

**Item 7.****Development Application: 44-48 O'Dea Avenue, Waterloo**

File No.: D/2018/614

**Summary**

<b>Date of Submission:</b>	4 June 2018  Amended drawings and additional information received on 19 September 2018, 9 October 2018 and 5 November 2018.
<b>Applicant:</b>	Crown W48 Pty Limited
<b>Architect:</b>	Koichi Takada Architects
<b>Developer:</b>	Crown Group
<b>Owner:</b>	The Owners - Strata Plan No 44338
<b>Cost of Works:</b>	\$33,562,078
<b>Zoning:</b>	The site is zoned B4 Mixed Use. The proposed development is defined as a mixed use development comprising 'residential accommodation' and 'retail premises' both of which are permissible with consent.
<b>Proposal Summary:</b>	<p>The subject development application (DA) seeks consent for the construction of a part four storey and part six storey mixed use development comprising a ground floor retail tenancy, 54 residential apartments and two levels of basement car parking and associated services.</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 application is referred to the Local Planning Panel for determination as the proposal is subject to the provisions of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development and the development seeks a variation to the Sydney Local Environmental Plan 2012 height of building development standard by more than 10%.</p>

**Proposal Summary  
(continued)**

Development Application D/2016/1450 approved a Concept DA for five building envelopes on the site. The subject DA is a detailed design for one of the five buildings and is known as Building B. The proposed building is consistent with the approved Concept envelope for Building B.

The application was advertised for a period of 30 days between 25 June 2018 and 26 July 2018. No submissions were received.

The proposal was amended during the course of the assessment to address issues raised by Council staff and the Design Advisory Panel. The preliminary assessment identified a number of issues relating to the lack of activation of the Reed Street ground floor facade, solar access to the proposed apartments, natural cross ventilation, location of retail waste storage, insufficient bicycle parking, inadequate Green Travel Plan, materiality, balcony sizes, exceedance of maximum permitted Floor Space Ratio, large 'study rooms' without windows and height of the fence on the Hatbox Place street frontage. The plans have been amended and additional information provided which has adequately addressed these issues.

The site is subject to three separate height of building provisions under Sydney Local Environmental Plan 2012. The proposal breaches two of the height of building development standards by 7.4m (18.3%) and 6.57m (15.9%). A written request has been submitted under Clause 4.6 of SLEP 2012 to vary the height development standard. The proposal is consistent with the objectives of the land use zone and height of building development standard. The proposed variation to the development standard has merit and is supported in this instance.

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

**Development Controls:**

- (i) Environmental Planning and Assessment Act, 1979
- (ii) Water Management Act 2000
- (iii) Environmental Planning and Assessment Regulations 2000
- (iv) Sydney Water Act 1994 No. 88
- (v) State Environmental Planning Policy No. 55 - Remediation of Land
- (vi) State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development

- (vii) State Environmental Planning Policy (Infrastructure) 2007
- (viii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (ix) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
- (x) Sydney Development Control Plan 2012 (in force on 12 December 2012, as amended)
- (xi) City of Sydney Development Contributions Plan 2015
- (xii) Green Square Affordable Housing Program

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Architectural Drawings
- C. Clause 4.6 Variation Request

**Recommendation**

It is resolved that:

- (A) the written request seeking variation to Clause 4.3 height of building development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be supported in this instance; and
- (B) consent be granted to Development Application No. D/2018/614 subject to the conditions set out in Attachment A to the subject report.

**Reasons for Recommendation**

The application is recommended for approval for the following reasons:

- (A) The proposed development is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979, in that it achieves the objectives of the planning provisions 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 is consistent with the objectives of the B4 Mixed Use zone pursuant to the Sydney Local Environmental Plan 2012 (SLEP 2012).
- (C) The variation to Clause 4.3 height of building development standard under SLEP 2012 pursuant to Clause 4.6 is supported and it is considered to be in the public interest.
- (D) The development exhibits design excellence pursuant to Clause 6.21 of SLEP 2012. In particular, the development exceeds the minimum BASIX targets for water and energy.
- (E) The development is consistent with the Concept DA (D/2016/1450) pursuant to Section 4.24(2) of the Environmental Planning and Assessment Act 1979.
- (F) The development will provide a high level of amenity for future occupants as it is consistent with the design quality principles of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and meets the Objectives and Design Criteria of the Apartment Design Guide.
- (G) The development is generally consistent with the objectives and provisions of the Sydney Development Control Plan 2012, specifically the Green Square Lachlan provisions which apply to the subject site.
- (H) For the reasons above and as outlined in this report, the proposed development is in the public interest subject to conditions.

## Background

### Relevant History of the Site

1. A Concept Development Application (DA) for the site, development application D/2016/1450, was approved by the Central Sydney Planning Committee (CSPC) on 28 April 2017. The application was subject to a deferred commencement approval, which was satisfied on 17 October 2017.
2. The Concept DA granted consent for the following:
  - (a) subdivision of the site into five lots;
  - (b) preparatory works including demolition of existing structures, tree removal, land remediation, excavation, and road, public domain and civil works; and
  - (c) five building envelopes for commercial, retail and residential land uses, known as Buildings A to E.
3. The concept DA was also subject to a voluntary planning agreement (VPA). The VPA was executed on 8 August 2017 and includes the following public benefits:
  - (a) the transfer of 6,656sqm of land prior to the first occupation certificate issued for the development; and
  - (b) developer works including all road and infrastructure works, asphalt top coat and kerb side tree planting.
4. The detailed design DA's for Building D (D/2018/304) and Building E (D/2018/222) were approved at the Local Planning Panel meeting on 24 October 2018.
5. The approved building envelopes and Concept plan is provided at Figures 1 and 2.

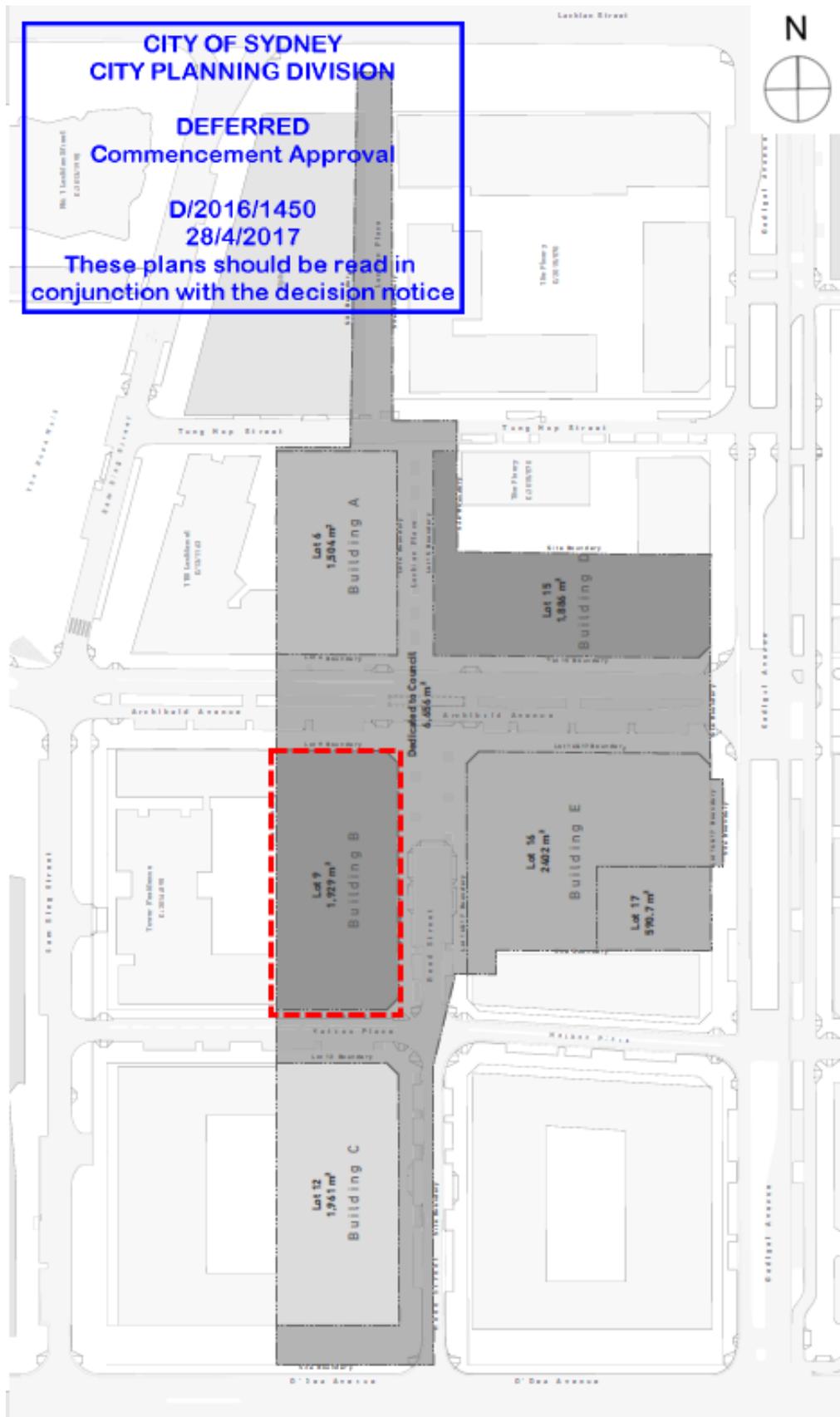
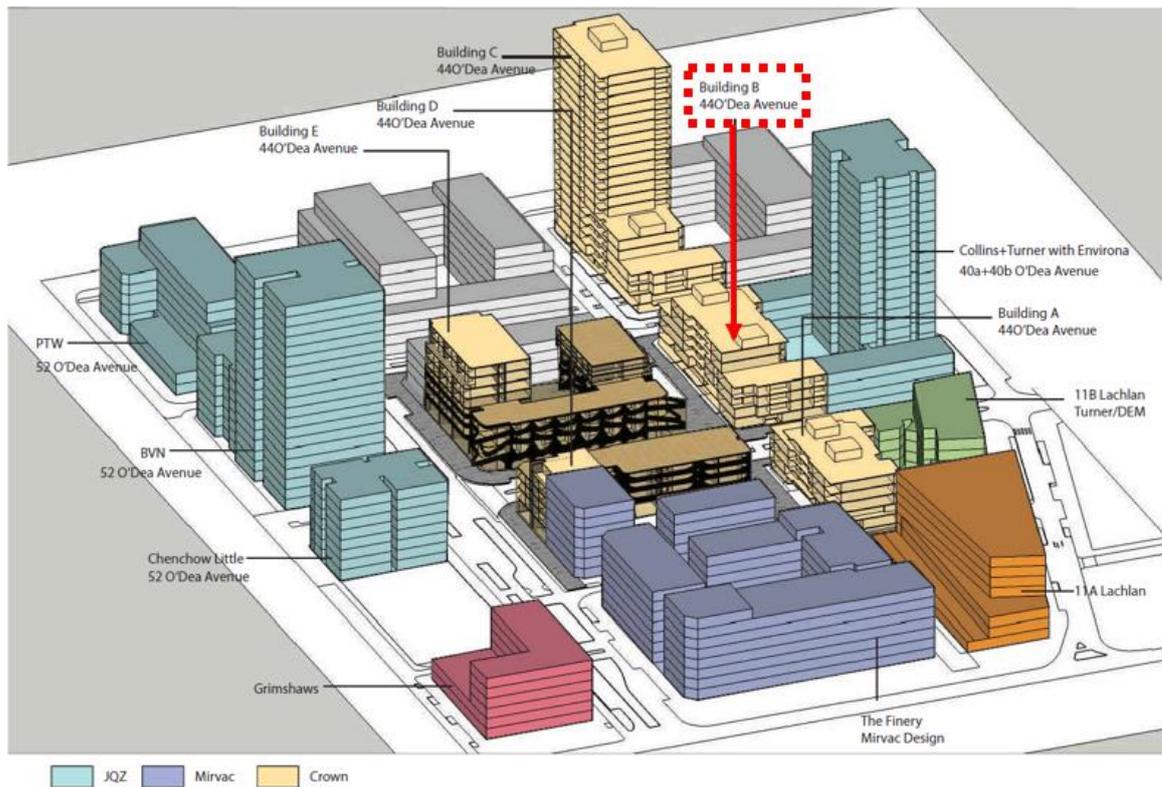


Figure 1: Concept DA approved plans showing proposed new lots and roads



**Figure 2:** Wider concept plan showing Building B envelope, the 4 other building envelopes at 44-48 O'Dea Avenue and other key developments within the Lachlan Precinct.

