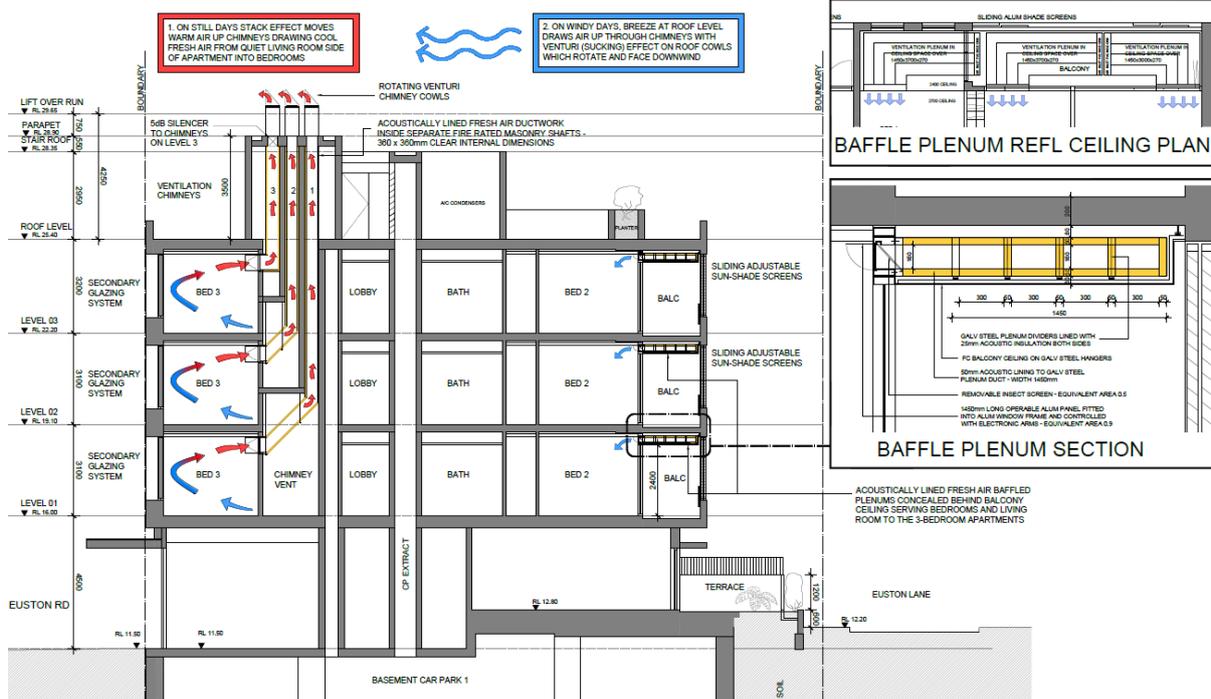


Figure 27: Section extract from the 'Natural Ventilation System' drawing by Carlisle Architects indicating details of the proposed passive natural ventilation plenum and chimney system.

