

Item 4.**Development Application: 29-33 Bourke Road, Alexandria****File No.:** D/2018/360**Summary**

Date of Submission:	12 April 2018 Amended drawings and additional information received on 15 August 2018.
Applicant:	Sutherland & Associates Planning Pty Ltd
Architect:	Cottee Parker JPRA Architects
Developer:	Tipalea Partners
Owner:	Tipalea Private No. 17 Pty Ltd
Cost of Works:	\$44,130,404
Zoning:	The site is zoned B6 Enterprise Corridor. The proposed development is defined as 'office premises', 'food and drink premises' and 'shop' all of which are permissible with consent.
Proposal Summary:	<p>The application seeks consent for demolition of the existing building, excavation and construction of a four storey mixed use building comprising basement level car parking, a shop and food drink premises at ground floor with office premises to the rear and on the upper three levels.</p> <p>The application is Integrated Development requiring the approval of Water NSW pursuant to the Water Management Act 2000. General Terms of Approval have been issued by Water NSW.</p> <p>The development application is being referred to the Local Planning Panel for determination as a Public Benefit Offer accompanies the application.</p>

**Proposal Summary
(continued):**

The application was advertised for a period of 30 days between 1 May and 1 June 2018, and one submission was received raising various issues. The issues raised in the submission have been addressed in the report, and conditions of consent are recommended to address these issues where appropriate. The application was renotified for a 14-day period between 4 October and 19 October 2018 to include tree removal in the proposed development description. No submissions were received.

The Public Benefit Offer relates to the dedication of a 2.4m wide piece of land along the Bourke Road frontage to Council for footpath widening (134sqm) including embellishment works and a monetary contribution. A draft Voluntary Planning Agreement (VPA) has been prepared incorporating the works proposed by the developer in the Public Benefit Offer. The draft VPA was publically exhibited for a period of 28 days between 28 September 2018 and 27 October 2018. No submissions were received.

The site comprises an area of 5033sqm and triggers the requirement for the preparation of a site specific development control plan (DCP) and the undertaking of a competitive design process under the provisions of Clauses 7.20 and 6.21 of the Sydney Local Environmental Plan 2012 (SLEP 2012), respectively for sites over 5000sqm. Following the land dedication of 134sqm, the resultant site area will be 4899sqm. The applicant seeks a waiver to both of these requirements. The applicant's request that the requirement to undertake a site specific DCP and competitive design process is unreasonable and unnecessary in the circumstances of this application is considered to have merit in this particular case and is supported.

The proposal was amended during the course of the assessment to address issues raised by Council staff and the Design Advisory Panel. While there are some issues remaining, conditions of consent are recommended to address these issues.

Subject to conditions, the proposal is largely compliant with the other relevant provisions contained in the SLEP 2012 and Sydney Development Control Plan 2012 (SDCP 2012), particularly the Southern Employment Lands provisions which apply to the site.

The application is recommended for approval subject to deferred commencement conditions requiring the execution and registration of the VPA and design modifications to address outstanding issues.

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

Development Controls:

- (i) Environmental Planning and Assessment Act, 1979
- (ii) Water Management Act 2000
- (iii) Airports Act 1996
- (iv) State Environmental Planning Policy (Infrastructure) 2007
- (v) State Environmental Planning Policy No. 55 - Remediation of Land
- (vi) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
- (vii) Sydney Development Control Plan 2012 (in force on 12 December 2012, as amended)

Developer Contributions:

- (viii) City of Sydney Development Contributions Plan 2015
- (ix) City of Sydney Employment Lands Affordable Housing Program 2015

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Architectural Plans
- C. Selected Architectural Elevations and Sections
- D. Public Benefit Offer
- E. Draft Voluntary Planning Agreement
- F. Applicant's Justification to Support a Waiver to the Site Specific DCP and Competitive Design Process

Recommendation

It is resolved that:

- (A) the requirement under Clause 6.21 of the Sydney Local Environmental Plan 2012 requiring a competitive design process is unreasonable and unnecessary in the circumstances;
- (B) the requirement under Clause 7.20 of the Sydney Local Environmental Plan 2012 requiring the preparation of a development control plan is unreasonable and unnecessary in the circumstances ; and
- (C) 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/2018/360 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for a deferred commencement approval as:

- (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 and does not result in any unreasonable environmental impacts for the reasons outlined in the report to the Local Planning Panel.
- (B) The development, subject to conditions, is consistent with the objectives and provisions contained in Sydney Development Control Plan 2012 and Sydney Local Environmental Plan 2012.
- (C) The height, bulk and scale is commensurate with that of surrounding built form and the design standard is consistent with the desired character of the area of Green Square.
- (D) The development, subject to conditions, is considered to exhibit design excellence through its positive contribution to the public domain including landscaping and activation of the future Liveable Green Network and through-site link.
- (E) The proposed development contributes to the delivery of community infrastructure for Green Square through the dedication and embellishment works for a widened footpath, as well as a monetary contribution.
- (F) For the reasons above and as outlined in this report, the proposed development is in the public interest subject to conditions.

Background

The Site and Surrounding Development

1. A site visit was carried out by staff on 23 July 2018.
2. The site is legally described as Lot 7 in DP 612682 and is known as 29-33 Bourke Road, Alexandria.
3. The site is irregular in shape, with an angled boundary to the primary street frontage of Bourke Road. The site comprises an area of 5033sqm and has a street frontage length of approximately 155.6m and maximum depth of 109.6m. The site is occupied by a two storey warehouse building, with hardstand car parking to the front accessed by a single vehicular crossover from Bourke Road. A separated cycleway is located directly in front of the site.
4. The site is located approximately 450m south-east of the Green Square Town Centre and is located within the Green Square urban renewal area. The immediate surrounding area is predominantly characterised by industrial and commercial uses.
5. Adjoining the site to the north at 23-27 Bourke Road is an industrial building comprising a number of individual tenancies. This building is built to the common side boundary and has a varying front setback of approximately 18-25m with at grade car parking within this setback.
6. Adjoining the site to west at 33-39 Bowden Street is a large industrial building built to the common boundary. Adjacent to this western side common boundary and located wholly on 33-39 Bowden Street is a future through-site link identified in the SDCP 2012.
7. Located along the subject site's southern boundary is a 20m wide corridor owned by Sydney Water. This corridor is identified in the SDCP 2012 as part of the future Liveable Green Network (LGN). Currently situated on this land, closest to Bourke Road, is a vehicle weighbridge and ancillary cafe. Adjoining this corridor is Perry Park and a new multi-purpose sports facility has recently been constructed in the northern corner of the park.
8. Opposite the site on the other side of Bourke Road are older two and three storey commercial and industrial buildings with open hard stand car parking.
9. The site is not a heritage item, is not located in close proximity to a heritage item and is not located within a heritage conservation area.
10. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from Bourke Road, facing north



Figure 3: Site, weighbridge and Perry Park viewed from Bourke Road facing north



Figure 4: View from south-west corner of the site



Figure 5: View along southern boundary of the site



Figure 6: Site viewed from Bourke Road facing north west



Figure 7: View of north-west corner of the site

Proposal

11. The application seeks consent for the demolition of the existing building, excavation and construction of a four storey mixed use development in the form of an 'L' shape building. In detail the proposal consists of:
 - (a) **Basement Level**
 - (i) 104 car parking spaces including two car share spaces;
 - (ii) Seven motorcycle parking spaces;
 - (iii) 82 bicycle racks; and
 - (iv) End of trip facilities.
 - (b) **Ground Floor**
 - (i) Tenancies for shops and food and drink premises (553sqm) fronting Bourke Road;
 - (ii) Commercial office space to the rear (1,434sqm);
 - (iii) Landscaping and communal open space; and

- (iv) Public art.
 - (c) Levels 1 - 3**
 - (i) Commercial office space comprising a total area of approximately 7,250sqm;
 - (ii) Small outdoor terraces located on the south east corner on the building on levels 1-3; and
 - (iii) Larger outdoor terraces located on level 3 southern and eastern (Bourke Road) sides of the building.
 - (d) Roof Level**
 - (i) 587 solar PV panels covering predominantly the entire roof.
12. The development application is accompanied by a public benefit offer for the dedication of a 2.4m wide strip of land along the Bourke Road frontage of the site for the purpose of footpath widening.
13. Photomontages, plans and elevations of the proposed development are provided in Figures 8 - 20. The full set of selected Architectural drawings are contained in Attachments B and C.