### The Site and Surrounding Development

6. Site visits were carried out by Council's Planner on 18 July 2018 and 9 November 2018.
7. The site is located in the eastern part of Waterloo, an established suburb comprising a mix of commercial, industrial and residential uses, in an urban renewal precinct referred to in the Sydney Development Control Plan 2012 (SDCP 2012) as the 'Lachlan Precinct'.
8. The site is legally identified as identified as Lot 1 in Deposited Plan 789878 and Lots 1-7 in Strata Plan 44338. The site is commonly known as 44 - 48 O'Dea Avenue, Waterloo. The site is irregular in shape and has a total area of approximately 16,929sqm. The site has a long north-south orientation from Lachlan Street to O'Dea Avenue. The site also has a street frontage to Gadigal Avenue to the east and the end of Archibald Avenue to the west.
9. In the wider Sydney context, the site is located in the northeast section of the Green Square Urban Renewal Area. The site is approximately 300m to the west of Moore Park and the Moore Park SupaCentre, and approximately 1km to the northeast of Green Square Railway Station. Dyuralya Park is located to the east of the site on the opposite side of Gadigal Avenue.
10. Figure 3, below, is an aerial view of the collective redevelopment site under the Concept DA, with the site boundaries of the subject development application shaded red.



**Figure 3:** Aerial image of subject site and surrounding area

11. The site contains a number of existing commercial and industrial warehouse buildings, a multi-storey aboveground car park structure and a central landscaped garden. These have been approved to be demolished under the Concept DA.
12. Vehicular access to the site is currently available via O'Dea Avenue. Existing pedestrian access to the site is via O'Dea Avenue or the laneway from the north.
13. There are prominent mature paperbark trees located along the O'Dea Avenue frontage. The site is not a heritage item and is not located within a heritage conservation area.
14. The subdivision approved as part of the Concept DA created five proposed lots. The proposed development is situated in the western section of the site within the future lot 9 (see Figure 3). The site to which this DA relates to has a site area of 1929sqm.
15. Once the roads are constructed under the Concept DA, the subject development site will have three street frontages, Archibald Avenue to the north, Reed Street to the east and Hatbox Place to the south.

16. Adjoining the site to the west is 5 Sam Sing Street which contains a recently constructed development known as the 'JQZ' site. This site contains two four storey buildings and a 20 storey tower comprising 172 residential apartments, four retail premises and three basement levels of carparking.
17. Opposite the site to the north is Building A, to the north-west is Building D, directly to the east is Building E and to the south is Building C, as shown in Figures 2 - 3 above.
18. Photos of the site and surrounding area are provided in Figures 4 - 7.



**Figure 4:** Looking north from within the site (the existing access driveway). The buildings on the left of the driveway are approved to be demolished.



**Figure 5:** Looking east along Archibald Avenue, with 5 Sam Sing Street shown on the right



**Figure 6:** Looking south-east at 10- 8 Gadigal Avenue from Building E site across the future Gadigal Avenue



**Figure 7:** 50 O'Dea Avenue to the south viewed from O'Dea Avenue

## Proposal

19. The application seeks consent for excavation and the construction of a part four storey, part six storey mixed use development. In detail the proposal consists of:

**(a) Basement Levels 1 and 2**

- (i) Parking for 58 cars, including one car share space
- (ii) Parking for seven motorcycles
- (iii) Parking for 56 bicycles
- (iv) Storage cages for the apartments
- (v) Plant and services rooms

**(b) Ground Floor**

- (i) Retail tenancies comprising a total area of 236sqm fronting the future extension of Archibald Avenue
- (ii) 2 x 3 bedroom apartments with direct frontage and access from the future Hatbox Place
- (iii) Car parking entry from the future Reed Street with onsite loading area and waste storage areas for the residential and retail uses
- (iv) Two separate entry residential lobbies on the Reed Street frontage

- (v) Display area for proposed public art on the Reed Street (east elevation)
  - (vi) Landscaping and deep soil planting area
- (c) Levels 1 - 3**
- (i) 40 residential apartments (4 x studio, 13 x 1 bed, 19 x 2 bed and 3 x 3 bed and 1 x 4 bed)
- (d) Levels 4 - 6**
- (i) 12 residential apartments (8 x 2 bed and 4 x 3 bed)
  - (ii) Two separate rooftop areas of communal open space
  - (iii) Nine private rooftop terraces
20. Photomontages, plans and elevations of the proposed development are provided at Figures 8 - 20. The full set of selected Architectural drawings is provided in Attachment B.



**Figure 8:** Photomontage of Archibald Avenue and Reed Street facade



Figure 9: Photomontage of Reed Street (east) facade

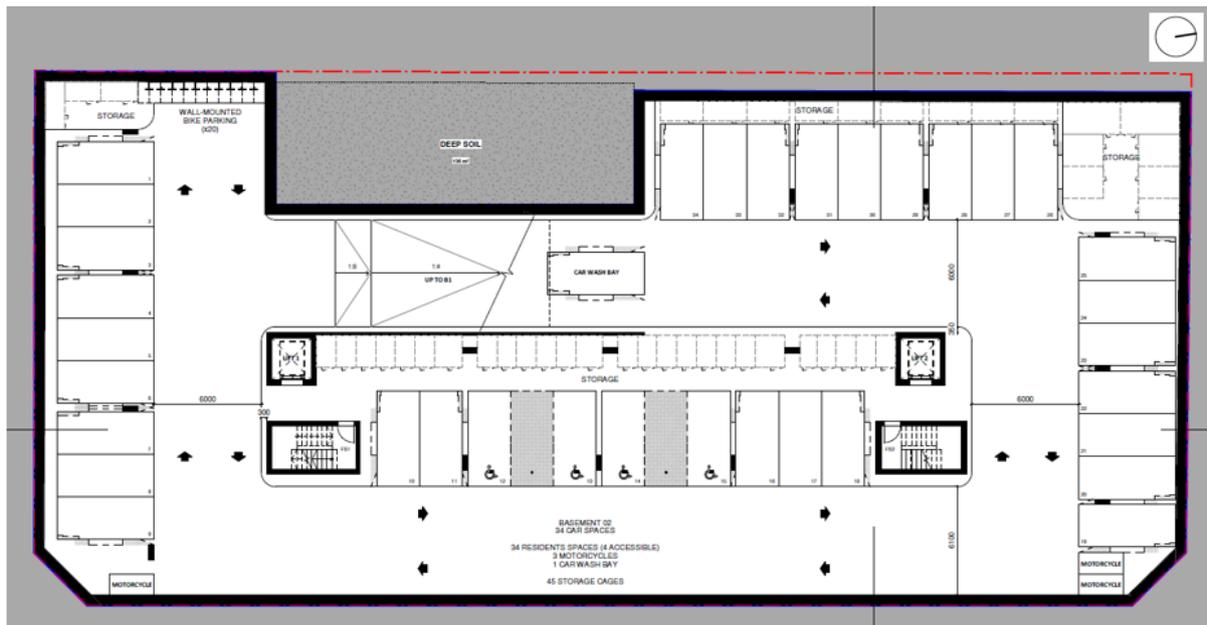


Figure 10: Basement level 2





Figure 13: Level 1 (similar layout to levels 2 and 3)