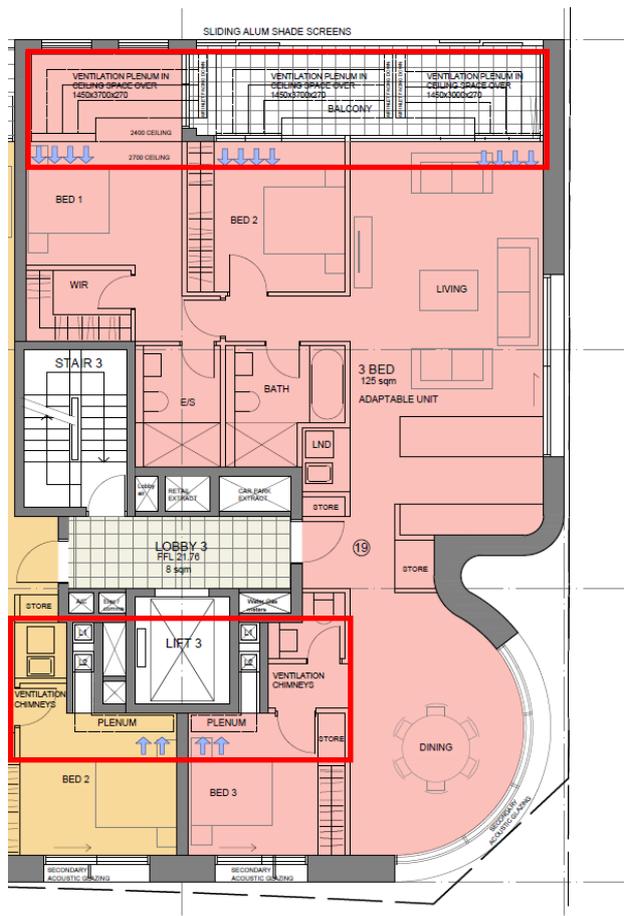


Figure 28: Plan extract from the 'Second Floor Plan' drawing by Carlisle Architects, indicating details of the proposed passive natural ventilation plenum and chimney system highlighted in red.

Voluntary Planning Agreement

83. A Public Benefit Offer has been submitted to dedicate a 650mm strip of land along the Euston Lane frontage of the site to Council, which has been included in Attachment E to this report.
84. A Voluntary Planning Agreement (VPA) is currently being prepared in relation to this proposal. The agreement includes the following public benefits:
 - (a) The dedication of approximately 29.3 square metres of land adjacent to the Euston Lane frontage of the site
 - (b) The embellishment of the land for footpath widening.
85. The VPA does not offset the Section 7.11 contributions that are applicable to the site.
86. Deferred commencement conditions are recommended to ensure that the draft VPA is exhibited, executed and registered on title prior to any development consent being activated.

Other Impacts of the Development

87. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the Development

88. The proposal is of a nature in keeping with the overall function of the site. The premises are in a commercial / residential surrounding and amongst similar uses to that proposed.

Internal Referrals

89. The amended application was discussed with or referred to the City's:
 - (a) Planning Agreements Unit;
 - (b) Heritage and Urban Design Specialists;
 - (c) Transport Planning Unit;
 - (d) Building Approvals Unit;
 - (e) Environmental Health Unit;
 - (f) Public Domain Unit;
 - (g) Safe City Unit;
 - (h) Specialist Surveyor;
 - (i) Cleansing and Waste Unit;
 - (j) Landscape Assessment Officer; and

(k) Tree Management Officer.

90. The amended proposal is considered to have satisfactorily addressed issues raised initially and is acceptable, subject to the recommended conditions.
91. Where considered appropriate, conditions recommended in the referral advice received have been included in **Attachment A** of this report.

Design Advisory Panel

92. The amended application was presented to Council's Design Advisory Panel on 2 August 2018. The Panel was generally supportive of the amended proposal and provided the following summarised advice:
 - Any conditions of consent should reflect the City's position regarding provision of accessible and high-quality roof top open spaces.
 - Improvement of roof top structures should be achieved with measures to unify the structures and continue the architectural language from the floors below.
 - The elevation to Harley Street resembles a side elevation with fixed slot windows has not been provided with shade devices, does not take full advantage of its aspect and may represent a lost opportunity.
 - Trees proposed for deep soil planting to Euston Lane should be as large as possible so that ground floor and upper level apartments take full advantage of the amenity they provide.
93. An appropriate condition has been recommended to ensure that the architectural language of the facade treatment from the floors below is adopted in the design of the rooftop structures.
94. Council staff are of the opinion that the treatment of the north-east elevation to Harley Street is acceptable, given that the proposed window arrangements provide a good balance between visual privacy and solar access. A condition has been recommended to require the provision of shade devices to the windows to this facade.
95. The City's standard landscape condition is also recommended to ensure the landscape design is in accordance with the above advice, albeit modified to ensure that the areas of deep soil along the Euston Lane frontage of the site are maximised, with large trees to be provided within the setback area.
96. As such, subject to the conditions in **Attachment A**, the proposal will be amended and refined to maximise its compliance with the ADG, and will achieve acceptable amenity.

External Referrals

97. The amended application was referred to the Roads and Maritime Services (RMS), Transport for NSW, WaterNSW and Ausgrid, who raised no objection to the proposed development, subject to the imposition of conditions.