Figure 8: Photomontage - Looking south along Bourke Road



Figure 9: Photomontage - Looking north along Bourke Road

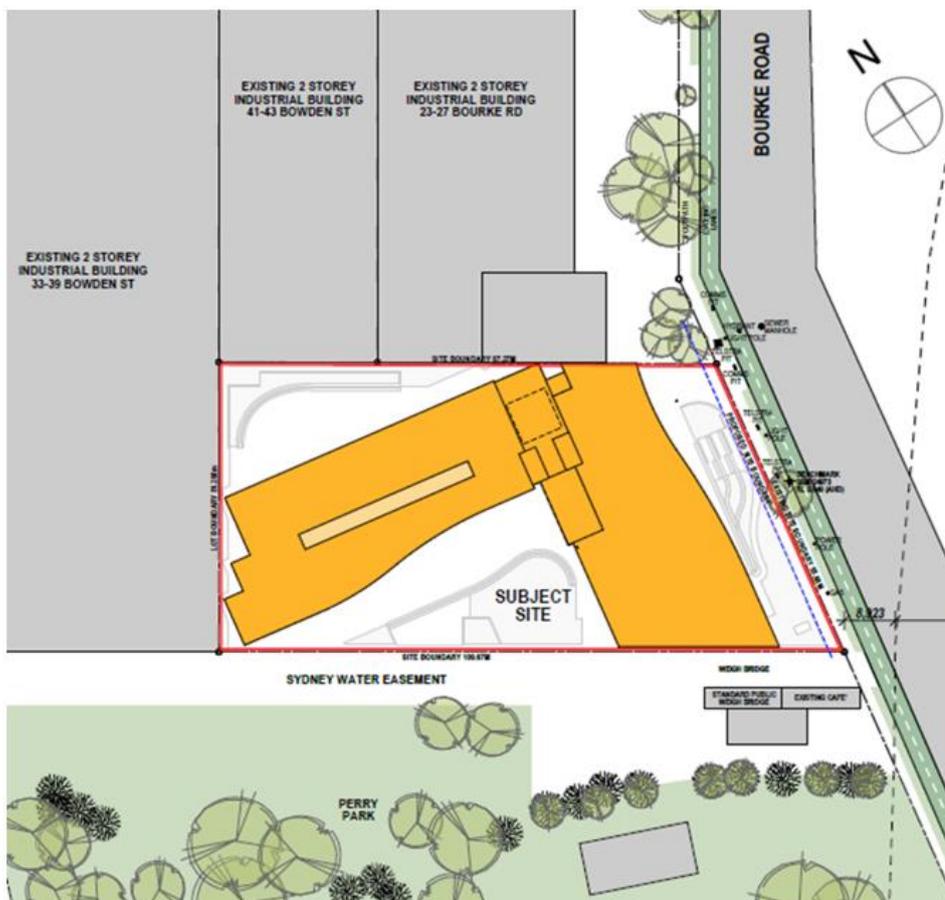


Figure 10: Site plan

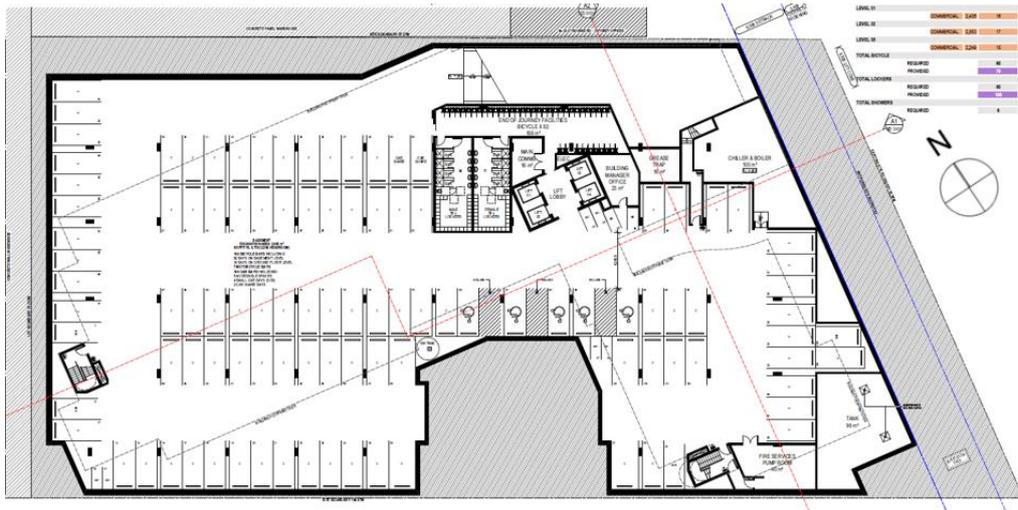


Figure 11: Basement level

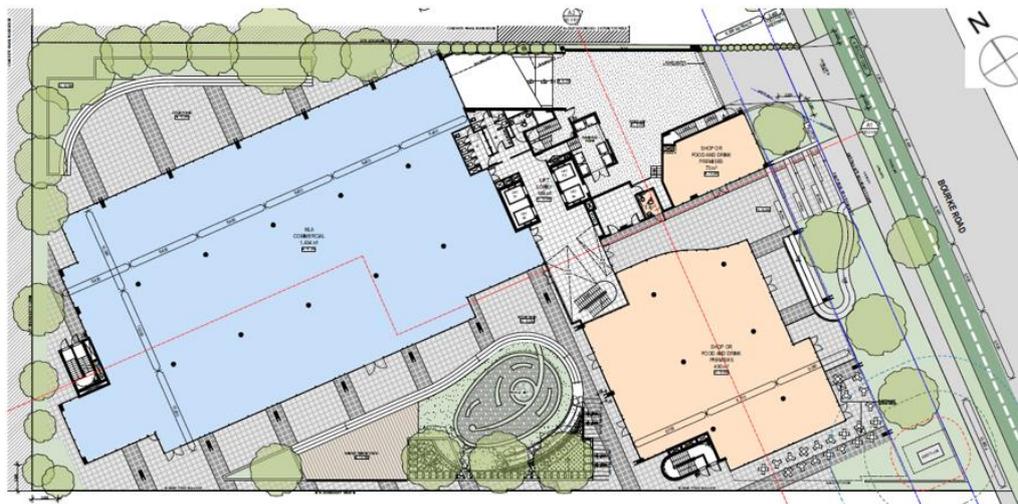


Figure 12: Ground level

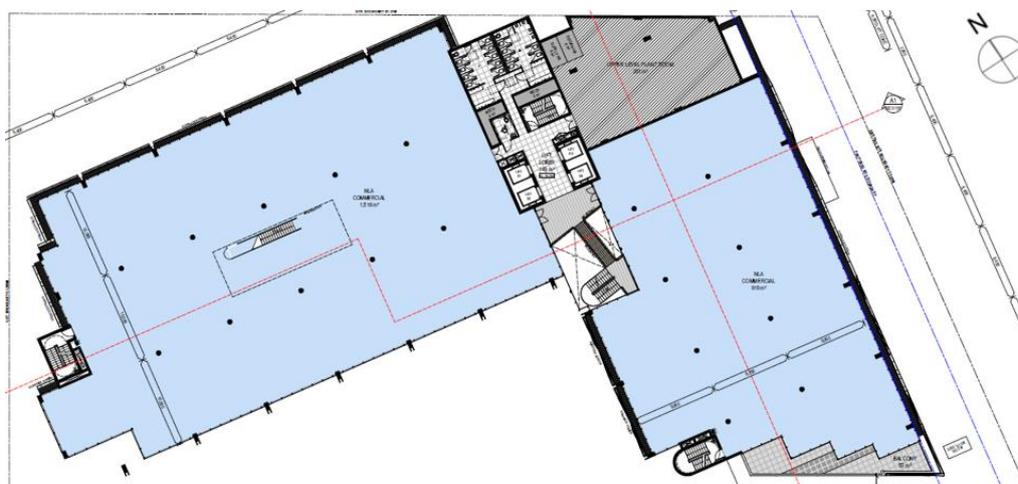


Figure 13: Level 1 floor plan

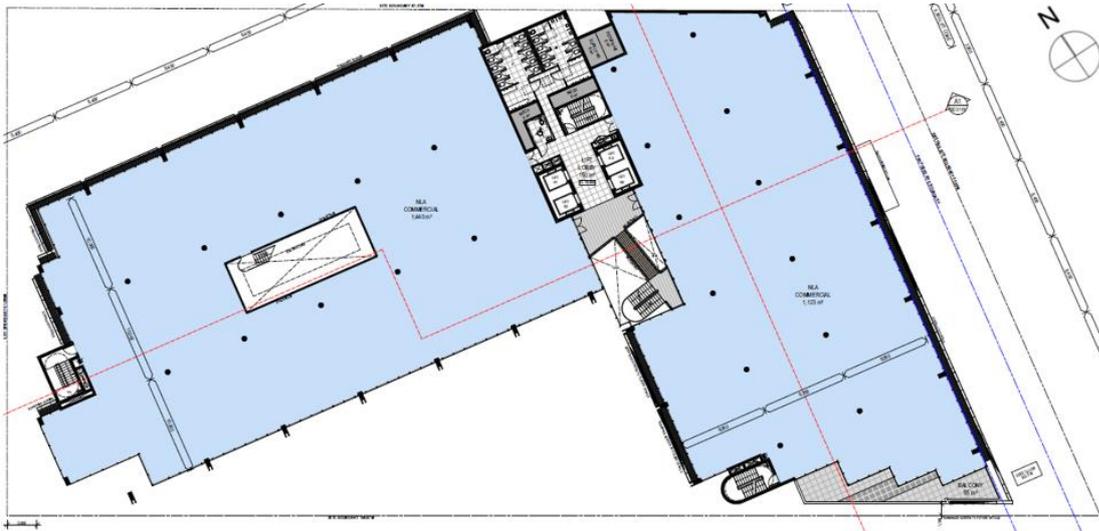


Figure 14: Level 2 floor plan

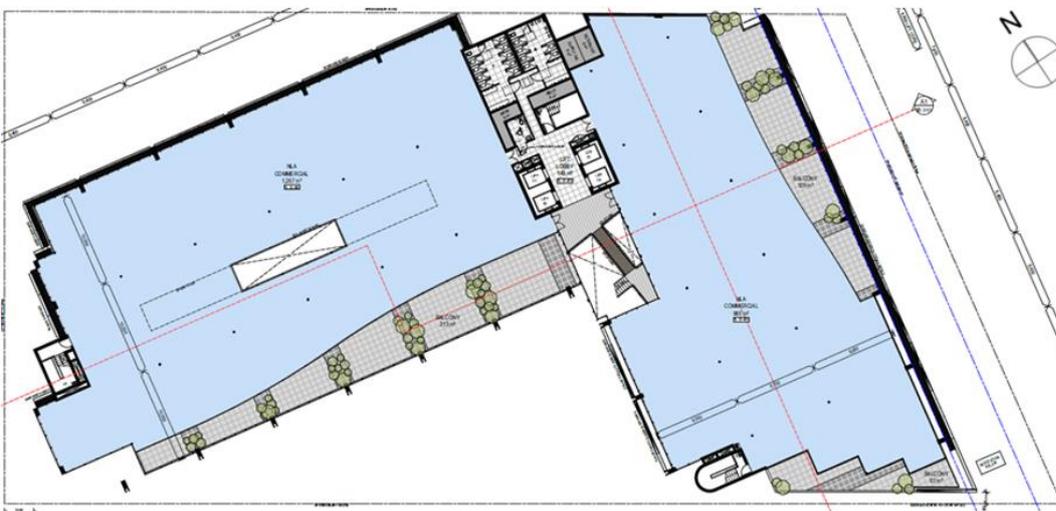


Figure 15: Level 3 floor plan



Figure 16: Roof plan

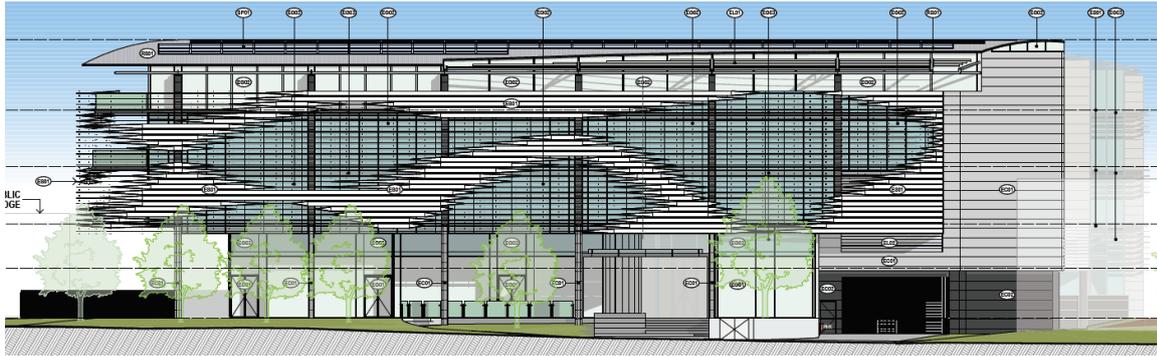


Figure 17: East (Bourke Road) elevation



Figure 18: South elevation

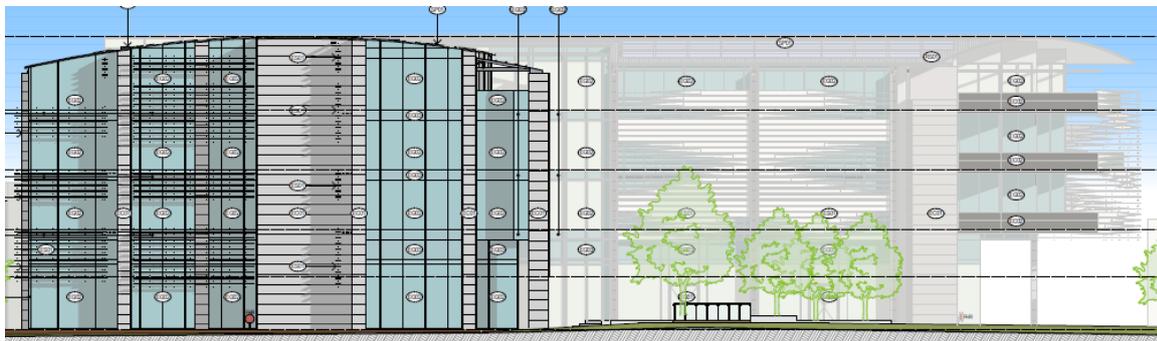


Figure 19: West elevation



Figure 20: North elevation

History Relevant to the Development Application

Previous Development Applications

14. There have been no development applications determined on the site which are of any relevance to the subject application.

Current Development Application

15. The development application was lodged on 12 April 2018.
16. The preliminary assessment raised a number of concerns including:
 - (a) the building's interface with boundaries and the future public domain being the Liveable Green Network (LGN) and through-site link;
 - (b) lack of deep soil planting and other landscaping issues;
 - (c) location of the substation;
 - (d) materiality, including proposed dark tinted glass;
 - (e) functionality of the Bourke Road accessible path;
 - (f) inadequacy of submitted contamination report and preliminary public art strategy;
 - (g) location of visitor bicycle parking; and
 - (h) no car share spaces provided.
17. The proposal was presented to the Design Advisory Panel (DAP) on 28 June 2018. The key issues raised by DAP included the lack of activation of the future LGN and through-site link, materiality and location of the substation. Due to these issues, DAP was not supportive of the view that the requirement to prepare a site specific DCP and that the site be the subject of a competitive design process were unreasonable or unnecessary.
18. In response to the issues raised by Council officers which incorporated the advice given by DAP, the application was amended and additional information provided on 15 August 2018. The amended application has sufficiently resolved some of the issues raised. Key issues which have not been resolved include the location of the substation and the tinted glazing. This is discussed further in the 'Issues' section of this report.
19. The amended plans received on 15 August 2018 are the subject of this assessment report.

Voluntary Planning Agreement

20. A VPA has been prepared in relation to the site which includes the following public benefits:
 - (a) dedication to Council land comprising an area of 134sqm with a width of 2.4m located along the front of the site for footpath widening;
 - (b) embellishment of the area of land with asphalt finish; and

- (c) a financial contribution of \$416,835.62 towards the delivery of public infrastructure within the Green Square Urban Renewal Area.
21. The VPA was publically exhibited for 28 days between 28 September 2018 and 27 October 2018. The VPA and associated bonus FSR provision is addressed in the 'Issues' section.

Economic/Social/Environmental Impacts

22. 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 of Environmental Planning and Assessment Act 1979; and
 - (b) Environmental Planning Instruments and DCPs.

Water Management Act 2000

23. 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 Section 91 of the Water Management Act 2000.
24. The application was therefore referred to Water NSW on 13 April 2018 as the proposal is Integrated Development under Section 4.46 of the Environmental Planning and Assessment Act 1979.
25. Water NSW has provided General Terms of Approval (GTA) for the proposed aquifer interference activity. The GTA's have been included in Schedule 3 of the recommended conditions of consent.

Sydney Airport Referral Act 1996

26. 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.
27. Schedules 2 and 5 of the Civil Aviation (Building Control) Regulations 1988 identify the subject site is subject to a prohibition of the construction of buildings more than 50 feet in height (15.24m) above existing ground height.
28. 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).
29. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA, provided approval for the controlled activity on 30 April 2018.

State Environmental Planning Policy No 55—Remediation of Land

30. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
31. A detailed site investigation report was submitted by the applicant. The report concludes that the site is suitable for the proposed commercial use without the need for remediation or further on-going management. The levels of contaminants found comply with the established health screening levels applicable to the proposed use.
32. The Council's Health and Building Unit is satisfied that subject to conditions, the site can be made suitable for the proposed use.

State Environmental Planning Policy (Infrastructure) 2007

33. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

Clause 45

34. The application is subject to Clause 45 'Subdivision 2 Development likely to affect an electricity transmission or distribution network' of the SEPP.
35. A kiosk substation is proposed in the south-east corner of the site within the Bourke Road setback.