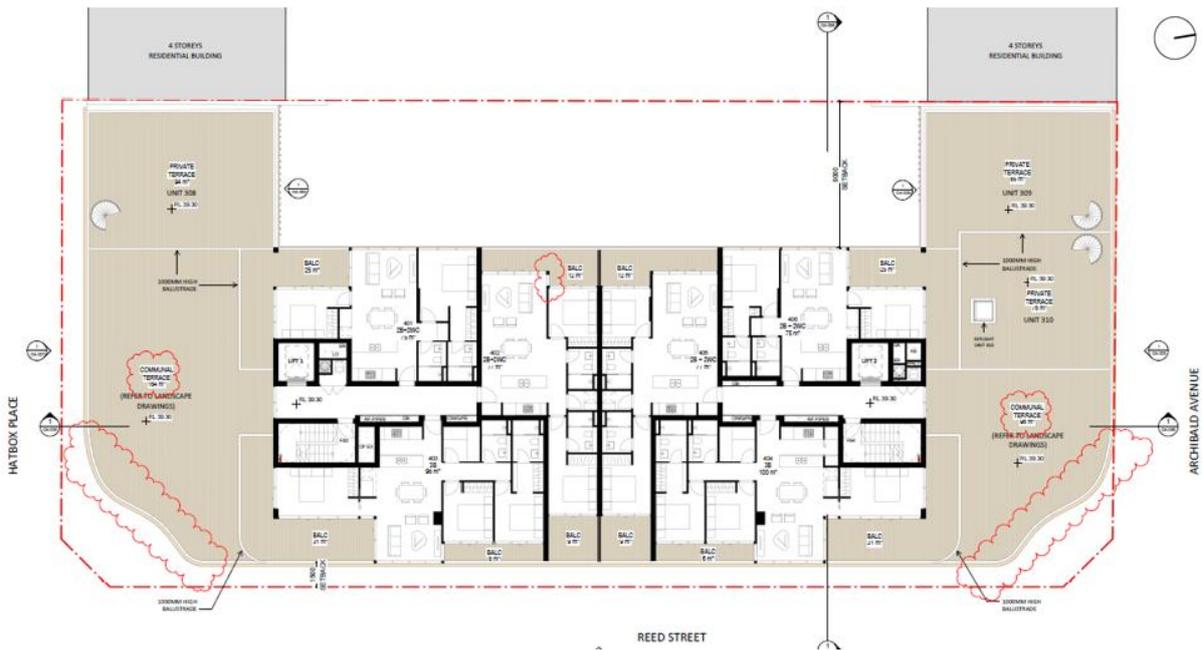


Figure 14: Level 4

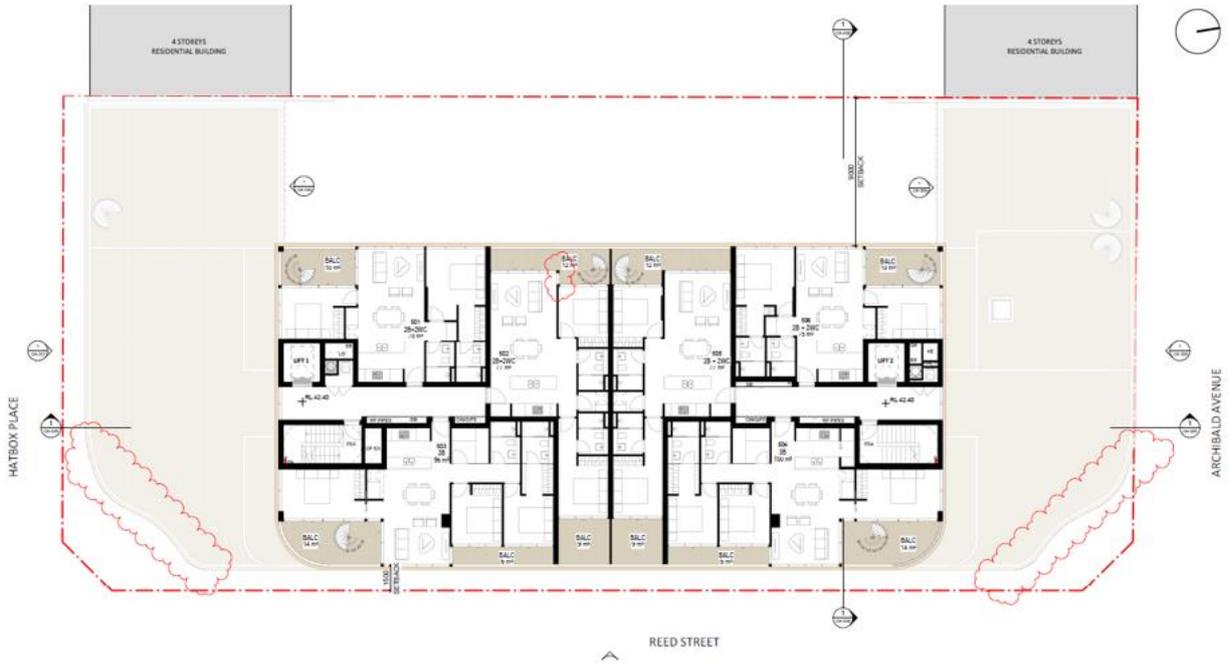


Figure 15: Level 5

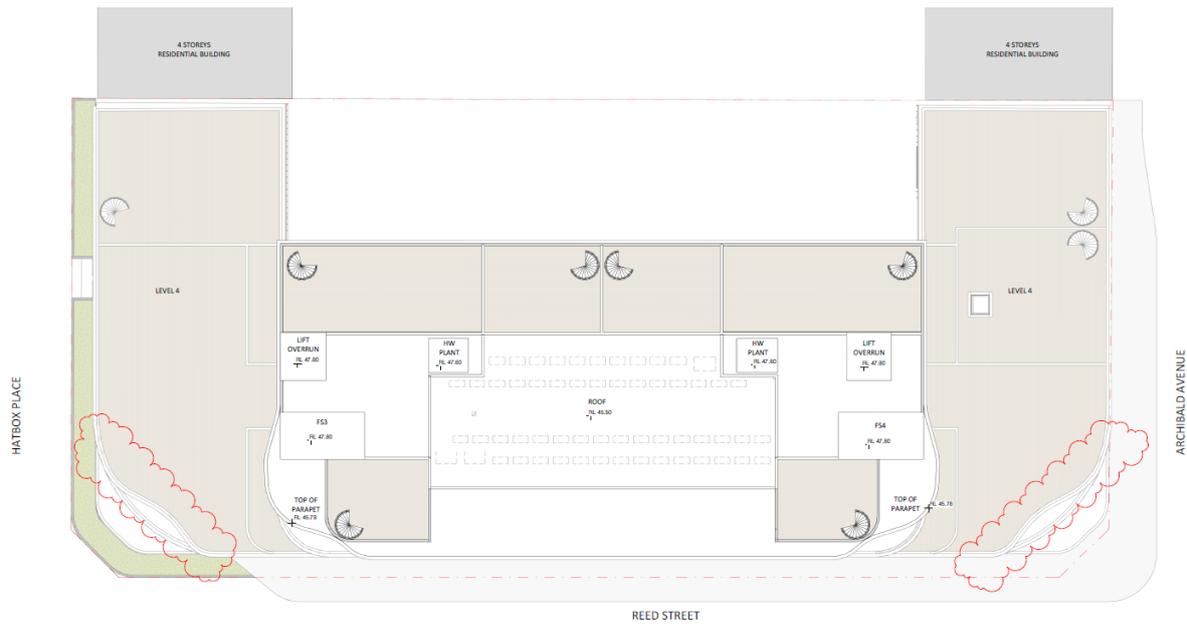


Figure 16: Roof plan



Figure 17: North (Archibald Avenue) elevation



Figure 18: East (Reed Street) elevation



Figure 19: South (Hatbox Place) elevation

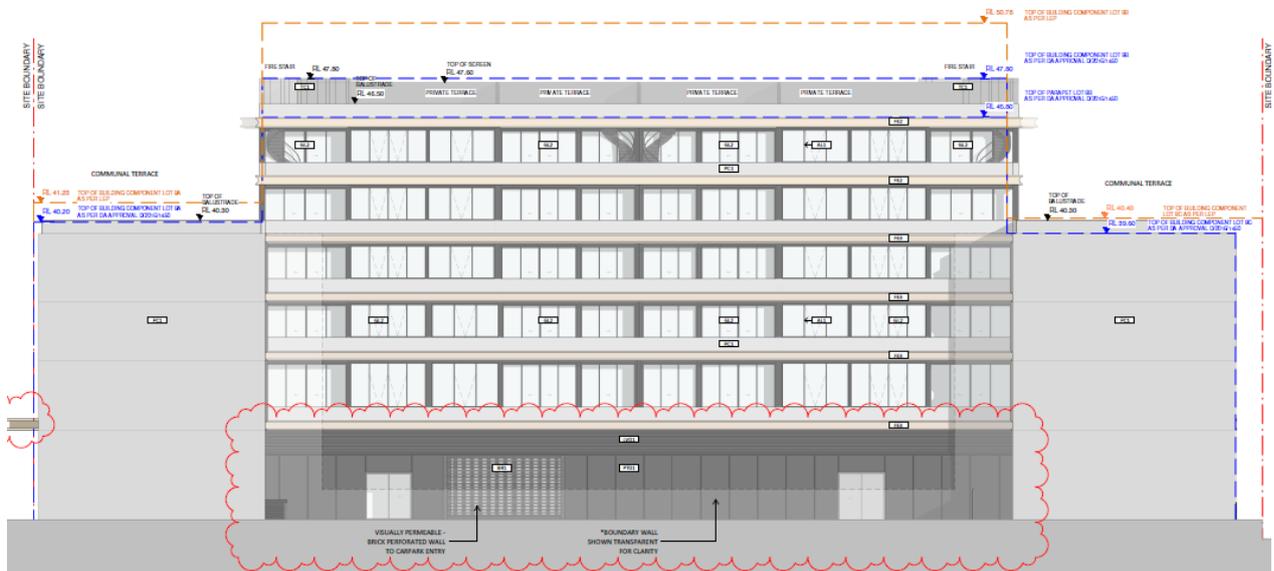


Figure 20: West elevation

### History Relevant to the Development Application

21. The development application was lodged on 4 June 2018.
22. The preliminary assessment raised a number of concerns including:

- (a) exceedance of the maximum permitted Floor Space Ratio (FSR);
  - (b) lack of activation of the Reed Street ground floor facade;
  - (c) materiality;
  - (d) non-compliance with the Apartment Design Guide, including solar access, natural cross ventilation and balcony sizes;
  - (e) location of retail waste storage;
  - (f) insufficient bicycle parking;
  - (g) inadequate Green Travel Plan;
  - (h) rooms without windows; and
  - (i) height of the proposed fence on the Hatbox Place street frontage and lack of casual surveillance of the streetscape.
23. The proposal was presented to the City's Design Advisory Panel (DAP) on 2 August 2018. The key issues discussed by DAP included solar access, natural cross ventilation, materiality, Reed Street blank facade and carpark entry, location of glass lines in respect to the curvilinear balconies and rooms without windows.
24. In response to the issues raised by Council officers which incorporated the advice given by DAP, the proposal was amended and additional information provided on 19 September 2018 and 5 October 2018. The final set of amended Architectural drawings were received on 5 November 2018 and are the subject of this assessment report.
25. The amended application has sufficiently resolved all of the issues raised by Council officers.

### **Economic/Social/Environmental Impacts**

26. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:
- (a) Environmental Planning Instruments and DCPs.

### **Water Management Act 2000**

27. The groundwater table will be intercepted as a result of excavation for the proposed basement. The dewatering proposed during the excavation of the site is an aquifer interference activity. An authorisation to intercept or extract groundwater is therefore required under Section 91 of the Water Management Act 2000.
28. The proposal is therefore classified as Integrated Development under Section 4.46 of the Environmental Planning and Assessment Act 1979 and the application was referred to Water NSW.
29. On 26 July 2018, Water NSW provided General Terms of Approval (GTA's) for the proposed aquifer interference activity. The GTA's have been included in Schedule 3 of the recommended conditions of consent provided at Attachment A.

**Sydney Water Act 1994 No. 88**

30. In accordance with Clause 78 of the Sydney Water Act 1994 No 88, the application was referred to Sydney Water on 22 June 2018 as the development may increase the demand for water supplied by the Corporation.
31. No response was received by Sydney Water. Section 78(5) of the Sydney Water Act 1994, stipulates that the consent authority may assume that no objections are raised if a response is not received within 21 day.
32. Notwithstanding, standard conditions are recommended requiring a Section 73 Compliance Certificate to be obtained and for the approved plans to be checked using Sydney Water's "Tap-in" in service.

**State Environmental Planning Policy No 55—Remediation of Land**

33. 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.
34. A Remediation Action Plan (RAP) and letter of interim advice was submitted and approved as part of the Concept DA. The City's Health Unit is satisfied that subject to conditions, the site can be made suitable for the proposed use.

**State Environmental Planning Policy No 65—Design Quality of Residential Flat Development**

35. SEPP 65 provides that in determining an application for a residential flat development, that the consent authority take into consideration a number matters relating to design quality.
36. The proposed development has been designed by Koichi Takata Architects who are registered Architects. A design verification has been submitted with the DA which has been prepared in accordance with SEPP 65.
37. The proposed development demonstrates an appropriate design quality that satisfies the 9 design quality principles, as detailed below:

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

The proposed development is suitable given the surrounding context and emerging character of the area. The provision of new housing and commercial tenancies within close proximity to both public infrastructure and a network of open spaces. The proposed mixed use development will contribute positively to the desired future character of Waterloo.

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

The bulk, scale and height of the proposal is consistent with the precincts' masterplan for the area as well as the wider context. The scale and form of the building have been designed to maximise solar access, limit unreasonable overshadowing impacts and other negative environmental impacts to the surrounding developments.

(c) **Principle 3: Density**

The proposal results in a density of development which is generally consistent with what is envisaged in the planning controls and what was approved under the concept proposal for the site. The density is considered appropriate for the Lachlan precinct and more broadly as part of Green Square.

(d) **Principle 4: Sustainability**

The development is appropriately designed and achieves a reasonable level of solar access and natural cross ventilation. The proposal also achieves 5 points above the minimum water and energy targets for BASIX.

(e) **Principle 5: Landscape**

Landscaping within the development includes the rooftop communal open space, deep soil and landscaping within the central courtyard area and landscaped setback on the Hatbox Place frontage. This will add to the good level of residential amenity and positively contribute to the streetscape.

(f) **Principle 6: Amenity**

A high level of amenity is achieved by the proposed development. The residential component is well designed with regards to solar access, natural cross ventilation, visual and acoustic privacy, all of which will contribute to positive living environments and resident wellbeing.

(g) **Principle 7: Safety**

The proposal has been designed in accordance with the CPTED principles. The development optimises passive surveillance of the public domain and communal areas. It provides active retail frontages at the ground floor on the Archibald Avenue and Reed Street frontages. The fence along the Hatbox Place façade is setback 1.5m from the street frontage with landscaping in front. The fence is permeable and of a height which will provide for casual surveillance of the streetscape from the two ground floor apartments. Balconies are provided on all elevations and levels and will therefore provide a high level of streetscape surveillance. While there are necessary services and blank components on the Reed Street facade this is interspersed with two residential lobbies and is therefore considered acceptable.

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

There is a mix of unit types and adaptable units proposed. The communal open space areas are centrally located providing for opportunities for social interaction amongst residents.

(i) **Principle 9: Aesthetics**

38. The development is considered generally acceptable when assessed against the above stated principles and the SEPP generally, which are replicated in large part within Council's planning controls.

## Apartment Design Guide

<b>2E Building Depth</b>	<b>Compliance</b>	<b>Comment</b>
12-18m (glass to glass)	Yes	The maximum depth of the apartments is approximately 14.5m.

<b>2F Building Separation</b>	<b>Compliance</b>	<b>Comment</b>
<p>Up to four storeys (approximately 12 storeys)</p> <ul style="list-style-type: none"> <li>• 12m between habitable rooms / balconies</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul> <p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> <li>• 18m between habitable rooms / balconies</li> <li>• 12m between habitable and non-habitable rooms</li> <li>• 9m between non-habitable rooms</li> </ul>	Yes	<p>A 9m separation distance is provided from habitable windows and balconies to the adjoining shared boundary of the site to the west.</p> <p>The proposed building has a separation distance of 23m from balconies and habitable rooms of the adjoining development to the west (JQZ building).</p> <p>The proposed building is sited between 17m - 25m from Buildings A, D, E and C to the north, east and south.</p> <p>The proposal complies with all required separation distances for the 'up to four storeys' and 'five to eight storeys' ADG minimum separation distances.</p>

<b>3D Communal and Public Open Space</b>	<b>Compliance</b>	<b>Comment</b>
Communal open space has a minimum area equal to 25% of the site.	Yes	<p>482sqm of communal open space is required.</p> <p>The proposal provides 321sqm of communal open space at ground level and 255sqm at roof top level. A total of 576sqm (29.8%) of communal open space is provided.</p>

3D Communal and Public Open Space	Compliance	Comment
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	More than 2 hours of direct sunlight to more than 50% of the minimum area of communal open space is achieved.