Notification, Advertising and Delegation

98. The application constitutes integrated development and as such the application, as originally proposed, was notified and advertised for 30 days between 3 October 2017 and 3 November 2017 in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this notification, 29 submissions were received by the City.
99. The amended application was re-notified for 14 days between 27 June 2018 and 12 July 2018, in accordance with Schedule 1.3 of the SDCP 2012. As a result of this notification, 12 submissions were received by the City.
100. The content of the submissions is summarised and addressed below.

- (a) The original and amended proposals are excessive in bulk, scale and height. Other development in the neighbourhood is smaller in scale and the development will be overbearing to other development along Euston Lane. The reasons advanced for the non-compliance with the maximum height development standard are not compelling in relation to the extent of non-compliance and height transitions within the locality.

Response - The amended development complies with the maximum FSR standard and the proposed breach of the maximum building height development standard under the SLEP 2012 is considered to be acceptable.

The proposal is also generally compliant with the building envelope development controls of the SDCP 2012, including the maximum 4 storey building height control. The proposed bulk, scale and height is reasonable and of a size and scale envisioned in the applicable planning controls. Further, the development provides an appropriate transition to the lower-scale heritage conservation area on the western side of Euston Lane.

- (b) The number and size of windows on the western elevation facing Euston Lane are excessive and will cause privacy, noise and other amenity impacts on neighbours; in addition future residents will be heavily reliant on air conditioning to address the harsh western sun.

Response -The separation distance between the development and its neighbours on the opposite side of Euston Lane meets the minimum guidelines set out in the ADG.

Shading devices have been proposed to the north-western elevation of the development and a passive plenum and ventilation chimney system provides for acoustically attenuated natural ventilation to each dwelling, assisting to mitigate impacts relating to air-conditioning equipment.

- (c) The amended proposal, including the proposed retail premises, will cause additional traffic congestion and on-street parking problems in the area. In particular, no retail customer parking is provided and the single lane vehicle access way on Euston Lane will cause queuing and congestion on that laneway. Vehicle access should be from Euston Road or Harley Street.

Response - The proposed development is generally acceptable with regard to the City's parking rates as set out in the SLEP 2012 and SDCP 2012, subject to the recommended conditions. The SLEP 2012 employs maximum parking controls that are consistent with Council's approach to encourage public transport, walking and cycling over private car use. The controls have been designed so that not all residents within a development will be guaranteed a car space, in order to discourage private car use that contributes to congestion and environmental impacts.

The proposal also provides retail car parking spaces, visitor car parking spaces, bicycle parking spaces, a service vehicle space and motorcycle spaces, which is consistent with Council's planning controls and strategic objectives with respect to parking, traffic and access.

The location of the proposed vehicle access point also conforms to the requirements of the SDCP 2012. It should be noted that the RMS will not support and provide concurrence for site access from Euston Road where such access can be readily provided from the local street network. Vehicle access from Harley Street would likely have unacceptable impacts on Council's street tree adjacent to the site, and access from this location would not be supported.

The application was referred to the Council's City Access and Transport Unit, who are of the opinion that the development will not generate unreasonable levels of traffic or congestion.

The application was accompanied by a traffic impact assessment report which referenced road improvement works proposed or planned for Euston Road, Huntley Street and Sydney Park Road, and investigated the expected traffic impacts as a result of the development. With regards to traffic and on-street parking impacts on the surrounding area, Council's City Access and Transport Unit are satisfied with the information provided in this report.

The site is also walking distance from bus stops which provide services directly to the Sydney CBD, North Sydney, Marrickville and Sydenham. The surrounding streets also provide adequate pedestrian facilities including footpaths, kerb ramps, and marked foot crossing at signalised intersections.

Furthermore, conditions are recommended that prohibit residents of future residential flat buildings from participating in on-street resident car parking schemes.

- (d) The proposal will create additional noise and construction related pollution and will cause a wind tunnel effect in Euston Lane.

Response - The application was referred to Council's Health and Building Unit. Council's Senior Environmental Health Officer who has advised that the amended proposal is acceptable with regard to acoustic privacy, subject to the conditions included in **Attachment A** to this report.