36. In accordance with Clause 45, the application was referred to Ausgrid who raised no objections subject to conditions. These conditions have been incorporated in to the recommended conditions of consent contained in Attachment A.

Clause 86

37. The application is subject to Clause 86 'Excavation in, above, below or adjacent to rail corridors' due to proximity of the underground rail tunnel.
38. In accordance with Clause 86, the application was referred to Sydney Trains. On 10 October 2018, Sydney Trains advised that they had no objections to the proposal.

Clause 104

39. The proposed development is not classified as 'traffic-generating development' under Schedule 3 of SEPP (Infrastructure) 2007.

Sydney LEP 2012

40. The site is zoned B6 Enterprise Corridor. The proposed mixed development is defined as 'office premises', 'food and drink premises' and 'shop', all of which are permissible with consent in the zone.
41. It is noted that the broader Sydney Local Environmental Plan 2012 (SLEP 2012) definition of 'commercial premises' cannot be applied as it includes the subcategory of 'retail premises' which is a prohibited land use in the B6 zone.
42. The relevant matters to be considered under SLEP 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	Yes	<p>A maximum height of 18m is permitted.</p> <p>A height of 18m is proposed inclusive of rooftop plant and equipment.</p>
<p>4.4 Floor Space Ratio</p> <p>6.13 End of journey space</p> <p>6.14 Community infrastructure at Green Square</p>	Yes	<p>A maximum base FSR of 1.5:1 is permitted.</p> <p>188sqm of GFA is proposed specifically for end of journey facilities. The end of journey facilities include showers, change rooms, lockers and bicycle storage and accordingly satisfy the criteria of Clause 6.13. This results in the site being eligible for additional FSR of 0.04:1 pursuant to Clause 6.13.</p> <p>The site is also eligible for an additional FSR of 0.5:1 under the provisions of Clause 6.14 as the proposal includes a public benefit offer towards the delivery of community infrastructure at Green Square. This is proposed in the form of footpath widening and embellishment works, and a monetary contribution. A draft VPA has been prepared and publicly exhibited. A deferred commencement consent is recommended to ensure that the VPA is executed and the community infrastructure works are secured in order for the site to benefit from the community infrastructure FSR.</p> <p>The total maximum permitted FSR for the site is 2.04:1.</p> <p>A FSR of 1.97:1 is proposed and therefore complies with the combined maximum FSR permitted under Clauses 4.4, 6.13 and 6.14 of SLEP 2012.</p> <p>It is noted that after the dedication of land for footpath widening and subsequent reduction in site area (4899sqm), the FSR will increase to approximately 2.02:1, which still complies with the maximum permitted FSR of 2.04:1.</p>

Development Control	Compliance	Comment
<p>Clause 6.21 Design Excellence</p>	<p>Yes - subject to conditions</p>	<p>In the context of the site and surrounding built form, the proposal is considered to be of a high architectural, urban design and landscape quality which contributes to the public domain. This is subject to the conditions recommended to address the location of the substation and tinted glazing.</p> <p>As a result of the site area being 5033sqm in area, a site specific DCP is required to be prepared for the site pursuant to Clause 7.20 of SLEP 2012. This subsequently triggers the requirement for a competitive design process to be undertaken pursuant to Clause 6.21(5) of SLEP 2012.</p> <p>The applicant is seeking a waiver to this requirement pursuant to subclause (5) on the grounds that 'such a plan would be unreasonable or unnecessary in the circumstances'. Refer to the 'Issues' section for discussion.</p>

Part 7 Local Provisions - General	Compliance	Comment
<p>Division 1 Car parking ancillary to other development</p> <p>Clause 7.6 Office premises and business premises</p> <p>Clause 7.7 Retail premises</p>	Yes	<p>The site is identified as 'Category F' on the Public Transport Accessibility Map.</p> <p>A maximum of 106 car parking spaces is permitted on the site under Clauses 7.6 and 7.7 of SLEP 2012</p> <p>102 car parking spaces are proposed. two additional car parking spaces are provided as car share spaces.</p>
7.13 Affordable housing	Yes	<p>The site is located within Green Square. Accordingly, the development is subject to an affordable housing contribution in accordance with the Green Square Affordable Housing Program pursuant to Clause 7.13 of SLEP 2012.</p> <p>The proposed development has a total floor area (TFA) of 11,291sqm. Based on the non-residential rate of \$81.63 per sqm for the indexation period of 1 March 2018 - 28 February 2019, an affordable housing contribution of \$921,684.33 is required for the development.</p> <p>A condition of consent is recommended requiring payment of the contribution prior to issue of a Construction Certificate.</p>
7.14 Acid Sulfate Soils	Yes	<p>The site is identified on the class 3 Acid Sulfate Soils SLEP 2012 map.</p> <p>Testing of the fill at the site was conducted as part of the detailed site investigation. The site was found to not contain sand classified as either actual or potential acid sulphate soil.</p> <p>Therefore an Acid Sulfate Management Plan is not required in this case, and the provisions of Clause 7.14(4) are satisfied.</p>
7.15 Flood planning	Not applicable	The site is not identified by Council as being flood prone.