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 6m	Yes	<p>A minimum of 135sqm is required to be provided as deep soil.</p> <p>The proposal provides a deep soil zone which has a minimum dimension of approximately 7m and an area of 136sqm.</p>

3F Visual Privacy	Compliance	Comment
<p>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> <li>• 6m between habitable rooms / balconies</li> <li>• 3m between non-habitable rooms</li> </ul> <p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> <li>• 9m between habitable rooms / balconies</li> <li>• 4.5m between non-habitable rooms</li> </ul>	Partial compliance	<p>The proposed building has a separation distance of 23m from balconies and habitable rooms of the adjoining development to the west (JQZ building).</p> <p>The proposed building is sited between 17m - 25m from Buildings A, D, E and C to the north, east and south.</p> <p>The development generally meets the separation distances from habitable rooms and balconies between separate apartments within the development. Where there are balconies and habitable rooms which are less the minimum separation distance, visual privacy impacts are mitigated through the use of privacy screens and is considered acceptable.</p>

<b>3G Pedestrian Access and Entries</b>	<b>Compliance</b>	<b>Comment</b>
Multiple entries should be provided to active the street edge	Yes	Pedestrian access and entries are provided from all three street frontages and are easily identifiable.

<b>3H Vehicle Access</b>	<b>Compliance</b>	<b>Comment</b>
<p>Car park entries are to be:</p> <ul style="list-style-type: none"> <li>• integrated into the building design</li> <li>• setback from the building line</li> <li>• located on the secondary street where possible</li> <li>• limited to in number</li> <li>• distinguished from pedestrian access</li> </ul>	Yes	There is one entry proposed to the basement carpark and loading dock, which has been suitably located on the Reed Street frontage and integrated into the building design.

<b>3J Bicycle and Car Parking</b>	<b>Compliance</b>	<b>Comment</b>
Car parking and bicycle parking to be provided in accordance with Council's requirements	Yes	Car and bicycle spaces have been provided in accordance with Council's requirements.

<b>4A Solar and Daylight Access</b>	<b>Compliance</b>	<b>Comment</b>
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	70.3% (38/54) of apartments achieve a minimum of 2 hours direct sunlight to both the living rooms and private open space.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	13% of apartments (7/38) receive no direct sunlight to living rooms and private open space.

<b>4B Natural Ventilation</b>	<b>Compliance</b>	<b>Comment</b>
All habitable rooms are naturally ventilated.	Yes	All habitable rooms are naturally ventilated.
Minimum 60% of apartments in the first nine storeys of the building are naturally cross ventilated.	Yes	61% (33/54) of apartments are naturally cross ventilated.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	The maximum depth of cross-through apartments is approximately 14.5m as measured from glass line to glass line.

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

<b>4C Ceiling Heights</b>	<b>Compliance</b>	<b>Comment</b>
Habitable rooms: 2.7m	Yes	All habitable rooms show a floor to floor height of approximately 3.1m and a minimum floor to ceiling height of 2.7m.
Non-habitable rooms: 2.4m	Yes	All non-habitable rooms exceed a minimum floor to ceiling height of 2.4m.
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Yes	The two ground floor apartments have a floor to floor height of approximately 4.9m. The floor to floor height of the retail tenancies is 5m.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> <li>• Studio: 35m<sup>2</sup></li> <li>• 1 bed: 50m<sup>2</sup></li> <li>• 2 bed: 70m<sup>2</sup></li> <li>• 3 bed: 90m<sup>2</sup></li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p>	Yes	The proposal provides a mix of studio, 1, 2, 3 and 4 bedroom apartments. All apartments exceed the minimum size requirements.
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 habitable rooms are provided with a window opening for natural daylight and air.
8m maximum depth for open plan layouts.	Yes	Room depths are generally up to 8 metres and comply with this requirement.
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> <li>• master bedroom: 10m<sup>2</sup></li> <li>• all other bedrooms: 9m<sup>2</sup></li> </ul> <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>	Yes	All bedrooms meet the minimum size and dimension requirements.

4D Apartment Size and Layout	Compliance	Comment
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6m</li> <li>• Two-bedroom or more: 4m</li> </ul>	Partial compliance	<p>The majority of apartments achieve the minimum widths for living/dining rooms. There are number of apartments which fall slightly short of the minimum width requirement. Notwithstanding, these apartments have an open plan layout with the indicative furniture layout demonstrating the functionality of these rooms. The minor non-compliance is supported in this instance.</p>
4m minimum width for cross over and cross through apartments.	Partial compliance	<p>The cross through apartments have widths of approximately 5m-7.5m. However at some ends of these apartments, the width narrows to a single bedroom of approximately 3m. Despite this, the affected apartments exceed the minimum overall apartment size, have natural cross ventilation and achieve the minimum required solar access. These apartments are therefore considered to have good amenity and provide a functional layout. The non-compliance is supported in this instance.</p>

4E Private Open Space and Balconies	Compliance	Comment
<p>Studio apartments are to have a minimum balcony area of 4m<sup>2</sup> with a minimum depth of 1m.</p> <p>One bed apartments are to have a minimum balcony area of 8m<sup>2</sup> with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m<sup>2</sup> with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m<sup>2</sup> with a minimum depth of 2.4m.</p>	Yes	<p>All apartments contain balconies / private open space which meet the minimum size and dimension requirement.</p> <p>It is noted that numerous apartments contain secondary balconies off bedrooms. These secondary balconies were not counted in the assessment against Objective 4E.</p>

<b>4E Private Open Space and Balconies</b>	<b>Compliance</b>	<b>Comment</b>
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m.	Yes	The areas of private open space for the two ground floor apartments have areas of 26sqm and 58sqm, with a minimum dimension of 4m.

<b>4F Common Circulation and Spaces</b>	<b>Compliance</b>	<b>Comment</b>
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	The development includes two lift cores. The maximum number of apartments from a single lift is 8 located on level 2. The other levels have between 5-7 apartments accessible from a single lift.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	The apartments have been designed to have the entry doors from the corridors opening in to the kitchens of the apartments which is considered acceptable.

<b>4G Storage</b>	<b>Compliance</b>	<b>Comment</b>
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> <li>• Studio: 4m<sup>3</sup></li> <li>• 1 bed: 6m<sup>3</sup></li> <li>• 2 bed: 8m<sup>3</sup></li> <li>• 3 bed: 10m<sup>3</sup></li> </ul> <p>(Minimum 50% storage area located within unit)</p>	Yes	Storage diagrams have been provided which demonstrates the apartments achieve the minimum storage provision requirements. This includes a minimum of 50% of storage being provided within the apartment, and remaining storage provided within storage cages in the basement.

4J Noise and Pollution	Compliance	Comment
In noisy or hostile environments the impacts of external noise and pollution are minimised through careful siting and layout of buildings	Yes	The proposed development is not impacted by a busy road, or other noisy external sources or pollution.
Noise transfer is minimised through the siting and layout of buildings	Yes	<p>The proposal has generally been designed to minimise noise impacts and achieve acoustic privacy for future occupants. There are some bedrooms which are located to adjacent to adjoining apartment's balconies. However, potential noise impacts are mitigated through provision of full height masonry walls.</p> <p>There are two apartments located on level 4 (Nos. 403 and 404) which have bedrooms located approximately 2.3m from the rooftop areas of communal open space. This was raised as a concern during the preliminary assessment. The proposal was amended by including 1.8m high privacy walls and extensive landscaping, providing a separation distance of approximately 4m. This is considered to adequately minimise noise impacts to these bedrooms. However it is noted that the 1.8m high privacy walls are only shown on the landscape plans, it is recommended that these walls are shown on the architectural drawings. A condition of consent is recommended to address this.</p>

### State Environmental Planning Policy (Infrastructure) 2007

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

#### Clause 45

40. The application is subject to Clause 45 of the Infrastructure SEPP as the development is located close to an existing electricity substation and overhead and underground power lines.
41. The application was referred to Ausgrid on 22 June 2018. No response was received and it therefore assumed that no objections are raised to the proposal.

42. The proposal does not include a substation. A condition is recommended requiring evidence from Ausgrid confirming that no substation is required prior to issue of any construction certificate. The recommended condition stipulates that if Ausgrid determine that a substation is required, the substation must be located within the building envelope and incorporated in to the design of the building to Council's satisfaction.

#### **Clause 101**

43. The application is subject to Clause 101 of the SEPP as the site has frontage to Lachlan Street, which is a classified road.
44. The application was referred to the Roads and Maritime Services on 22 June 2018. A response was received on 30 July 2018 which includes recommended conditions of consent.
45. Accordingly, subject to the implementation of these conditions, and based on the recommendations of the submitted acoustic report, the application is considered to satisfy Clause 101 of the Infrastructure SEPP.

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

46. A BASIX Certificate has been submitted with the development application.
47. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.
48. Condition 11 of the Concept consent requires a BASIX energy and water scores of at least 5 points above the minimum compliance level. The BASIX certificate shows a score of 46 for water which exceeds the target pass of 40. The energy score is 32 which exceeds the target of 25. The BASIX certificate therefore complies with condition 11 of the Concept consent.

#### **Sydney LEP 2012**

49. The site is zoned B4 Mixed Use under Sydney LEP 2012. The proposed development is defined as a mixed use development comprising 'residential accommodation' and 'retail premises' both of which are permissible with consent.
50. The relevant matters to be considered under Sydney Local Environmental Plan 2012 (SLEP 2012) for the proposed development are outlined below.

## Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	No	<p>There are three building heights applicable to the subject site:</p> <ul style="list-style-type: none"> <li>• 40.4 RL</li> <li>• 41.23 RL</li> <li>• 50.75 RL</li> </ul> <p>Although the proposal is lower than the maximum height (50.75RL), the proposed development does not comply with the 40.4 RL and 41.23 RL maximum height controls as the bulk extends beyond the shaped envelope marginally.</p> <p>The applicant has submitted a written request seeking an exception to the development standard in accordance with Clause 4.6(3) of SLEP 2012. Refer to the discussion provided in the 'Issues' section of this report.</p>

Development Control	Compliance	Comment
4.4 Floor Space Ratio	Yes	<p>In accordance with Clause 4.4 of SLEP 2012, a maximum FSR of 1.5:1 is permitted for the whole site subject to the Concept DA.</p> <p>An additional 0.5:1 bonus FSR is permitted pursuant to Clause 6.14 of SLEP 2012. This additional 0.5: FSR is available as a VPA was executed as part of the Concept DA whereby the additional 0.5:1 was provided for community infrastructure at Green Square.</p> <p>The total permitted FSR across the entire site is 2:1.</p> <p>Condition 8 of the Concept consent apportioned the permitted GFA for the whole site and allocated GFA to the individual buildings.</p> <p>For Building B, the maximum permitted gross floor area (GFA) is 4,970sqm. The proposal provides 4,970sqm of GFA. Therefore the proposed development is compliant with the maximum permitted FSR for the overall site and the Concept consent.</p> <p>The detailed DA's for Building D (D/2018/304) and Building E (D/2018/222) which were approved at the Local Planning Panel meeting on 24 October 2018 were also compliant with the apportioned GFA set out in the Concept consent.</p>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the height of building development standard prescribed under Clause 4.3 of SLEP 2012.</p> <p>See discussion under the heading Issues.</p>

Part 6 Local Provisions	Compliance	Comment
6.21 Design excellence	Yes	<p>Subject to conditions, the proposed development exhibits design excellence specifically regarding the matters listed in Clause 6.21(4):</p> <p>The development will result in a high standard of architectural design.</p> <p>The bulk, massing and modulation of the building are appropriate given the surrounding development.</p> <p>The building design is appropriate to the surrounding context of the developing Lachlan precinct.</p> <p>The proposed development does not detrimentally impact on any view corridors.</p> <p>The building exceeds the minimum BASIX targets for water and energy.</p> <p>The proposal is also suitably sited and designed so as to reduce visual and acoustic privacy impacts.</p> <p>The building will not unreasonably overshadow neighbouring developments and results in a compliant level of solar access for the subject development.</p> <p>Landscaping is integrated in the design of the building through planters on balconies and the roof top terrace and will contribute to the residential amenity of the development and the streetscape.</p>
		<p>The materiality of the facade is considered to demonstrate design excellence.</p> <p>The development will not result in unreasonable environmental impacts and is considered to demonstrate design excellence.</p> <p>The proposal is consistent with the design excellence strategy approved under the Concept DA.</p> <p>Clause 6.21(5) requires a competitive design process to be held for buildings that exceed a</p>

Part 6 Local Provisions	Compliance	Comment
6.27 Lachlan Precinct, Waterloo		<p>height of 25m and which a development control plan is required under Clause 7.20 of the LEP.</p> <p>The site is located within the Lachlan Precinct and is also subject to the provisions of Clause 6.27 of SLEP 2012. Clause 6.27(1) of SLEP 2012 stipulates that the requirements of Clause 6.21(5)(a)(ii) and 7.20(2)(b) do not apply to development on Lachlan Precinct land where a building is less than 30m in height.</p> <p>As the proposed building is less than 30m in height, the undertaking of competitive design process and a DCP is not required.</p>