These include the City's standard construction conditions, recommended to deal with the management of noise and dust pollution during demolition and preparatory works and construction.

Under the relevant provisions of the SDCP 2012, wind effects are to be considered for all buildings over 45 metres in height. The development has a maximum building height of less than 19 metres and is unlikely to cause unreasonable wind effects on surrounding private and public domain.

- (e) The proposal is not in line with the residential nature of the surrounding streets and development.

Response - In the B4 Mixed Use zone, multi dwelling housing, including residential flat buildings, and retail premises are permitted with consent.

The proposed development, as amended, is also generally consistent with the desired future character provisions of the SDCP 2012 for the Euston Road and McEvoy Street locality, given that it continues the transition of the area north of Sydney Park from industrial and light commercial uses to mixed retail and residential uses.

- (f) The proposed landscape area in front of the development will not exist once RMS widens Euston Road and takes over that area. The development will not have any set back from the widened road when this occurs.

Response - The Euston Road setback is not relied upon by the proposed development in terms of FSR, deep soil or communal open space provision, as it is likely to be acquired by RMS for road widening purposes in the future.

- (g) The area does not have the infrastructure, amenities or public transport to sustain massive developments like that proposed.

Response - The proposed development has been assessed on its merits and is recommended for deferred commencement consent, subject to an appropriate condition which requires contributions to local infrastructure and facility needs through provision of Section 7.11 contributions, as discussed elsewhere in this report.

- (h) The proposal will create excessive density and overpopulation in the area.

Response - As discussed in other parts of this report, the amended proposal as complies with the maximum FSR development standard applicable to the site.

- (i) The proposal will cause unreasonable overshadowing of residential neighbours along Harley Street and Euston Lane.

Response - The applicant submitted shadow diagrams for the development for each hour on 21 July between 9.00am and 3.00pm.

The development will not unreasonably overshadow neighbouring development along Harley Street and Euston Lane.

- (j) Is this part of Euston Road earmarked as a road widening area by either the Council or RMS? If it is, why isn't it shown in RMS plans?

Response - Under the Sydney LEP 2012, a portion of the site located alongside Euston Road is zoned SP2 - Infrastructure (Classified Road) and is identified as land that may be acquired in the future by RMS for road.

The application was referred to RMS, who advised that investigations were currently underway on road widening works to Euston Road (including a shared pedestrian and bicycle path on the RMS Land) as part of the proposed Alexandria to Moore Park Connectivity Upgrade.

The investigation into the Alexandria to Moore Park Connectivity Upgrade and the widening of Euston Road in particular is identified in the community consultation report dated October 2017 and related literature that can be currently found on the RMS website at

<http://www.rms.nsw.gov.au/projects/sydney-inner/alexandria-moore-park-connectivity-upgrade/index.html>.

- (k) Under the Alexandria to Moore Park Connectivity Upgrade report issued by RMS, the zone is shown as a proposed shared path, not a road widening area.

Response - RMS is currently investigating the widening of Euston Road in order to construct a shared pedestrian and bicycle path. If this shared path is constructed, it will be identified as part of the road.

- (l) The proposal will detrimentally impact on the heritage of the area.

Response - The site is located immediately to the south-east of the Cooper Estate Heritage Conservation Area.

As discussed elsewhere in the report, the amended development provides a generally acceptable height, bulk and scale and an appropriate transition to the lower-scale predominantly residential developments in the conservation area.

Furthermore, the City's Heritage Specialist has raised no objection to the demolition of the existing building or the proposed form of development in this regard.

- (m) The amended proposal incorporates insufficient and inappropriately located rooftop communal open space which will result in adverse visual and acoustic privacy impacts to nearby residential properties.

Response - The rooftop communal open space is considered to be acceptable with regard to the relevant provisions of the ADG and SDCP 2012 as it is well set back from the rear building line to Euston Lane, provides adequate separation to nearby residential properties and, subject to the recommended conditions, will have an appropriate landscape treatment and communal facilities.

- (n) Insufficient detail has been provided in relation to the proposed retail premises in the amended proposal.