Part 7 Local Provisions - General	Compliance	Comment
Part 7 Local Provisions - General	Compliance	Comment
7.16 Airspace operations	Yes	The height of the proposed development does not penetrate the prescribed airspace.
7.19 Demolition must not result in long term adverse visual impact	Yes	While the proposal includes demolition of the existing building, the proposal also includes construction of a new building. Council officers are therefore satisfied that site will be comprehensively redeveloped under the consent.
7.20 Development requiring preparation of a development control plan	Yes - subject to conditions	<p>The proposal triggers the requirement for the preparation of a site specific DCP as the site is zoned B6 - Enterprise Corridor and has an area greater than 5000sqm.</p> <p>The applicant is seeking a waiver to this requirement pursuant to subclause (3) on the grounds that 'such a plan would be unreasonable or unnecessary in the circumstances'. Refer to the 'Issues' section for discussion.</p>
7.23 Large retail development near Green Square Town Centre	Yes	<p>The site is located within the restricted retail area which prohibits shops or markets with a GFA greater than 1000sqm.</p> <p>The proposed tenancies designated for use as either shops or food drink premises have a total GFA of 553sqm and as such the development complies with this provision.</p>

Sydney DCP 2012

43. The relevant matters to be considered under Sydney Development Control Plan 2012 (SDCP 2012) for the proposed development are outlined below.

2. Locality Statements – Enterprise Corridor

The subject site is located in the Enterprise Corridor (2.10.2). The locality statement describes the desired future character of the area which is to accommodate a wider variety of economic activities, including high tech and offices where appropriate. The north locality based around Perry Park, where the subject site is located, is envisaged to become greener through the provision of a new linear public space following Shea's Creek Channel and forming part of the Liveable Green Network (LGN).

The proposed development is considered to be in keeping with the unique character of the area and design principles in that the development provides an appropriate interface with the future LGN and through-site link and the predominant office use is compatible for the area.

3. General Provisions	Compliance	Comment
3.1 Public Domain Elements 3.1.1 Streets, lanes and footpaths 3.1.2.2 Through-site links	Yes	<p>The proposal includes the dedication and embellishment works of 2.4m wide land along the Bourke Road frontage towards footpath widening.</p> <p>The proposal provides a building interface and activation of the future LGN and through-site link to the rear. This is discussed further in the 'Issues' section.</p> <p>Overall, the proposed development will make a positive contribution to the public domain, subject to conditions.</p>
3.15 Public Art	Yes	<p>A preliminary public art strategy has been submitted in accordance with the 'City of Sydney Guidelines for Public Art in Private Development'.</p> <p>It is proposed to provide public art to the southern outdoor open space area and integrated in to the landscape design. The location of the public artwork is located adjacent to the LGN and therefore will be visible from the future public domain.</p> <p>A condition of consent is requiring the submission and approval of a detailed public art strategy prior to issue of a Construction Certificate for above ground works.</p>

3. General Provisions	Compliance	Comment
<p>3.2 Defining the Public Domain</p> <p>3.2.1.1 Sunlight to publically accessible spaces</p> <p>3.2.2 Addressing the street and public domain</p> <p>3.2.7 Reflectivity</p>	Yes	<p>The proposed development will enhance the public domain by ensuring adequate sun access to publicly accessible spaces and considering public views. Overshadowing of the LGN and Perry Park is discussed further in the 'Issues' section.</p> <p>The siting of the development in regards to addressing the primary street frontage, future through-site link and LGN is considered appropriate, while also minimising overshadowing of Perry Park. This is discussed further in the 'Issues' section.</p> <p>A condition of consent has been recommended requiring that the reflectivity from the building materials must not exceed 20%.</p>
<p>3.3 Design Excellence and Competitive Design Processes</p> <p>3.3.8 Site specific DCP development applications</p>	No	<p>As discussed in the SLEP 2012 compliance table, the applicant is seeking a waiver of the competitive design process and preparation of a site specific DCP. This is discussed further in the 'Issues' section.</p>
<p>3.4 Hierarchy of Centres, City South</p>	Yes	<p>The site is located outside the Green Square Town Centre major retail area. The proposal includes tenancies designated for use as either shops or food drink premises, and these tenancies have a total GFA of 553sqm.</p> <p>The development is classified as 'minor retail development' under Section 3.4. Minor retail development is permissible outside retail centres provided it does not have a negative impact on the viability of the planned centres. The predominant use of the site is as office premises. The size of the tenancies proposed to be used for shops is not considered to undermine the economic strategy of the Green Square retail centre or impact its viability.</p>

3. General Provisions	Compliance	Comment
3.5 Urban Ecology	Yes - subject to conditions	<p>There is a small Banksia tree located in the north-east corner of the site in the location of the proposed driveway and new widened footpath. The tree is currently located in a raised planter with a fire hydrant installed close to its trunk. As such, the tree's potential for future growth is restricted. The proposal includes substantial new tree planting on the site, including the Bourke Road frontage. Therefore, removal of the subject tree is supported in this case.</p>
3.6 Ecologically Sustainable Development	Yes - subject to conditions	<p>The proposal includes 587 solar PV panels on the roof of the building.</p> <p>The application has been supported by an Ecological Sustainable Development (ESD) Report and a Section J Building Code of Australia compliance report.</p> <p>Section 3.6 (7) of the SDCP 2012 requires new development containing a net lettable area of 1000sqm or more of office space to commit to a 5.5 NABERS rating with the NSW Office of Environment and Heritage.</p> <p>The ESD report submitted states that a 4.5 NABERS will be targeted. NABERS describes 4 stars as 'good', 5 stars as 'excellent' and 6 stars 'market leading'.</p> <p>For a new development comprising in excess of 8000sqm of office space and proposing to satisfy the design excellence provisions contained in Clause 6.21 of SLEP 2012, including a request to waive the competitive design process, it is considered reasonable to expect that the development would meet a 5.5 star NABERS rating at a minimum.</p> <p>Therefore, a condition of consent is recommended requiring the development to commit to a 5.5 NABERS rating in accordance with Section 3.6 (7) of the SDCP 2012 and to satisfy the provisions contained in Clause 6.21 of SLEP 2012.</p>

3. General Provisions	Compliance	Comment
3.7 Water and Flood Management	Yes	A stormwater management plan has been submitted and reviewed by Council's Public Domain Unit. No objections have been raised.
3.11 Transport and Parking	Yes	<p>A Transport Impact Assessment was submitted with the application and reviewed by Council's Transport and Access Unit, who raised no objections. The site is well serviced by public transport with Green Square station located approximately 550m walking distance from the site and number of bus routes in close proximity.</p> <p>In addition, located directly in front of the site is the Bourke Road separated cycleway which connects to other local and regional cycleways.</p> <p>Conditions of consent are recommended requiring the submission of a Transport Access Guide and Green Travel Plan to be submitted prior to issue of an Occupation Certificate.</p> <p>The basement car park includes two car share spaces, seven motorcycle parking bays and five accessible car parking spaces, all of which comply with the SDCP 2012 minimum requirements.</p> <p>End of trip facilities have been provided in the basement and includes parking for 82 bikes which meets the minimum requirements of the SDCP 2012. In addition, 18 visitor bicycle racks are provided at ground level.</p> <p>The proposed basement car parking is not located within the land to be dedication to Council for footpath widening.</p> <p>The location of the vehicle access is in a suitable and safe location. The location provides sufficient sight lines particularly of the footpath and cycleway.</p>

3. General Provisions	Compliance	Comment
3.11 Transport and Parking (continued)		The loading dock and waste collection area has been provided at ground level and is suitably designed to allow an 8.5m commercial waste collection vehicle to enter and exit in a forward directions.
3.12 Accessible Design	Yes	<p>An appropriate accessible access has been provided to the Bourke Road entrance.</p> <p>A condition has been recommended for the proposed development to provide appropriate access and facilities for persons with disabilities in accordance with the SDCP 2012 and the BCA.</p>
3.13 Social and Environmental Responsibilities	Yes - subject to condition	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles, except for proposed dark tinted glazing which is discussed in the 'Issues' section.
3.14 Waste	Yes	<p>The proposal has generally been designed in accordance with the City's Guidelines for Waste Management in New Developments. The proposal includes an adequate waste storage room with adequate rooms for a waste collection vehicle to collect the waste on site.</p> <p>A condition of consent is recommended requiring the submission and approval of a Waste Management Plan which has been prepared in accordance with the City's Guidelines.</p>
3.16 Signage and Advertising	Yes	No signage is proposed under this application. A condition has been recommended for imposition requiring that signage be subject to a separate application, where it is not classified as exempt development.