Part 7 Local Provisions - General	Compliance	Comment
<p>Division 1 Car parking ancillary to other development</p> <p>Clause 7.5 Residential flat buildings</p> <p>Clause 7.7 Retail premises</p>	Yes	<p>The site is identified as 'Category C' and 'Category F' on the Land Use and Transport Integration Map and Public Transport Accessibility Level Map, respectively.</p> <p>In accordance with Clause 7.5, a maximum of 47.1 car parking spaces are permitted for the residential apartments, plus an additional 9 specifically for visitor use (total 56.1 spaces allowed)</p> <p>48 car parking spaces are proposed for the residential apartments with 6 visitor spaces which complies (total 54 spaces proposed).</p> <p>In accordance with Clause 7.7, a maximum of 4.7 car parking spaces are permitted for the retail premises.</p> <p>4 retail car parking spaces are proposed which complies.</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>An affordable housing contribution of \$1,589,168.14 is payable.</p>

Part 7 Local Provisions - General	Compliance	Comment
		This figure is calculated on a total floor area (TFA) of 6,377.27 at rate of \$244.99 per sqm for residential plus a TFA of 328.32sqm for non-residential at a rate of \$81.63sqm per sqm.
7.14 Acid Sulphate Soils	Yes	The site is identified as containing Class 5 Acid Sulphate Soils (ASS). The site is not located within 500m of Class 1 - 4 ASS and as such an ASS management plan is not required to be submitted.
7.15 Flood planning	Yes	The site is identified by Council as being flood prone. The proposed development is consistent with the Interim Management Policy and the flood planning level requirements. Council's flood engineer has advised that the proposed floor levels and basement are acceptable.
7.16 Airspace operations	Not applicable	The proposed development will not penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport.
7.20 Development requiring preparation of a development control plan	Not applicable	<p>As previously discussed, pursuant to Clause 6.27(1) of SLEP 2012 the requirements of Clause 7.20(2)(b) do not apply to development on Lachlan Precinct land where a building is less than 30m in height. As the proposed building is less than 30m in height, the provisions of Clause 7.20 are not applicable.</p> <p>However it is noted that the collective site has been the subject of a Concept DA. Pursuant to Section 4.23 of the Environmental Planning and Assessment Act, 1979, the approval of Concept DA satisfies the requirement of Clause 7.20 to prepare a DCP.</p>
7.23 Large retail development near Green Square Town Centre	Yes	The proposed retail premises does not exceed 1000sqm and therefore complies with this provision.

### Sydney DCP 2012

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

## 2. Locality Statements – Lachlan

The subject site is located in the Lachlan locality which is a locality in transition from industrial and warehouse uses to mixed use and predominantly residential development. The new streets and subdivision approved under the Concept DA will enable a permeable and accessible pattern of streets and a neighbourhood with a varied typology of mixed use development. The proposed development with ground floor retail and residential and upper level residential is in keeping the emerging character of the Lachlan locality and is consistent the design principles.

3. General Provisions	Compliance	Comment
3.1 Public Domain Elements	Yes	The proposed development is designed to actively address the streetscape. The design of the development creates a building that will enhance the quality of the precinct and will make a positive contribution to the public domain.
3.1.5 Public Art	Yes - subject to condition	A concept public art strategy has been submitted for the whole site. The proposed location of the public art for the subject building is located within a display area on the ground floor on the Reed Street facade. This location for the public art is supported as it provides visual interest to this facade which contains the services and driveway. A condition is recommended requiring a detailed public art strategy for building B to be submitted prior to issue of a construction certificate.
3.2.3 Active frontages	Yes	<p>The proposed development has an active frontage requirement to Archibald Avenue. The proposed retail shopfronts comprising full height glazing are provided along the Archibald Avenue frontage in accordance with the requirements of Section 3.2.3. In addition, the retail premises turn the corner to the Reed Street frontage for a length of approximately 10m.</p> <p>Activation is also provided along Hatbox Place through individual entries to the ground floor apartments. While there is a driveway and other required services located on the Reed Street frontage, it is considered that this is acceptable. This is due to the residential lobbies and public art breaking up some of the blank facade by providing visual interest.</p> <p>Overall it is considered that the development provides suitable activation of the streetscape and contributes to the public domain.</p>

3. General Provisions	Compliance	Comment
3.2.5 Footpath Awnings	Partial Compliance	<p>The site is identified as requiring the provision of footpath awnings along Archibald Avenue and Reed Street. A continuous footpath awning is provided along both of these frontages as required.</p> <p>This provision specifies that the height of an awning may vary between 3.2m and 4.2m above the footpath. The proposed awning has a varying height approximately 4.8m - 5.7m above footpath level which does not comply. The height of the awning is discussed further in the 'Issues' section.</p>
3.2.7 Reflectivity	Yes	A condition of consent has been recommended requiring that the reflectivity from the building materials must not exceed 20%
3.4 Hierarchy of Centres, City South	Yes	The site is located outside the Green Square Town Centre major retail area. The proposed retail premises comprise a total area of 236sqm. 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 residential. The size of the proposed retail premises is not considered to undermine the economic strategy of the Green Square retail centre or impact its viability.
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and will not adversely impact on the local urban ecology.
3.6 Ecologically Sustainable Development	Yes	<p>The proposal satisfies the BASIX and environmental requirements required in the ESD report which was submitted with the Concept DA.</p> <p>Condition 11 of the Concept consent requires a BASIX energy and water scores of at least 5 points above the minimum compliance level. The BASIX certificate shows a score of 46 for water which exceeds the target pass of 40. The energy score is 32 which exceeds the target of 25. The BASIX certificate therefore complies with condition 11 of the Concept consent.</p>

3. General Provisions	Compliance	Comment
3.7 Water and Flood Management	Yes	The proposal satisfies BASIX and environmental requirements. The site is identified as being on flood prone land and it has been demonstrated that flooding can be adequately managed.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	Conditions are recommended to be imposed on the consent requiring separate approval for strata or stratum subdivision of the building.
3.11 Transport and Parking	Partial compliance	<p>Adequate car parking, visitor parking, bicycle parking, motorbike parking, car share space and end of trip facilities have been provided in accordance with the SDCP 2012 and SLEP 2012. Subject to conditions, the layout of the basement is capable of complying with Australian Standards.</p> <p>Bike parking spaces are provided within the basement for the residential apartments and retail employees which exceeds the minimum requirement of 55. 10 visitor bike spaces are provided which exceeds the minimum requirement of 8.</p> <p>A Green Travel Plan has been assessed as being generally satisfactory by Council's Transport Planner. A final Green Travel Plan is required to be submitted to Council prior to issue of an Occupation Certificate.</p> <p>The loading dock and waste collection area has been provided at ground level within the building. The area is suitably designed to allow Council's waste collection vehicle (9.25m length) to enter and exit the site building a forward direction.</p> <p>The width of the driveway is discussed further in the 'Issues' section of this report.</p> <p>Overall, it is considered that the proposal, subject to conditions, will not result in unreasonable traffic congestion, will promote sustainable transport modes and generally complies with the objectives and provisions contained in Section 3 (Transport and Parking) of SDCP 2012.</p>
3.12 Accessible Design	Yes	A condition has been recommended for the proposed development to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.

<b>3. General Provisions</b>	<b>Compliance</b>	<b>Comment</b>
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	A Waste Management Plan (WMP) accompanied the DA. The WMP and proposed development are capable of complying the City's 'Policy for Waste Minimisation in New Developments'. Separate waste storage areas are provided for the retail and residential uses
3.16 Signage and Advertising	Yes	The proposal does not include signage, however individual indicative locations are shown for the retail tenancies. Insufficient detail has been provided to approve these locations. A condition of consent is recommended requiring a separate signage strategy to be submitted to ensure the design quality of the development is not diminished by potential ad-hoc signage.

<b>4.2 Residential flat, commercial and mixed use developments</b>	<b>Compliance</b>	<b>Comment</b>
4.2.1 Building height	Partial compliance	The site has three different height of building controls under SLEP 2012. Under the SDCP 2012, there is a 6 storey and 4 storey height in storey control applying to the site. The proposal is generally complies with these controls. This is discussed further in the 'Issues' section of this report.
4.2.2 Building setbacks	Partial compliance	The proposed setbacks are considered acceptable and are discussed further under Section 5.4.3.4 below.
4.2.3 Amenity	Yes	The proposal will result in an acceptable level of amenity, as detailed further in the ADG compliance table.  The proposal complies with the solar access provisions contained is Section 4.2.3.1.
4.2.3.11 Acoustic privacy	Yes	The acoustic assessment submitted with the DA demonstrates that the internal noise criteria can be

4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
		achieved with windows open for windows along any facade of the proposed development.
4.2.3.12 Flexible housing and dwelling mix	Yes	<p>The development proposes:</p> <ul style="list-style-type: none"> <li>• 4 x studios (7%)</li> <li>• 13 x 1 bedroom (13%)</li> <li>• 27 x 2 bedroom (50%)</li> <li>• 9 x 3 bedroom (17%)</li> <li>• 1 x 4 bedroom (2%)</li> </ul> <p>The proposed unit mix complies with the required unit mix of this provision.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	The street frontage length along Reed Street is approximately 60m. This frontage contains a retail tenancy and two residential lobbies, which is considered to break up the elevation.
4.2.5.2 Courtyard buildings and perimeter street block buildings	Yes	<p>The building is designed as a perimeter block type building with a central courtyard which will serve as part of the building's communal open space area.</p> <p>The courtyard is private and will have a visual connection through to Reed Street through 'hit and miss' brick work.</p>
4.2.5.4 Residential uses on the ground floor	Yes	<p>The proposed development contains two apartments at ground level with direct access from Hatbox Place. A 1.5m building setback is provided from Hatbox Place which does not comply with the stipulated 3m building setback within this section of SDCP 2012. However, Section 5.4.3.6 of SDCP 2012 overrides this provision and requires 1.5m setback. The 1.5m setback is consistent with the adjoining development to the west which also has ground floor apartments fronting Hatbox.</p> <p>Planting is proposed within the setback. The glass lines of the apartments are setback approximately 4m from Hatbox Place which is in accordance with Section 4.2.5.4. A 'hit and miss' brick fence is provided 1.5m from the street alignment. The fence acts as 1.1m high</p>

<b>4.2 Residential flat, commercial and mixed use developments</b>	<b>Compliance</b>	<b>Comment</b>
		balustrade to the terrace and will allow for casual surveillance of the street. The fence is approximately 1.7m - 2m above the footpath level which will provide a sufficient level of privacy for the occupants.
4.2.6 Waste minimisation	Yes	This is addressed in Section 3.14 above.
4.2.7 Heating and Cooling Infrastructure	Yes	Services are centrally located on the roof and are screened by a screen enclosure.
4.2.8 Letterboxes	Yes	The letterboxes are securely located within the residential lobbies and easily identifiable for Australia Post staff.
4.2.9 Non-residential development in the B4 Mixed Use zone	Yes	Due to the proximity of the retail to residential uses, noise, overlooking, privacy and traffic have specifically been considered and addressed in the proposal.

<b>5.2 Specific Areas - Green Square</b>	<b>Compliance</b>	<b>Comment</b>
5.2.7 Stormwater management and waterways	Yes	Flooding is addressed in the SLEP 2012 compliance table.
5.2.9 Building Design	Yes	The suitability of the design of the building and its relationship to the public domain are discussed throughout this report and, subject to conditions, is acceptable.
5.2.10 Setbacks	Yes	The proposed setbacks are consistent with the Concept DA and are considered acceptable. This is discussed further in Section 5.4.3.3.
5.2.11 Carparks under the public domain	Yes	The proposed basement is located wholly within the future lot boundaries and will be situated underneath the future public domain.

5.2 Specific Areas - Green Square Lachlan	Compliance	Comment
5.4.1 Lachlan Urban Strategy	Yes	The Concept consent approved the local infrastructure and public domain works associated with the development. The proposed ground floor retail uses to Archibald Avenue and a portion of Reed Street are consistent with Figure 5.75 'Lachlan Precinct urban strategy'.
5.4.3 Building layout, form and design	Yes	<p>The development within the street block is well articulated and has variations in size, height and architectural expression.</p> <p>The building articulates the corners with particular emphasis on the awning which helps enhance the public domain.</p> <p>The design provides for a building that will enhance the new streetscape and is supported from an urban design perspective.</p> <p>The proposed floor to ceiling heights are generally consistent with the controls and are acceptable.</p>
5.4.3.4 Building setbacks	Yes	The proposal provides a 1.5m primary building setback from Hatbox Place and Reed Street and a nil setback from Archibald Avenue. These setbacks comply with the required setbacks under this provision. It is noted that there are no upper level setbacks which apply to the site.
5.4.3.5 Building typologies and use	Yes	The depth of retail tenancies is approximately 11m which complies with the 10m minimum depth requirement. A continuous awning is provided above the retail uses in accordance with the requirements of this provision.
5.4.3.7 Acoustic and visual privacy	Yes	Acoustic and visual privacy is acceptable as discussed previously within this report.
5.4.3.9 Parking Access	Partial Compliance	Refer to the 'Issues' section for discussion.