Response - Sufficient information has accompanied the application in relation to the proposed retail premises. As discussed elsewhere in this report, appropriate conditions have been recommended to require separate applications for the future fit out and precise use of these tenancies and establish controls in relation to noise, hours of operation, deliveries and waste management.

- (o) The proposed excavation in the amended development scheme has the potential for impacts on nearby properties and the developer should be required to prepare dilapidation reports for these sites.

Response - Council's standard conditions relating to excavation and dilapidation reports are included in the recommended conditions in **Attachment A** to this report.

- (p) The unauthorised works undertaken at 33-49 Euston Road, Alexandria should not be relied upon as a precedent for the proposed development.

Response - The proposal, as amended, has been assessed on a merit basis without reference to the existing development at 33-49 Euston Road.

Public Interest

101. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

Other Approvals

Airports Act 1996 and Civil Aviation (Building Control) Regulations 1988

102. Section 182 of the Commonwealth Airports Act 1996 specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.
103. Schedules 2 and 5 of the Civil Aviation (Building Control) Regulations 1988 identify that the subject site is subject to a prohibition of the construction of buildings more than 50 feet in height (15.24 metres) above existing ground height.
104. Section 183 of the Commonwealth Airports Act 1996 specifies that controlled activities may not be carried out in relation to prescribed airspace unless an approval has been granted. The relevant approval body is the Civil Aviation Safety Authority (CASA).

105. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA provided approval for the controlled activity on 3 August 2018.

Section 7.11 Contributions

106. The development is subject of Section 7.11 contributions under the provisions of the City of Sydney Development Contributions Plan 2015.

107. The following monetary contribution is required towards the cost of public amenities:

(a) Open Space	\$301,170.81
(b) Community Facilities	\$61,321.45
(c) Traffic and Transport	\$44,698.32
(d) Stormwater Drainage	\$17,682.10
Total	\$424,872.68

108. The contribution is calculated on the following basis:

- (a) Construction of a mixed use development, comprising 27 residential apartments including 6 one bedroom dwellings, 18 two bedroom dwellings and 3 three bedroom dwellings and 2 retail tenancies with a total of 250 square metres of GFA used as shops; and
- (b) A credit of 24 workers for the existing homewares retail premises, calculated on the basis of 1370 square metres of GFA used as a shop.

Relevant Legislation

109. Environmental Planning and Assessment Act 1979.

110. Environmental Planning and Assessment Regulation 2000.

111. Roads Act 1993.

112. Airports Act 1996.

113. Water Management Act 2000.

Conclusion

114. The proposed development is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979 in that it generally satisfies the provisions of the SLEP 2012 and the SDCP 2012, and results in a high standard of architectural design that exhibits design excellence, subject to the recommended conditions.
115. The proposed development is generally consistent with the development standard and zone objectives of the SLEP 2012, with the exception of the maximum height of buildings control.
116. The proposal results in a 3.25 metre (21.7%) departure from the height control. A written request for the variation demonstrates that the departure achieves a better outcome and that compliance is unreasonable and unnecessary in the circumstances. The breach does not result in any unacceptable amenity impacts and, given that the proposal is generally consistent with the objectives of the relevant planning controls, it is supported in this instance.
117. The amended proposal performs well against the built form controls of the SDCP 2012 and the design principles in SEPP 65. The proposal has been amended to address concerns raised by City officers and the Design Advisory Panel, and the modified design and configuration of the development is considered to be an acceptable response to the constraints of the site.
118. The proposed development is consistent with the provisions of the Apartment Design Guide (ADG) in that the scheme will provide 27 residential apartments and has been modified to achieve good internal amenity for the proposed dwellings and for neighbouring dwellings.
119. Dwellings are provided with both private and communal open space, acoustic and visual privacy, good solar access and natural cross ventilation, and access to acoustically treated passive natural ventilation via the proposed plenum and ventilation chimney system. The building has an appropriate urban form and a materials palette that is in keeping with the locality.
120. The public interest is served by the approval of the proposal that meets the applicable planning requirements and is in keeping with its immediate context and neighbouring residential development in relation to visual bulk and scale and neighbourhood character and context.
121. As such, the application is recommended for deferred commencement approval, subject to conditions.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

David Reynolds, Senior Planner