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.1 Building height	Yes	The maximum permitted number of storeys is four. The proposed development is four storeys in height.
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	<p>A minimum floor to ceiling height of 4.5m is required for the ground floor and 3.6m is required for the floors above.</p> <p>The proposed floor to ceiling height of the ground floor is approximately 6m. 3.6m floor to ceiling heights are proposed for the levels above.</p>
4.2.2 Building setbacks	Yes	The Public Domain setbacks map identifies a 2.4m footpath widening setback which the proposal has provided for. The proposed front setback of 6m complies with Section 5.5.2.2 of SDCP 2012.
4.2.2.2 Setbacks above the street frontage height	Yes	Setbacks above the street frontage height are required where adjacent buildings include upper level setbacks or the building adjoins a heritage item. The adjoining building at 23-27 Bourke Road does not have an upper level setback and is not a heritage item. The proposed four storey street wall height is therefore appropriate in the context of the streetscape.
4.2.4 Fine grain, architectural diversity and articulation	Yes	This section stipulates that where roads are greater than 18m in width, the street frontage length of an individual building must not exceed 65m. Bourke Road is greater than 18m width and the street frontage length of the building is approximately 56m, and as such complies with this provision.
4.2.6 Waste minimisation	Yes	The proposal can comply with the waste management provisions, as detailed in Section 3.14 of the compliance table.

5.8 Southern Employment Lands	Compliance	Comment
5.8.1 General	Yes	The proposal is consistent with the Southern Employment Lands Urban Strategy and the locality character statement as discussed in Section 2 of the SDCP 2012 compliance table
5.8.2.2 Building setbacks	Yes	<p>The Public Domain setbacks map identifies the requirement for a 2.4m wide footpath widening which the proposal provides.</p> <p>This section of the SDCP 2012 provides that where a front setback is not identified on the Building setback and alignment map, a landscape setback of 6m is generally required. The proposed front setback varies from approximately 6m to 12m. The setback area includes extensive landscaping and outdoor seating areas. The provided front setback is considered appropriate in the context of the adjacent Liveable Green Network (LGN) and Perry Park.</p> <p>The rear and side setbacks and interface with the LGN and through-site link is discussed in the 'Issues' section of this report.</p>
5.8.2.3 Building height	Yes	A maximum of four storeys is permitted and the proposed development is four storeys in height.
5.8.2.4 Building layout and design	Yes	The site planning is considered to appropriately respond to Bourke Road, the future LGN, through-site link and Perry Park where the development will also be visible from. The proposed Bourke Road frontage provides good activation of the streetscape with clear glazing at ground level. The building includes a number of outdoor break out spaces for staff. A central skylight with voids through to ground level is provided to the rear office building which provides additional natural light to these deep floor plates.

5.8 Southern Employment Lands	Compliance	Comment
5.8.2.5.1 Landscaping	No	A minimum of 15% of the site area is required for deep soil planting. The proposal provides approximately 13.5% of the site area towards deep soil planting. This is discussed further in the 'Issues' section.
5.8.2.5.2 Fences	Yes - subject to condition	<p>The SDCP 2012 stipulates that fences are not permitted between the building and the primary street frontage. Fences are permitted on other site frontages provided they do not exceed 1.8m, are not solid, with palisade fences being preferred.</p> <p>A 1.8m open style fence is proposed along the southern side boundary. However insufficient detail has been provided on the drawings in regards to style, material, colour and finish of the fence. Given this fence will face the future LGN, it is considered important that this fence is of a high quality and allows for passive surveillance. A condition of consent is recommended requiring further detail of this fence to be submitted.</p>
5.8.2.5.3 Private communal open space	Yes	A minimum of 100sqm of communal open space is required for employees. The proposal includes two generous outdoor areas and outdoor balconies which provide a combined area exceeding 1400sqm.
5.8.2.6 Parking, access, loading and servicing	Yes	Car parking and loading areas are screened from the public domain. The proposal provides adequate loading areas to allow for all servicing, including garbage collection to occur on the site (as detailed in Section 3.11).
5.8.2.7 Storage areas	Yes	All storage areas are accommodated within the building.

5.8 Southern Employment Lands	Compliance	Comment
5.8.3.2 Proposed streets and through-site links	Yes - subject to condition	Located adjacent to the site's western boundary on the adjoining property is an identified through-site link. This is discussed further in the 'Issues' section.
5.8.3.3 Liveable Green Network	Yes - subject to condition	Located adjacent to the site's southern boundary, which is currently the Sydney Water corridor, is identified as being part of the LGN. This is discussed further in the 'Issues' section.

Issues

Building siting, interface with future public domain and overshadowing

- 44. Section 5.8 (Southern Employment Lands) of the SDCP 2012 identifies the LGN and a through-site link adjacent to the subject site's south-west and north-west boundaries, respectively, as shown in Figure 21:

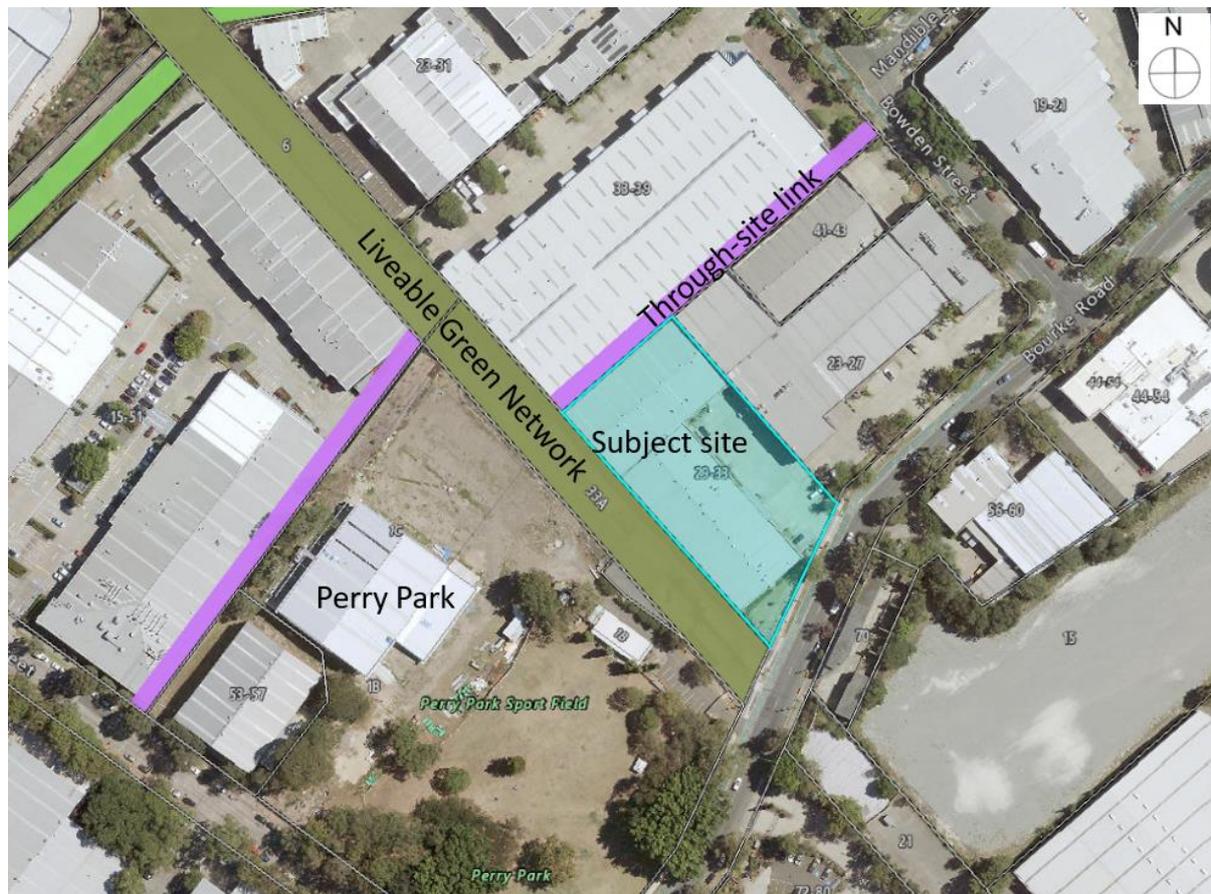


Figure 21: SDCP 2012 Liveable Green Network and Through-site link

45. Section 5.8.2.2(9) of the SDCP 2012 requires the provision of side and rear setbacks that:
- (a) Ensure overland flow paths are not blocked or diverted;
 - (b) Locate contiguous areas of soft landscaping and tree planting with vegetation on neighbouring properties;
 - (c) Are generally level with adjoining properties and public domain;
 - (d) Create active and high quality frontages with the street, the LGN connections, through site links and open spaces; and
 - (e) Create high quality frontages to adjoining properties.
46. Section 5.8.3.3 (1) of the SDCP 2012 requires new development along the LGN to:
- (a) Maximise opportunities for surveillance;
 - (b) Provide interest and minimise blank walls and incorporate building entries and large windows every 20m;
 - (c) Provide a minimum of 25% of active frontage to the LGN.
47. Provision (2) of Section 5.8.3.3 of SDCP 2012 requires setbacks and building alignments to be consistent with the *Public domain setbacks map*, *Through-site links map* and Table 5.15 Landscape setbacks for the LGN.

In accordance with Table 5.15, as the water channel is closed, a setback of 5m measured both sides of the centreline of the pipe is required. The identified LGN is approximately 20m wide with the pipe in the centre, and as such there is no setback required for the proposed building from the future LGN.

Liveable Green Network and Perry Park interface

48. The proposed 'U-shaped' building which opens up to the LGN and Perry Park is considered to be a positive response to the future public domain. The central landscaped courtyard and outdoor dining area located at ground floor at the southern corner will provide activation along the LGN. In addition, the central courtyard is the proposed location for the public artwork which is considered a very suitable location once the LGN is made available as it will also be visible from Perry Park.
49. The rear building contains extensive glazing on the south elevation which allows views out to the future LGN and Perry Park. However, this glazing is proposed to contain a dark 'blue/grey' tint which would result in a loss of perceived casual surveillance of the public domain. This is contrary to CPTED principles and is not supported. A condition of consent is recommended requiring clear glazing to be provided.
50. As the land identified as the LGN is currently owned by Sydney Water and it is unknown at this stage when it will be developed for the LGN, the proposed 1.8m open style fence along the site's south-western boundary is considered acceptable. The siting of the building and location of entries along the south elevation will allow for direct access from the LGN in the future through either removal of the fence or provision of a gate/s.