## Issues

### Clause 4.6 request to vary a development standard - Height of building

52. The site is subject to three separate maximum height of building controls in Reduced Levels (RL) under Clause 4.3 of SLEP 2012:

- 50.78 RL - applies to the centre of the site and to the Reed Street frontage;
- 40.4 RL - applies to the southern edge of the site fronting Hatbox Place; and
- 41.23 RL - applies to remaining areas of the site to the west and to the north fronting Archibald Avenue.

53. An extract of the SLEP 2012 height of building map is provided in Figure 21 below, with the subject site outlined in red:

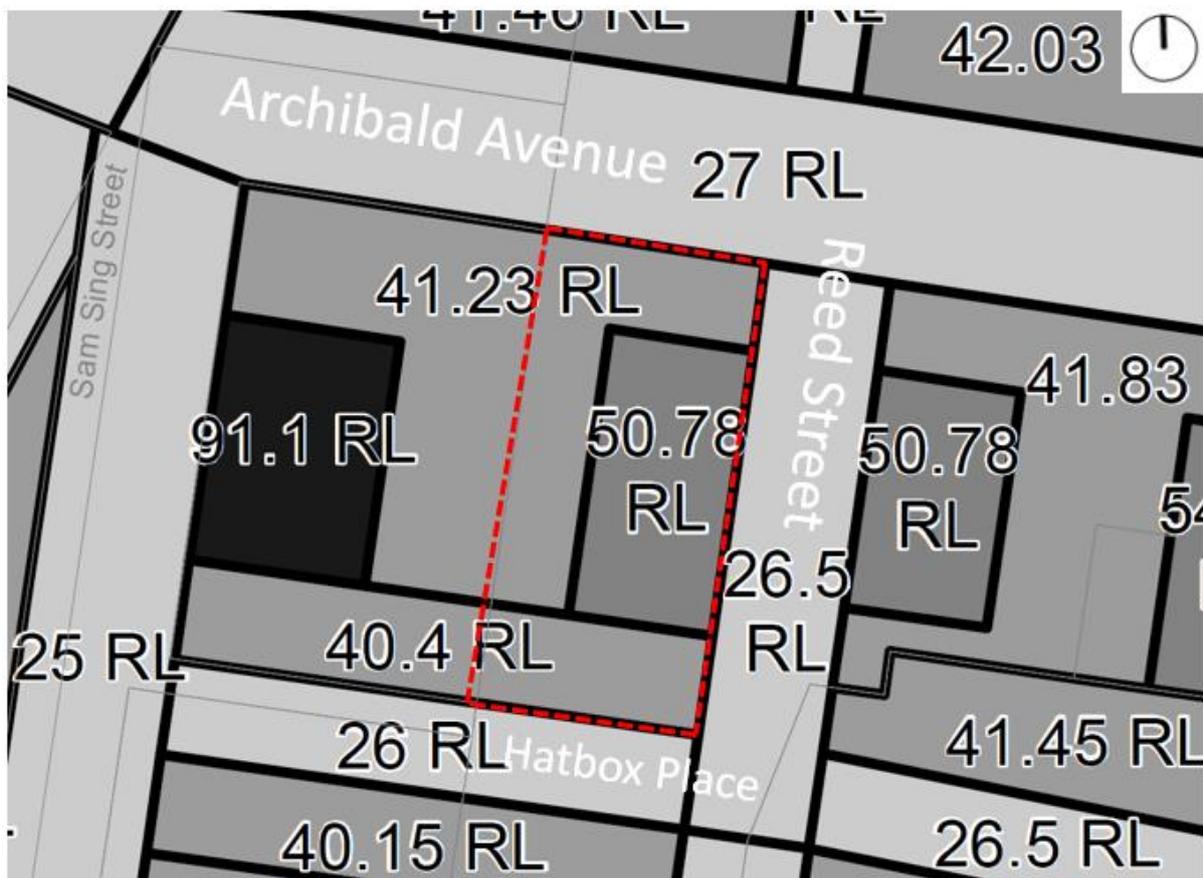
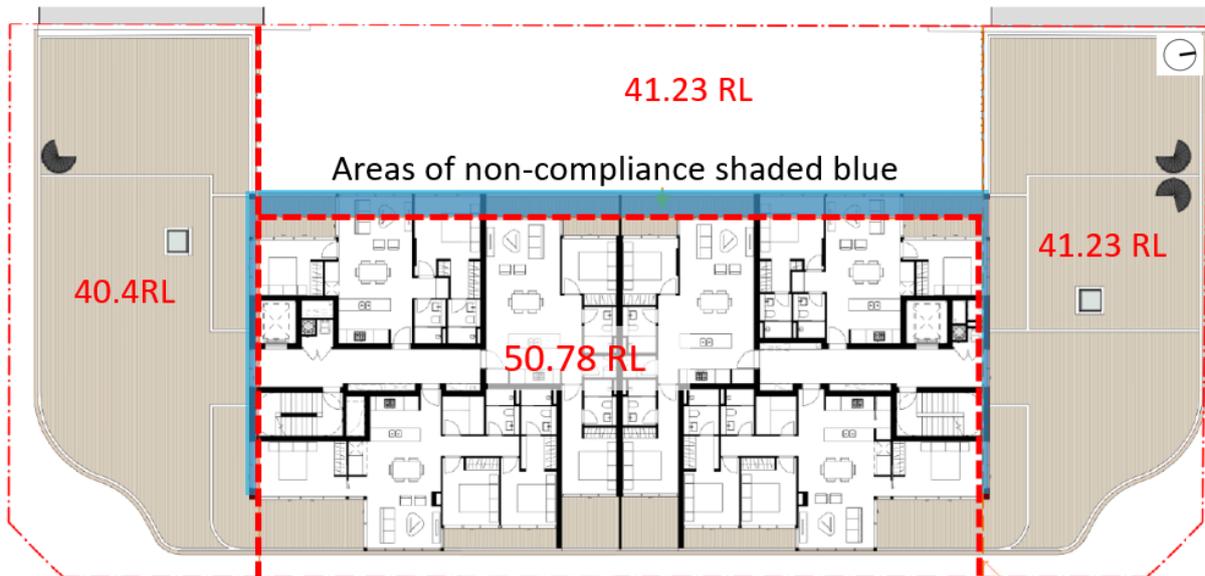


Figure 21: SLEP 2012 Height of Building Map

54. The building is designed as a four story building with a taller six storey central component fronting Reed Street. The six storey central component of the building has a proposed maximum height of 47.8 RL. While this is 2.98m below the SLEP 2012 maximum height of 50.78RL, this taller component of the building laterally extends to the north, south and west into the zone of the two lower height controls of 40.4 RL and 41.23 RL.

55. The floor plan of level 4 is shown in Figure 22 which highlights the areas of non-compliance:



**Figure 22:** Level 4 floor plan highlighting areas of non-compliance with SLEP height of building

56. To the south (towards Hatbox Place), the floor plate and architectural detailing of the central taller part of the building extends within 40.4 RL zone by approximately 0.73m in depth. This component of the building breaches the maximum 40.4RL height standard by 7.4m or 18.3%.
57. To the north (towards Archibald Avenue) and to the west, the floor plate and architectural detailing of the central taller part of the building extends within the 41.23 RL zone by approximately 0.55m and 1.5m in depth, respectively. This component of the building breaches the maximum 41.23 RL height standard by 6.57m or 15.9%.
58. Elevations of the proposed building with the SLEP 2012 height of building lines indicated are shown in Figures 23 - 26:



Figure 23: East elevation (Reed Street)

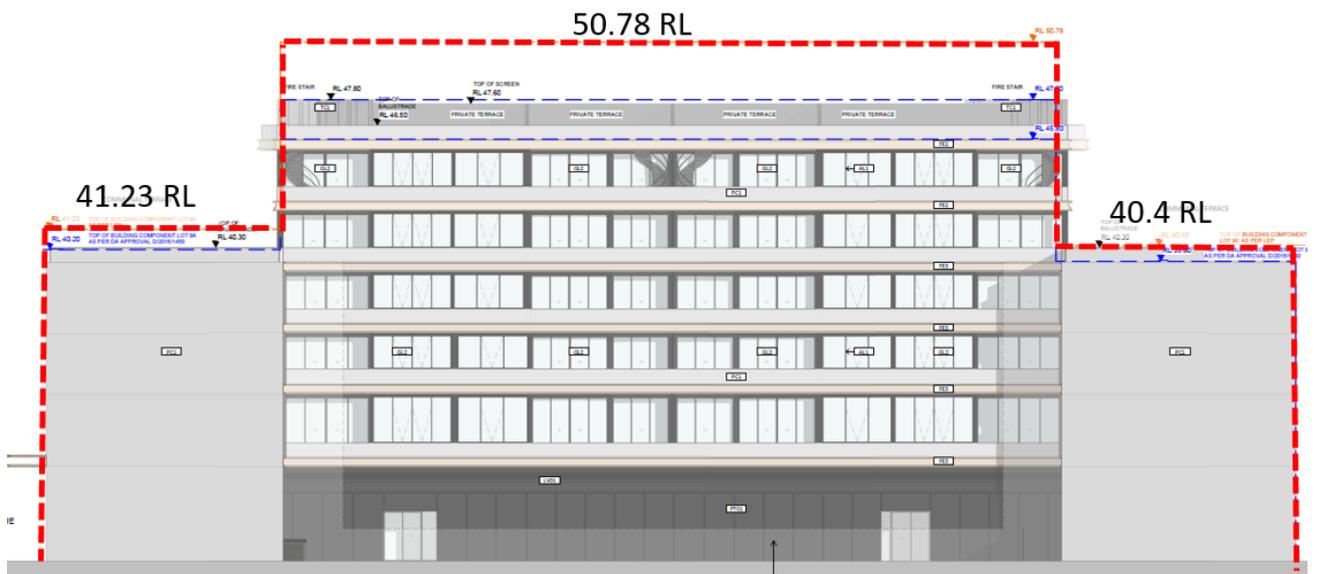


Figure 24: West elevation



Figure 25: North elevation (Archibald Avenue)



Figure 26: South elevation (Hatbox Place)

59. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the height development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
  - (b) That there are sufficient environmental planning grounds to justify contravening the standard.
60. A copy of the applicant's written request is provided at Attachment C.

***Applicants Written Request - Clause 4.6(3)(a) and (b)***

61. The applicant seeks to justify the contravention of the height of building development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the objectives of the development standard are achieved notwithstanding non-compliance with the standard:
    - To ensure the height of development is appropriate to the condition of the site and its context*
      - (i) The proposal seeks a minor variation to the maximum height development standard to accommodate a functional and high quality floorplate design to the central upper portion of the site. These detailed elements were not readily considered at the Concept consent.
      - (ii) The height of the development is appropriate to the site context as the predominant massing is consistent with the other mid-rise and high-rise development observed in the locality.
      - (iii) The proposed exceedances are well distributed throughout the proposed design, are located away from street frontages, and will not be readily apparent at street level or from the surrounding public domain.    - To ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas.*
      - (iv) Not applicable as there the site not located adjacent to a heritage item, conservation area or special character area.    - To promote the sharing of views*
      - (v) The proposed variations to the maximum height will not cause any adverse view impacts to surrounding neighbours. Variation to the height presents as a marginal increase in depth to the rear and sides of a taller central building component. The taller building is below the maximum SLEP 2012 height afforded to the site. The additional depth is well distributed away from the public realm and is not of a scale that is capable of impeding significant views. Further, no significant views are located within this section of the site.

*To ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas. In respect of Green square: to ensure the amenity of the public domain by restricting taller building to only part of a site, and to ensure the built form contributes to the physical definition of the street network and public spaces.*

- (vi) The height variation sought is nominal relative to the context of Green Square Town Centre and Central Sydney and is not of a scale that can alter the height transition between these two centres.
- (vii) Much of the additional bulk is carefully distributed towards the rear and upper levels of the building. As such, the additional area as a result of the height exceedance will not impact the amenity of the surrounding precinct.
- (viii) The additional height does not change the street wall height or the presentation of the building at street interface level.