Through-site link interface

51. A 1.65m wide landscape strip is proposed along the site's north-west boundary with a minimum building setback of approximately 3m provided. The adjacent through-site link is located entirely on the adjoining property (33-39 Bowden Street) which is currently occupied by a warehouse building constructed to the side boundary. Once this site is redeveloped and the through-site link is provided, it is considered that the subject site's interface with the through-site link is generally acceptable and will provide sufficient activation and casual surveillance. However, concern is raised again with the use of dark tinted glazing which is proposed on the north and west elevations which will overlook the future through-site link. A condition of consent is recommended requiring the use of clear glazing to provide sufficient perceived surveillance and activation.

Overshadowing of Perry Park

52. Section 3.1.4 of SDCP 2012 stipulates that sunlight is required to be retained to parks (excluding non-linear public open space) to 50% of the total area for four hours from 9am to 3pm.
53. While the proposal does cause some additional overshadowing of Perry Park, primarily between 9am and 11am, more than 50% of Perry Park retains in excess of four hours direct sunlight between 9am and 3pm on 21 June. The shadow diagrams are contained in Attachment C.
54. Through the appropriate U-shape siting of the proposed development, the bulk of the development is setback from the LGN and Perry Park which minimises the extent of overshadowing caused by the development (compared to a four storey building built to the south-west boundary).
55. Overall, the proposed development is considered to be well sited in regards to minimising overshadowing to Perry Park while still providing activation of the future LGN and through-site link, subject to a condition requiring clear glass instead of the proposed tinted glass.

Substation

56. One of the issues identified with the proposal by Council staff and the Design Advisory Panel is the location of the kiosk substation. The substation is proposed to be located in the southern corner of the site within the Bourke Road front setback. This is considered to be a very prominent corner and is adjacent to the future LGN, as shown in Figures 22 and 23. The proposed location is considered to detract from the design quality of the development.

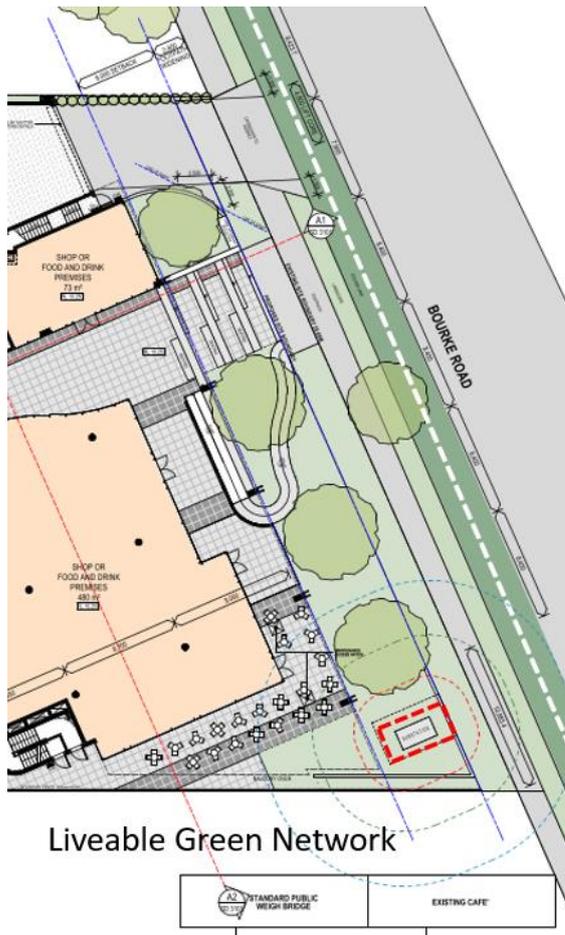


Figure 22: Ground floor plan with location of proposed substation indicated in red

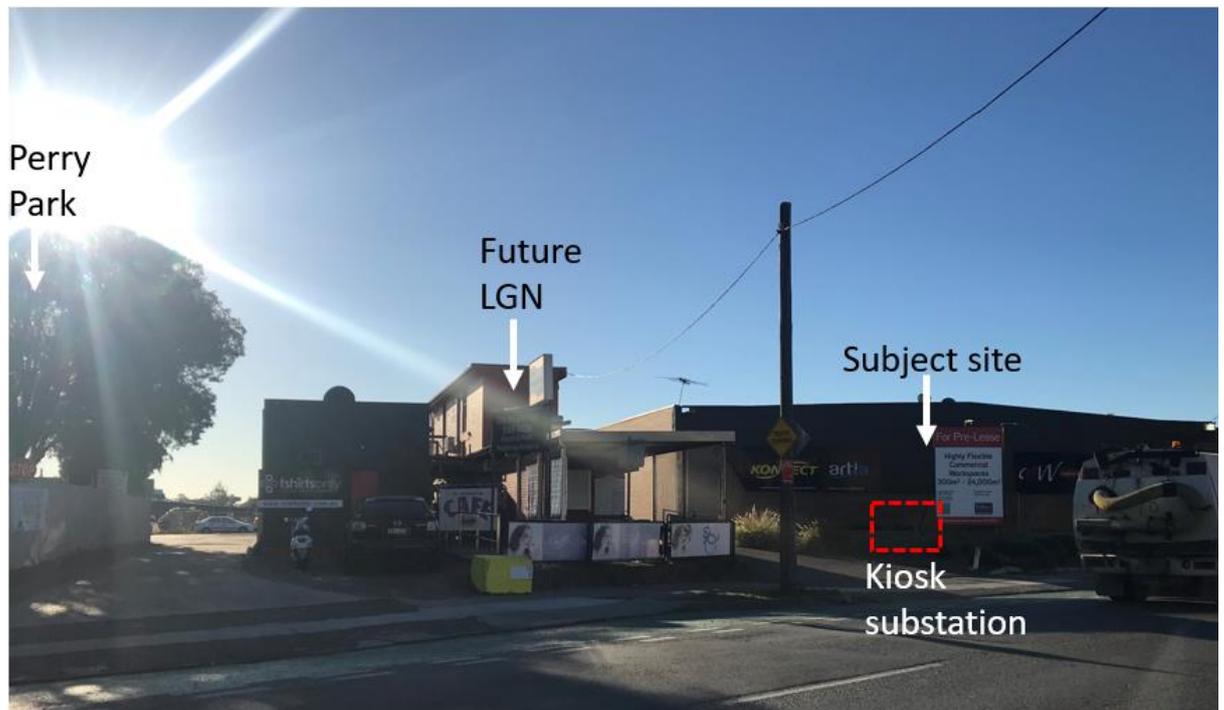


Figure 23: View of site from Bourke Road with approximate location of kiosk substation indicated in red

57. The inappropriate location of the substation was raised with the applicant in a letter dated 24 July 2018, and in a meeting held with Council staff and the applicant on 19 July 2018. It was recommended that the substation be incorporated in to the building through a chamber style substation.
58. Subsequently, the location of the substation was not amended with the following justification provided by the applicant:

The concerns about the location of the substation are noted, however, due to the design and access parameters of Ausgrid there are no alternative locations within the building where it could be relocated to. The provision of the facility inside the building would have a significant adverse impact to the Bourke Road façade as it would introduce a large blank component to the façade which would remove activation of the ground floor plane. Having regard to these constraints and impacts, the proposed location of the substation within a generously landscaped pocket is considered to represent the best possible outcome in the circumstances.

59. Council staff have since discussed the proposal with Ausgrid who advised that either a chamber or kiosk substation is permitted at the site. While the applicant's justification is noted and it is acknowledged that incorporating the substation in to the building will result in some additional blank facade, this is considered to be a preferred outcome to the proposed location which is highly visible and on a prominent corner. These concerns were also raised by the Design Advisory Panel and Council's Urban Designer. Therefore a deferred commencement condition is recommended requiring the substation to be relocated and incorporated within the footprint of the proposed building.

Site Specific DCP and Competitive Design Process

60. Pursuant to Clause 7.20(2) of SLEP 2012, the proposal triggers the requirement for a site specific DCP to be prepared as the site area is greater than 5000sqm. The area of the subject site is 5033sqm.
61. The requirement for the preparation of a site specific DCP subsequently triggers the requirement for competitive design process pursuant to Clause 6.21 of SLEP 2012.
62. Clause 7.20(3) stipulates that a site specific DCP is not required to be prepared if the consent authority is satisfied that such a plan would be unreasonable or unnecessary in the circumstances of the case.
63. Similarly, Clause 6.21(6) provides that a competitive design process is not required if the consent authority is satisfied that such a process would be unreasonable or unnecessary in the circumstances of the case.

Applicant's Submission

64. The applicant submits that in the circumstance of this case, the requirement for a site specific DCP is considered to be unreasonable and unnecessary for the following reasons:

- (a) *The site is only marginally above the 5,000sqm threshold by 33sqm is the equivalent of 0.7% (less than 1% of over the minimum site area). This is a particularly minor exceedance of the threshold such that there is no perceptible difference between a site which does not trigger the threshold and the subject site. To require the extensive 'Stage 1' DA process and the competition design process, which comes at considerably expense both financially and in terms of time for a 33sqm is unreasonable.*
 - (b) *Notwithstanding the above, the actual developable site area is less than 5,000sqm as the proposal involves dedication of a 2.4m strip along the street frontage of the site for footpath widening. The FSR calculation has deliberately been based on the smaller site area and as such the proposal does not achieve any advantage as a result of the larger site area.*
 - (c) *The proposed development of the site does not seek an additional 10% of FSR or height.*
 - (d) *The site is sufficiently served by the current DCP controls and the proposal is generally compliant with all relevant controls.*
65. The applicant submits that in the circumstance of this case, the requirement for a competitive design process is also considered to be unreasonable and unnecessary as the proposal satisfies each of the design excellence criteria contained in Clause 6.21(4). The applicant's complete justification to waive the site specific DCP and competitive design process, including how the proposal meets the design excellence criteria, is provided in Attachment F.