The applicant states that given the proposal meets the objectives of the height of building development standard, the proposal therefore satisfies the first method set out in *Wehbe v Pittwater Council (2007) 156 LGERA 446* and subsequently demonstrates that compliance with development standard is unreasonable or unnecessary in the circumstances of the case.

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) The strategic planning process in developing the development standards for the wider Lachlan Precinct and the subsequent concept design process to inform the Concept DA for the site were not carried out in sufficient detail to determine optimal floorplate and unit layout to create an efficient and viable development, whilst balancing the spatial amenity considerations under the ADG. It is noted that the LEP heights for the precinct are very specific in their extents, which offer little to no flexibility for detailed building design.
  - (ii) There are strong planning merits behind the proposed variation and it is considered that the proposal results in a better planning outcome. The additional depth if the floorplate at the upper levels does not in turn compromise building separation distances to adjoining buildings (including maintaining a minimum 9m setback to the rear boundary within the approved Concept DA layout), internal apartment amenity or unit depth. In contrast, the minor additional building depth presents opportunities for deeper balconies and even secondary balconies for certain units, thereby facility improved amenity for future occupants.
  - (iii) Further, the proposed variation accommodates two lift and circulation cores, building services within the proposed design while providing well sized apartments and an efficient location of the cores through to the ground and basement levels. The minor additional building depth is well distributed away from the public domain and as such will not result in apparent visual bulk. The additional depth is sleeved around the edges of the central component at upper levels and predominantly towards the rear of the building.

- (iv) The detailed design process has ensured that there will be no additional adverse urban design, shadow or view impacts as a result of exceeding the LEP height control. The proposed design offers increased amenity to apartments and provides for an efficient layout.
- (v) In light of the above it is considered that there are no environmental planning grounds that warrant maintaining and/or enforcing the numerical building height standards across the affected portion of the site.

***Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)***

62. Development consent must not be granted unless the consent authority is satisfied that:
- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
  - (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

***Does the written request adequately address those issues at clause 4.6(3)(a)?***

63. The applicant's written request has adequately demonstrated that compliance with the height of building development standard is unreasonable or unnecessary in the circumstances of this case as the proposed development satisfies the objectives of the height of building standard, notwithstanding non-compliance with the standard.
64. The written request has sufficiently detailed how the proposal meets each of the objectives of the height of building development standard set out in Clause 4.3 of SLEP 2012.
65. Council officers are satisfied that the proposal satisfies the first way of demonstrating a development standard is unreasonable or unnecessary as established by the methods in *Wehbe v Pittwater Council [2007] NSWLEC 827*.

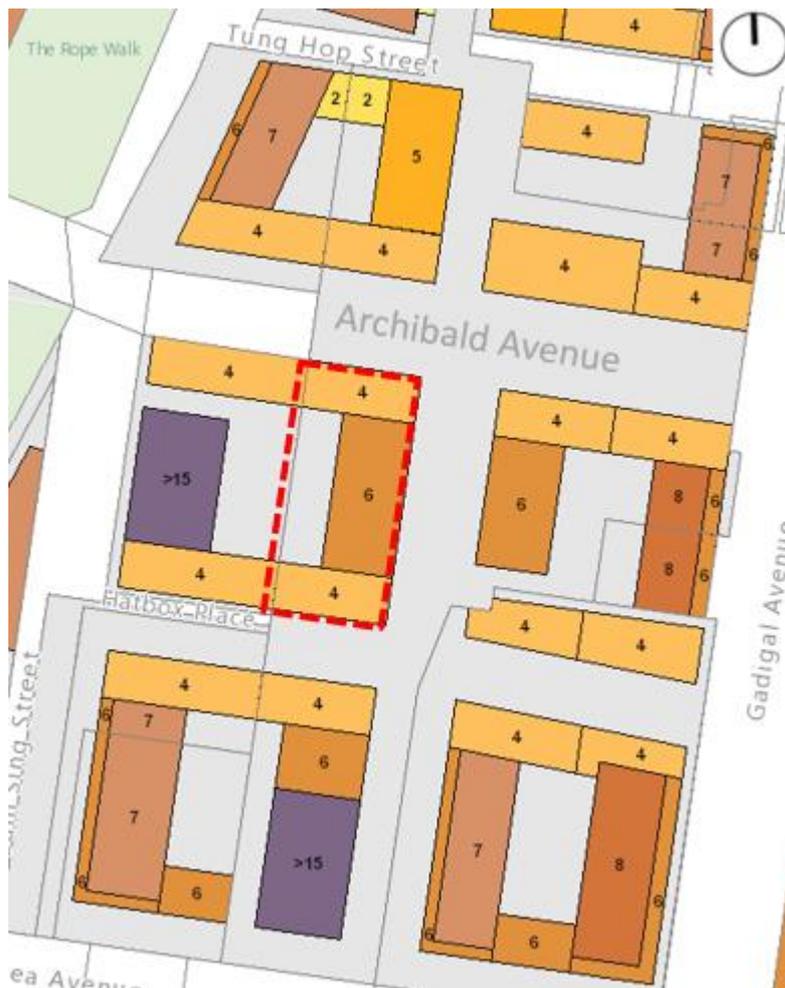
***Does the written request adequately address those issues at clause 4.6(3)(b)?***

66. The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify varying contravening the development standard.
67. Council officers agree with the justification provided in the written request which explains that the detailed design of building demonstrates that the components of the building which breach the height standard facilitate a more functional floor plate resulting in apartments which have a high level of amenity and compliance with the ADG.
68. The applicant's justification that the components of the building subject to the non-compliance do not result in adverse environmental planning impacts by way of urban design, view loss or overshadowing are supported.

69. Given the above, Council officers are satisfied that the applicant has adequately demonstrated that there are sufficient environmental planning grounds to vary the development standard.

***Is the development in the public interest?***

70. The proposed development is considered to be in the public interest as it is consistent with the objectives of the height of building development standard and objectives of the B4 Mixed Use zone.
71. The objectives of Clause 4.3 of SLEP 2012 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 consideration areas or special character areas.
  - (c) To promote the sharing of views.
  - (d) To ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas.
  - (e) In respect of Green Square:
    - (i) To ensure the amenity of the public domain by restricting taller buildings to only part of a site, and
    - (ii) To ensure the built form contributes to the physical definition of the street network and public spaces.
72. The proposed development is considered to be consistent with the objectives of Clause 4.3 of SLEP 2012 for the following reasons:
- (a) The proposed height of the building including the areas of non-compliance is commensurate with the built form, scale and height of buildings in the Lachlan Precinct, particularly the adjoining building to the west and the recently approved Buildings D and E.
  - (b) The proposed components of the building subject to the breach still provide for a development which has a taller building on part of the site with appropriate transition to the two 4 storey components. The component of the building subject to the height of building breach does not compromise a clear transition between the 6 storey and 4 storey components of the building. Under the SDCP 2012, the height in storeys provisions for the site and immediate surrounding area in the Lachlan Precinct generally require 4 storeys with a higher component of between 5 to 8 storeys as shown in Figure 27. The proposed development complies with the strategic intent of these provisions.



**Figure 27:** SDCP 2012 height in storeys map

- (c) Given the above, the proposal is also considered to meet the objectives for Green Square in that the amenity of the public domain will be maintained as the taller part of the building is still restricted to one part of the site. In addition, the proposed development maintains the existing future and built form character of the immediate surrounding area through maintaining the 4 storey components of the building.
- (d) The proposed parts of the building subject to the breach will not result in loss of any significant views. In this regard, it is noted that the central part of the building is located 2.98m below the SLEP 2012 maximum height of 50.78RL which is considered to promote view sharing.
- (e) The site is not located within the vicinity of a heritage item, heritage conservation area of special character.
73. 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 centre.
74. The proposed development is considered to be consistent with the objectives of the B4 Mixed Use zone for the following reasons:
- (a) The proposed development is a mixed use development comprising ground floor retail premises and residential apartments, both of which are considered compatible on the same site.
  - (b) The proposed development is in close proximity to a number of bus routes and includes bicycle parking and end of trip facilities to encourage cycling and walking. In addition, the application is supported by a Green Travel Plan.
75. The components of the building subject to the non-compliance do not result in adverse environmental planning impacts by way of urban design, streetscape impacts, view loss or overshadowing on surrounding properties. The proposal achieves the minimum required separation distances required by the ADG.
76. It is considered that a wider and deeper central taller part of the building which results in the non-compliance allows for a better planning outcome for the site. This wider and deeper floor plate, results in this component of the building accommodating two lift cores; high number of naturally cross ventilated apartments; compliant apartment, bedroom and balcony sizes and dimensions; functional apartment layouts which take into consideration acoustic and visual privacy; and compliance with the solar access provisions which is noted as being difficult to achieve due to the site's north-south orientation. This therefore results in a high level of amenity for future occupants.
77. The proposed development is considered to be of appropriate bulk, scale and mass in the context of the surrounding area and the other detailed DA's and envelopes subject to the DA. The proposed components of the breach do not detract from the overall massing of the building and the building is considered to achieve a high standard of architecture and urban design.
78. In light of the above, the proposed development is considered to be in the public interest.

### **Conclusion**

79. For the reasons provided above the requested variation to the height of building development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Height of Building development Standard and the B4 Mixed Use zone.

### **Consistency with Concept DA building envelopes (as amended) and Concept DA conditions**

80. The building as proposed is consistent with the approved building envelope and requirements specified in the Concept DA consent.

81. A Section 4.55(1A) modification (D/2016/1450/E) was lodged on 11 September 2018 seeking consent for minor amendments the building envelope for Building B. This modification application to the Concept DA has been assessed concurrently with the subject detailed design DA for Building B. This modification has been determined under delegation of the CSPC, being approved on 30 November 2018. The approved modifications included the same variation sought to the height of building development standard, as detailed in the previous section of this report.
82. The table below summarises and compares the key conditions required by Concept DA approval for Building B with the proposed development.

Condition Number	Compliance	Comment
Condition 8 - Allocation of floor space	Yes	Building B is proposing 4,970sqm of GFA which is consistent with the condition.
Condition 9 - Building height	Yes	The approved building height is split into two heights; the top of the parapet height and top of building component for each of the three building components.  The proposal is consistent with both the top of the parapet height and top of building component for each part of the building.
Condition 10 - Detailed design of Buildings	Yes	Building B has three building components and contains 2 lift cores in accordance with the requirements. The area of the communal open space is located adjacent to the communal open space of the adjoining property to the west as required.
Condition 11 - Ecologically sustainable development	Yes	The submitted BASIX certificate shows that the development exceeds the minimum compliance targets by 5 points for both water and energy.
Condition 35 - Communal open space	Subject to condition	The size and location of the proposed communal open space area is consistent with the requirements. A detailed landscape plan is requirement to be submitted to Council for approval prior to issue of a Construction Certificate.
Condition 48 - Parking design	Subject to condition	The proposed parking arrangements, subject to conditions, are considered acceptable.

Condition Number	Compliance	Comment
Condition 52 - Service vehicle size limit	Yes	The proposed design of the loading area and waste collection point will allow a Council garbage truck to access the site.
Condition 53 - Car share spaces	Yes	A car share space is proposed.
Condition 54 - Green travel plan	Yes	A Green Travel Plan has been submitted as part of this application and has been assessed as acceptable by Council's Transport Planner.
Condition 56 - Bicycle parking and end of trip facilities	Yes	Bike parking and end of trip facilities have satisfactorily been included as part of this application.
Condition 57 - Vehicle Access in Stage 1 Development Consent	Yes	The proposed access from Reed Street is generally consistent with Section 5.4.3.9 Parking and Access of SDCP 2012 and the requirements of this condition.
Condition 58 - Temporary access arrangements	Subject to condition	A condition is recommended in respect to temporary access arrangements.
Condition 60 - Reflectivity	Yes	A reflectivity report was submitted with this application. In addition, a condition of consent is recommended to address reflectivity.
Condition 61 - Public Art	Subject to condition	An appropriate location has been selected for the required public art. A condition is recommended requiring the submission and approval of detailed public art strategy.
Condition 63 - Signage strategy	Subject to condition	Indicative signage locations have been included on the elevations. A condition is also recommended requiring submissions of a signage strategy.