Response

66. The following assessment and recommendation for the waiver to a site specific DCP and competitive design process to be supported is only made on the basis of the issues surrounding the location of substation and tinted glazing being met.
67. The existing development controls for the site are considered to be adequate and the proposal does not seek to vary key controls. In this regard, the site is located in the Southern Employment Lands and Green Square in which specific controls have been developed for the site and surrounding area. These controls include a setback from the LGN, ensuring that the building provides activation to the LGN and through site link and provision of 2.4m wide footpath widening. It is therefore considered that that the proposal satisfies the matters required to be addressed in the preparation of a site specific DCP.
68. Clause 7.20(4) of SLEP 2012 sets out the matters which are required to be addressed in a site specific DCP. It is considered that the proposal, and the existing specific planning controls applying to the proposal, satisfies the criteria of Clause 7.20(4) as detailed below:

- (a) *requirements as to the form and external appearance of proposed development so as to improve the quality of the public domain,*

The SDCP 2012 sets out the required setbacks from Bourke Road, the LGN and the through-site link to the rear. The SDCP 2012 also stipulates that the building must provide activation to each of these frontages. The building's siting and extensive glazing is considered to provide appropriate activation of the public domain and future public domain. The form and external appearance of the proposed development is considered to be of a high quality in the context of the area. The proposed footpath widening and landscaped Bourke Road setback is considered to improve the quality of the public domain.

- (b) *requirements to minimise the detrimental impact of proposed development on view corridors,*

The proposal does not impact on view corridors. The proposal is compliant with the SLEP 2012 maximum height control and SDCP 2012 height in storeys control.

- (c) *how proposed development addresses the following matters:*

- (i) *the suitability of the land for development,*

The proposed use comprising office premises, shops and food and drink premises is considered to be suitable for the subject site. The proposed use is consistent with the objectives of the B6 Enterprise Corridor zone in that it provides an employment generating use and maintains the economic strength of the Green Square centre. The proposal will not result in unreasonable environmental impacts on the surrounding area. In accordance with SEPP 55 - Remediation of Land, Council officers are satisfied that the site can be made suitable for the proposed use subject to conditions.

- (ii) *the existing and proposed use and use mix,*

The existing use on the site is permissible within the land use zone, however the existing building is not considered to provide a positive contribution to the public domain. The existing building does not maximise the site's development potential in regards to floor space ratio and associated employment generation opportunities which is an objective of the B6 Enterprise Corridor.

As detailed previously, the proposed use is permissible with consent within the B6 Enterprise Corridor. The proposal includes approximately 8,684sqm of office space and 553sqm of space for shops or food and drink premises. This is considered to be consistent with the land use objectives. The site is located within the restricted retail area which prohibits shops or markets with a GFA greater than 1000sqm under Clause 7.23 of SLEP 2012. The proposed tenancies designated for use as either shops or food and drink premises have a total GFA of 553sqm and therefore complies with this provision. The proposed use mix is therefore considered to be acceptable.

- (iii) *any heritage issues and streetscape constraints,*

The site does not contain a heritage item and is not located within a heritage conservation area. The site is not located within close proximity to a heritage item. As detailed previously within this report, the proposal includes land dedication for the widening of the Bourke Road and provides the required landscape setback. There are not considered to be any other specific streetscape constraints impacting on the proposal.

- (iv) *the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*

The proposal does not include a tower.

- (v) *the bulk, massing and modulation of buildings,*

The siting of the development in the form a 'U-shape' is considered to be the most appropriate option for the site. This siting of the building results in the bulk of the building being located away from Perry Park thereby minimising overshadowing. The 'U-Shape' of the building provides modulation and breaks up the bulk of the building. The design of the building also provides for activation of the Bourke Road frontage, the future LGN and through-site link.

It is noted that other options for the siting of the building were explored and considered by Planning staff. However, it is considered that the alternative siting of the building would have resulted in additional overshadowing of Perry Park.

- (vi) *street frontage heights,*

There is no consistent street frontage height established along Bourke Road. The proposed four storey street frontage height complies with the SDCP 2012 and is considered appropriate for the desired future character of built form along Bourke Road.

- (vii) *environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,*

The proposal does not result in any unreasonable environmental impacts on the surrounding area. The nature of the use will not result in any visual or acoustic privacy impacts in the context of the surrounding uses. A condition of consent is recommended addressing reflectivity.

- (viii) *the achievement of the principles of ecologically sustainable development,*

The proposal includes 587 solar PV panels on the roof of the building and rainwater collection which are integrated in to the design of the building. The application has been supported by an ESD report. A condition of consent is recommended requiring the development to commit to a 5.5 NABERS rating in accordance with Section 3.6 (7) of the SDCP 2012.

- (ix) *pedestrian, cycle, vehicle and service access and circulation requirements, including the permeability of any pedestrian network,*

The proposed development has been adequately designed to provide pedestrian, bicycle, vehicle and service access and circulation requirements as detailed in the SLEP 2012 and SDCP 2012 compliance table. The SDCP 2012 does not identify any required through-site links, however the proposed development has been designed to respond to the future LGN and through-site link located along the sites' southern and western side boundaries, respectively.

- (x) *the impact on, and any proposed improvements to, the public domain,*

The proposal results in a positive contribution to the public domain, particularly through the dedication and embellishment of land for the widening of the footpath along Bourke Road.

- (xi) *the impact on any special character area,*

The site is not located in a special character area.

- (xii) *achieving appropriate interface at ground level between the building and the public domain,*

As detailed previously, the proposed building's interface with Bourke Road, the future LGN and through-site link provides an appropriate level of activation.

- (xiii) *the excellence and integration of landscape design.*

The proposed landscaping of the site is considered to integrate with the design of the building and has been used to provide an extension of the communal open space which opens up to the LGN and Perry Park. In addition, the proposed public artwork has been integrated in to the landscaping design.

- (xiv) *The incorporation of high quality public art into the fabric of buildings in the public domain or in other areas to which the public has access.*

The proposed public artwork which is incorporated into the landscaping design is located within the communal courtyard adjacent to the future LGN. Once the LGN occurs, the artwork will be visible and capable of being accessible from the public domain.

69. Clause 6.21(4) of SLEP 2012 sets out the matters which are required to be addressed for a development to be considered to exhibit design excellence. The matters for consideration are predominantly consistent with those matters set out in Clause 7.20(4) of SLEP 2012. The proposed development is considered to satisfy the design excellence criteria as detailed in the SLEP 2012 compliance table.
70. In summary, it is considered that the proposal, and the existing specific planning controls applying to the proposal, satisfies the criteria of Clauses 6.21(4) and 7.20(4) of SLEP 2012.

71. Furthermore, while the site area is currently 5033sqm, after the land is dedicated for footpath widening the site area will be reduced to approximately 4899sqm. The proposed FSR based on the current site area is 1.97:1 which is below the combined maximum FSR of 2.04:1. After the land is dedicated for footpath widening the resulted FSR will be 2.02:1 which remains below the maximum permitted FSR. The developer has deliberately designed the proposal in this way to ensure that the proposal remains compliant with the maximum permitted FSR after the land dedication and reduction in site area.
72. The proposal complies with the applicable height and FSR development standards, and does not seek the award of the up to 10% additional height or FSR available under the City's design excellence provisions.
73. Given the proposed use is commercial and the site is relatively unconstrained, the proposed development does not have the design and site planning challenges for example that a residential flat building may have. On this basis, it is unlikely that a better design outcome would be achieved through imposing the requirements for site specific DCP and a competitive design competition in this particular case.
74. In light of the above, it is considered that there are sufficient reasons as to why a site specific DCP and a competitive design process would be unreasonable or unnecessary in the circumstances of this case. Pursuant to Clauses 7.20 (3) and 6.21 (6) of SLEP 2012, it is recommended that the requirement for a site specific DCP and competitive design process be waived in this instance.

Deep Soil Planting

75. Section 5.8.2.5.1 of the SDCP 2012 stipulates that where a site is within the B6 Enterprise Corridor zone, a minimum of 15% of the site area is to contain deep soil planting. This equates to 735sqm being required to be provided for deep soil to the subject site. The minimum dimension for deep soil planting is 3m in any direction.
76. According to Council officer's calculations, the proposal provides approximately 663sqm (13.5%) of deep soil planting. It is noted that this includes the area where the substation is currently located. Therefore the recommendation to delete the substation also results in an increase to the deep soil planting.
77. The areas which have been counted towards deep soil are shown outlined in red in Figure 24. The landscaped strip running along western side boundary is approximately 1.6m wide (outlined in blue in Figure 24) and therefore was excluded in the calculation of deep soil.

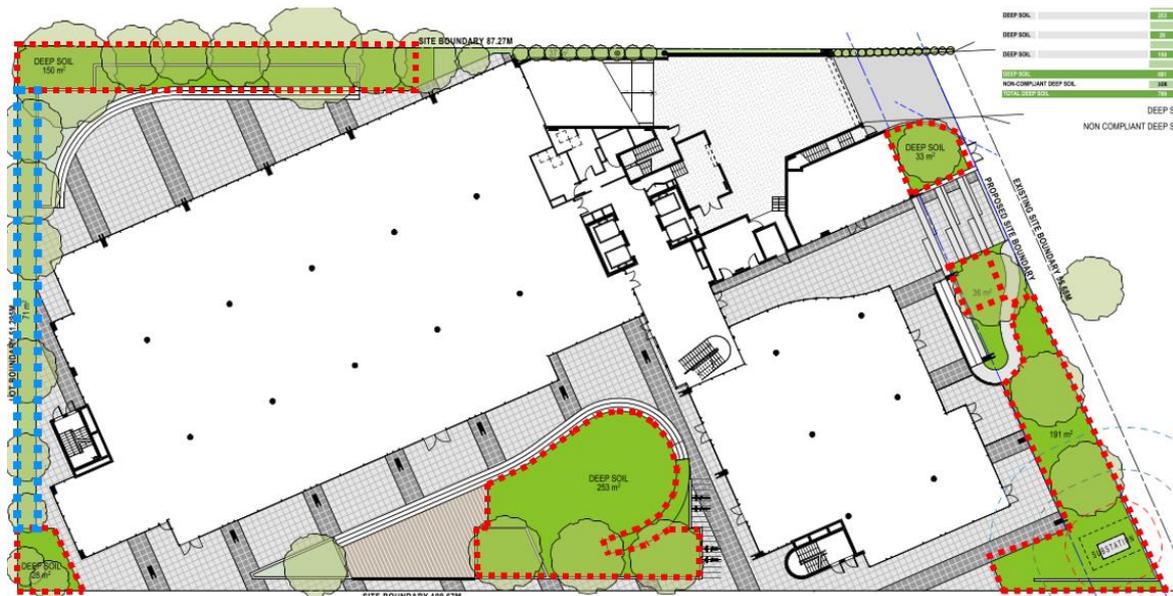


Figure 24: Deep soil planting calculations

78. With the inclusion of the 1.6m wide landscaped strip, the total deep soil planting is approximately 741sqm or 15.1% of the site area. It is considered that this landscaped strip can support tree planting. In addition, it is located adjacent to the future-through site link. As such there is opportunity to provide further contiguous deep soil in this area once the adjacent site is redeveloped. In light of the above, the minor non-compliance with Section 5.8.2.5.1 of SDCP 2012 is supported in this instance.

Voluntary Planning Agreement

79. A draft VPA has been prepared in relation to the proposal and includes the following public benefit:
- Dedication of along the Bourke Road frontage of the site towards footpath widening. The piece of land is approximately 2.4m wide, 55.5m in length and has an area of approximately 134sqm, as shown in Figure 25.
 - Embellishment of the land to be dedicated with asphalt finish.
 - A monetary contribution of \$416,835.62 towards the delivery of public infrastructure within the Green Square Urban Renewal Area.

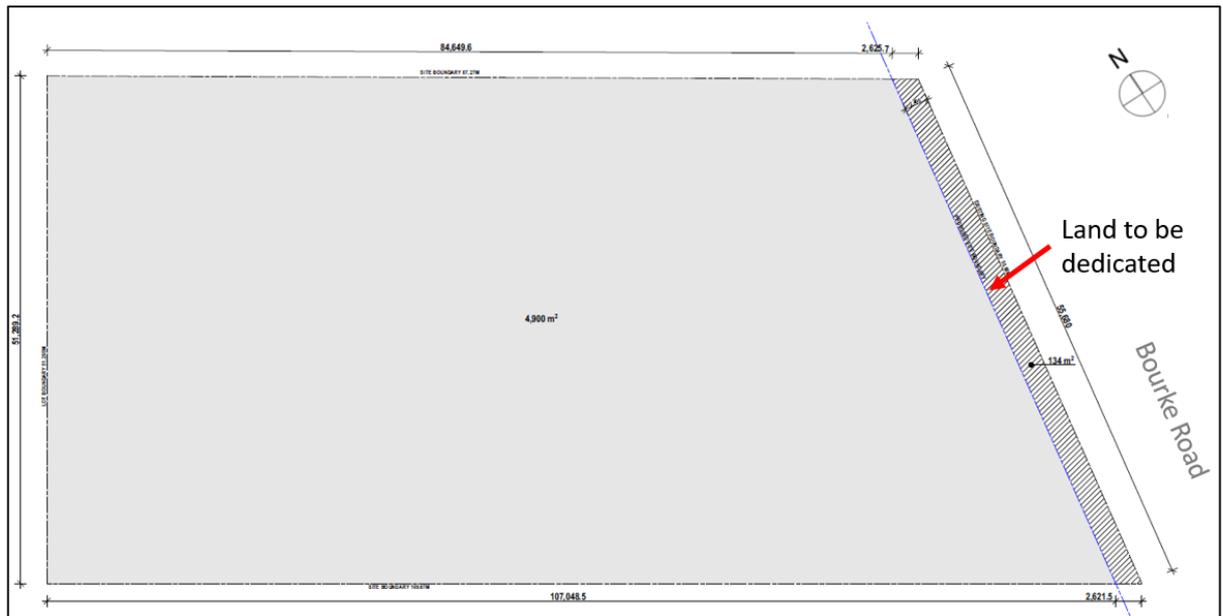


Figure 25: Land to be dedicated to Council for footpath widening along Bourke Road

80. The VPA results in a bonus FSR of 0.5:1 under the Green Square community infrastructure provisions contained in Clause 6.14 of SLEP 2012. A deferred commencement consent is recommended requiring the execution of the VPA and registration on title prior to the consent becoming operative.
81. The draft VPA was publically exhibited for a period of 28 days between 28 September 2018 and 27 October 2018 in accordance with the Environmental Planning and Assessment Regulation 2000. No submissions were received.

Other Impacts of the Development

82. It is noted that there are portions of the proposed building on the north and south elevations which contain glazing and are located within 3m of the side boundary. These parts of the building will be required to be fire rated in accordance with the BCA. In this regard, no openings are permitted within 3m of adjoining boundaries. A condition of consent is recommended stipulating that amended plans are required to be submitted to Council demonstrating compliance with BCA fire rating provisions.
83. The application was accompanied by a Building Code of Australia (BCA) compliance report. The application was referred to Council's Construction and Building Services Unit who advised that the proposed development is capable of complying with the BCA.
84. 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

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

Internal Referrals

86. The application was discussed with the Urban Design Specialists; Environmental Health; Public Domain; Landscaping; Surveyors; Transport and Access; Tree Management and Waste Management; who advised that the proposal is generally acceptable subject to the recommended conditions.
87. The conditions of other sections of Council have been included in the proposed conditions.

External Referrals

88. The application was referred to Transgrid and Ausgrid who both raised no objections to the proposal.

Notification, Advertising and Delegation

89. The application was notified and advertised for a period of 30 days between 1 May 2018 and 1 June 2018 in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. One submission was received, which raised the following issues:

- (a) The development should be conditioned to include a quota of deliveries to the site to be made by bike logistics services.

Response - Council does not have any planning controls regarding the required mode of transport for deliveries. Notwithstanding, as the separated Bourke Road cycleway is located directly in front of the site and the proposal includes safe bicycle access to the delivery area, it is considered that the proposed development would not discourage deliveries to occur via bike delivery services.

- (b) The development should be required to provide high-quality and safe through-site access for cyclists and pedestrians.

Response - The SDCP 2012 does not identify any requirement for a through-site link on the site. However, as discussed previously within this report, the proposal has been appropriately designed to respond to the future through-site link at the rear and the LGN to the south.

- (c) The development should provide traffic-calming measures for ingress and egress to the site.

Response - The application including the accompanying Transport Impact Assessment has been reviewed by Council's Transport and Access Unit. It is noted that the proposed location of vehicular access is generally in the same location as the existing vehicular access. No concerns are raised with the location of the vehicular access and increase vehicular trip numbers in regards to safety of pedestrians and cyclists. The proposal retains clear lines of sight of the footpath and separated cycleway.

- (d) Section 7.11 developer contributions should be provided towards providing a safe walkable/rideable crossing into Perry Park and across Maddox Street.

Response - A Section 7.11 contribution is applicable to the development and a condition of consent is recommended. This plan is a comprehensive strategic planning document which has taken into consideration the population growth for the area and identified the needed local infrastructure including a work program. Contributions are therefore determined and apportioned in accordance with City of Sydney Development Contributions Plan 2015. It is noted that the plan recognises the future demand for infrastructure works to manage transport needs such as pedestrian, cycling and traffic calming works. In this regard, the plan apportions approximately \$124 million to traffic and transport works across the City of Sydney, and of this \$121 million is specifically allocated to the South precinct (where the subject site is located).

90. It is noted that the original notification of the application did not stipulate in the notification description that the proposal included the removal of one tree on the site. Subsequently, the application was re-notified to include the tree removal between 4 October 2018 and 19 October 2018. No submissions were received.

Public Interest

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

S7.11 Contribution

92. The development is subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015.

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

(a) Open Space	\$564,821.75
(b) Community Facilities	\$87,811.55
(c) Traffic and Transport	\$717,003.63
(d) Stormwater Drainage	\$283,527.12
Total	\$1,653,164.05

94. A credit has been applied to the above contribution amount based on the existing approved use and a total GFA of approximately 3870sqm. There are a number of approvals on the site from 1992 - 2004 relating to the uses of the four separate individual warehouse units on the site. These uses include warehouse and distribution, bulky goods and manufacturing. The most appropriate and comparable use for workforce population to apply a credit under the City of Sydney Development Contributions Plan 2015 is considered to be 'light industry'.

Relevant Legislation

95. The Environmental Planning and Assessment Act 1979, Water Management Act 2000

Conclusion

96. The proposal has been amended and additional information provided during the assessment, which has satisfactorily resolved some of the issues raised with the original proposal. While issues still remain regarding the location of the substation and use of tinted glazing, it is considered that these issues can be resolved through the recommended conditions of consent.
97. The proposed development is considered to be appropriate within its setting and is generally compliant with the relevant planning controls contained within the SLEP 2012 and SDCP 2012.
98. The site is located within the Southern Employments Lands and the proposal is consistent with the Southern Employment Lands Urban Strategy, character statement and relevant development controls. The proposal provides an appropriate site planning response to the future LGN, through-site link and Perry Park.
99. Subject to the recommended conditions of consent, in the context of the site and surrounding built form, the proposal is considered to provide a positive contribution to the public domain. The proposed bulk, scale, materiality and setbacks of the development is considered to be consistent with the desired character of the area. Overall the proposal is considered to satisfy the design excellence criteria of the SLEP 2012.
100. The proposed development contributes to the delivery of community infrastructure for the Green Square Urban Renewal Area through the dedication of land along Bourke Road for footpath widening and a monetary contribution.
101. It is considered that there are sufficient reasons as to why a site specific DCP and a competitive design process would be unreasonable or unnecessary in the circumstances of this case. Pursuant to Clauses 7.20 (3) and 6.21 (6) of SLEP 2012, it is recommended that the requirement for a site specific DCP and competitive design process be waived in this instance.
102. The proposal is recommended for a deferred commencement approval requiring design modifications and the VPA to be executed prior to the consent becoming operative.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Tahlia Alexander, Planner