83. The proposed development and recommended conditions are consistent with the modified Concept DA consent.

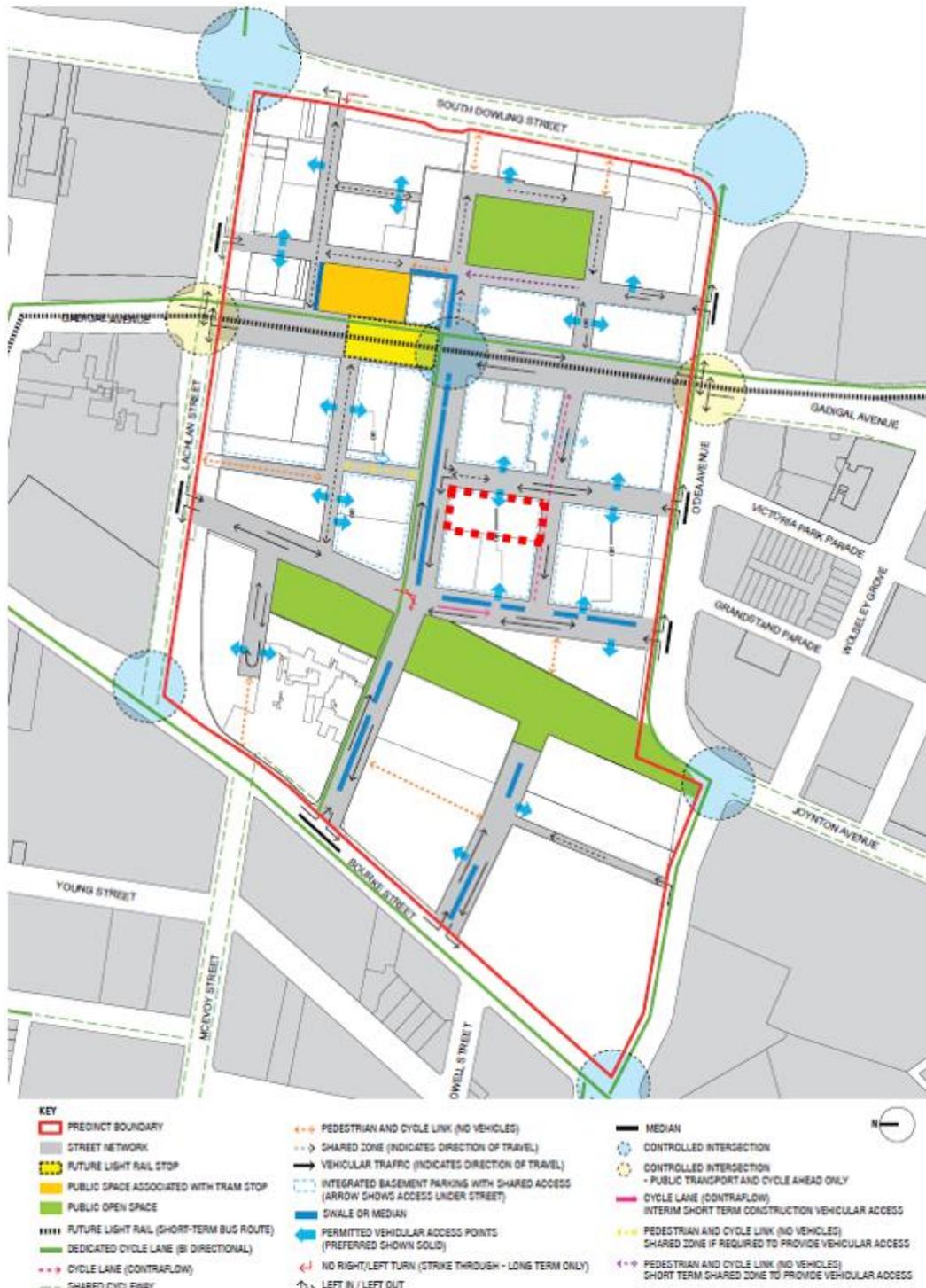
**Awning**

84. An awning is proposed over the public footpath between the ground and first floors above Archibald Avenue and Reed Street.
85. The proposed awning has a height of approximately 4.8m above the footpath along the Archibald Avenue and Reed Street frontage directly in front the retail tenancy. Due to the topography of the site, the height of the awning starts to increase from the point of the vehicular access to the south-east corner of the site where it reaches a maximum height of approximately 5.6m above the footpath level.
86. The proposed awning height does not comply with SDCP 2012 provision requiring an awning height of between 3.2m and 4.2m above the footpath level.
87. It is noted that the SDPC 2012 only requires a continuous awning along the active frontage of Archibald and Reed Street. In these locations the awning reaches a maximum height of 4.8m above footpath level.
88. In this instance the variation to the maximum height of the awning is considered to be acceptable for the following reasons:
  - (a) The awning proposed is a key design feature of the building. The style of the awning including material is repeated on the levels above where it is integrated into the design of the balconies. Reducing the height would impact on the horizontal spacing and rhythm of this design feature.
  - (b) The increased awning height will not adversely impact on adjoining developments.
  - (c) The awning complies the minimum width of 3m required by the DCP and is considered to provide appropriate weather protection.
  - (d) The height of the proposed awning is generally consistent with the recent approval for Building D (D/2018/304) and Building E (D/2018/222) where variations were supported. The approved awning height of Building D varies between 4.2m and 5.4m above the footpath. The approved awning height of Building E varies between 3.8m and 5.4m above the footpath. The awnings approved for Buildings D and E were also considered design features of the buildings. Therefore the proposed awning height is considered to be generally consistent with the awnings for Buildings D and E.
  - (e) The additional height is necessary along the Reed Street frontage in order for service and waste collection vehicles to have sufficient clearance under the awning to enter the site.
  - (f) Conditions are recommended to ensure the awning does not interfere with street trees and light poles.

**Consolidated Basement Access**

89. Section 5.4.3.9 (1) of SDCP 2012 stipulates that vehicle access points are not permitted along Gadigal Avenue or within the Archibald activity strip, and are to be situated instead on lower order streets in accordance with Figure 5.88: Lachlan Precinct - Access and Circulation. Figure 5.88 of SDCP 2012, below, shows two potential basement and vehicular access options for this site, being either:

- (a) a vehicular access point to the site from Reed Street (as is proposed in this application); or
- (b) a consolidated basement with the adjacent development to the west, now known as 5 Sam Sing Street, Waterloo, and the single vehicular entry point being either from Reed Street or Sam Sing Street.



**Figure 28:** SDCP 2012 'Figure 5.88 Lachlan Precinct Access and Circulation' (the subject site is outlined in red)

90. At the time of assessment of the adjacent development to the west (5 Sam Sing Street) under Development Application D/2014/895 in 2015, provisions were made in that consent to facilitate a combined basement with the subject development site.
91. Notwithstanding this, as part of the assessment of the Concept Development Application for the subject site, consideration was given to whether a combined basement with the adjacent site at 5 Sam Sing Street (under separate ownership) was feasible or deliverable. The conclusion of that assessment was that the combined basement between the sites would not be pursued and that vehicular access to the site could be from the Reed Street frontage (as indicated in the SDCP 2012).
92. The proposal includes vehicular access off Reed Street in the location nominated in the SDCP 2012. The SDCP 2012 does envisage that Reed Street is not one of the principal streets within the Lachlan Precinct and includes the car park access locations for Buildings A, D and E. The proposed vehicular access point for Building B is generally in accordance with the provisions of Section 5.4.3.9 of SDCP 2012 and is considered acceptable.

#### Width of Vehicular Access and Access

93. Section 3.11.11 of SDCP 2012 stipulates that the roller door opening should be no more than 4m. Due to the narrow depth of the building and required turning circle for waste collection vehicles to manoeuvre to the loading bay, a driveway opening of 9.5m is proposed. This issue was raised during the preliminary assessment due to the cumulative impact of other components of the Reed Street frontage resulting in lack of activation.
94. While the driveway width was not reduced in the amended application, the extent of the blank facade components such as the fire hydrant were reduced in length. In addition, 'hit and miss' brickwork is now provided to the wall western courtyard wall which separates the communal open space from the ground floor loading area. The rationale is to potentially allow views of the landscaped open space as suggested by DAP. The proposed garage door was amended to provide 80% permeability and is dark grey to blend in with the proposed colours of the ground floor Reed Street facade. In the circumstances of the case, this proposed non-compliance is considered to have merit and is supported in this case.

#### Staging of Consent

95. The proposed development seeks to add the following staging to the notice of determination:

Stage	Works
1	Retention wall
2	Bulk earthworks / detailed earthworks
3	Civil works
4	All below ground works

Stage	Works
5	Ground floor up to level 4
6	Level 5 and 6

96. No further detail was provided in relation to the proposed works covered in each stage. This is particularly relevant for proposed stage 1 to 4. Given that there is scope to modify the consent to stage the construction certificate and in particular, identify which conditions need to be satisfied for each construction certificate, the staging is not recommended for approval under this detailed DA.

#### **Other Impacts of the Development**

97. The proposed development is capable of complying with the BCA.
98. 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**

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

#### **Internal Referrals**

100. The conditions of other sections of Council have been included in the proposed conditions.
101. The application was discussed with the Council's Urban Design Specialists; Building Services Unit; Environmental Health; Public Domain; Transport and Access; Social Planning; and Waste Management; who advised that the proposal is generally acceptable subject to the recommended conditions.

#### **External Referrals**

102. The application was referred to Water NSW, Sydney Water, Ausgrid, Roads and Maritime Services and Transport for NSW. Generally no issues have been raised as a result of these external referrals subject to recommended conditions which have been incorporated in the recommended conditions of consent.
103. GTA's have been issued by Water NSW and are included in the recommended conditions of consent.

#### **Notification, Advertising and Delegation**

104. The application constitutes integrated development and as such the application was notified and advertised for 30 days between 25 June 2018 and 26 July 2018 in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this notification no submissions were received.

## Public Interest

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

## S7.11 Contribution

106. The development is subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015. The contribution is calculated based in the proposed number of residential apartments plus the GFA of the retail premises.
107. The Voluntary Planning Agreement for the site includes an offset against the Section 7.11 contributions payable to a value of \$3,171,290.50. As there are five separate detailed design development applications for this site, the contributions payable will be offset to the nominated amount in accordance with the terms of the planning agreement. This will be resolved at the time of payment.
108. A credit has been given against the existing warehouse uses on the site which are categorised as general industrial uses as per the contributions plan. The contributions credit for Building B has been calculated as a percentage of the existing GFA for all existing buildings across the entire Concept DA site and has been apportioned based on the site area for Building B. This is consistent with the application of credits for the detailed DA's for Buildings D and E.
109. The following monetary contribution is required towards the cost of public amenities:
- |                           |              |
|---------------------------|--------------|
| (a) Open Space            | \$608,573.45 |
| (b) Community Facilities  | \$123,090.93 |
| (c) Traffic and Transport | \$109,516.78 |
| (d) Stormwater Drainage   | \$43,318.74  |
| Total                     | \$884,499.89 |
110. A request has been made to stage the timing of the payment of Section 7.11 contributions and the affordable housing contributions. Given that this development is for one building which is part 4 and part 6 storeys, it is not considered appropriate to stage the payment of these contributions.

## Relevant Legislation

111. Environmental Planning and Assessment Act 1979 and Water Management Act 2000

## Conclusion

112. The DA seeks consent for construction of a part four storey and part six storey mixed use development comprising a ground floor retail tenancy, 54 residential apartments and two levels of basement car parking and associated services. 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.
113. The site is subject to three separate height of building provisions under Sydney Local Environmental Plan 2012. The proposal breaches two of the height of building development standards by 7.4m (18.3%) and 6.57m (15.9%). However the areas of the building subject to the breach relate to minor lateral extensions of the taller six storey part of the building in to the two lower height zones.
114. A written request has been submitted under Clause 4.6 of SLEP 2012. The written request has adequately demonstrated that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the standard. The proposal is consistent with the objectives of the land use zone and height of building development standard. The proposed variation to the development standard has merit and is supported in this instance.
115. Subject to the imposition of conditions of consent, the proposed development is generally compliant with the relevant planning controls contained in SEPP 65, the ADG, SLEP 2012 and SDCP, particularly the Lachlan Precinct controls. A high level of amenity will be provided for future occupants and the proposal will provide a positive contribution to the public domain through active retail ground floor uses.
116. The proposed design and external materials and finishes are generally of a high standard and consistent with the character of the precinct and the recently approved detailed DA's for Building D and E. The proposal satisfies the design excellence criteria contained in Clause 6.21 of SLEP 2012.
117. The proposal is consistent with the Concept DA building envelope and conditions of the Concept consent.
118. The development is recommended for approval, subject to the recommended conditions in Attachment A.

## **GRAHAM JAHN, AM**

Director City Planning, Development and Transport

Tahlia Alexander, Planner