

**Item 4.****Development Application: 44-48 O'Dea Avenue Waterloo (Building C)**

File No.: D/2018/802

**Summary**

<b>Date of Submission:</b>	16 July 2018  Amended plans received on 5 November 2018, 5 March 2019 and 23 March 2019
<b>Applicant:</b>	Crown Group Pty Ltd
<b>Architect:</b>	Kengo Kuma and Associates  Koichi Takada Architects
<b>Developer:</b>	Crown Group Pty Ltd
<b>Owner:</b>	Crown Group Pty Ltd
<b>Cost of Works:</b>	\$102,534,104
<b>Zoning:</b>	B4 - Mixed Use. The development is permissible with consent and consistent with the zone objectives.
<b>Proposal Summary:</b>	<p>The application proposes the construction of a 20-storey mixed use building with ground floor retail, 152 apartments, and four levels of basement car parking. This is a detailed design application in association with concept approval D/2016/1450, which granted concept approval for the construction of five mixed use buildings, public domain works and land dedication by way of a Voluntary Planning Agreement. The subject application relates to Building C, which fronts O'Dea Avenue and the future Reed Street and Hatbox Place.</p> <p>The development requires dewatering and therefore seeks Integrated Development approval under the Water Management Act 2000. General terms of approval have been issued by Water NSW and form part of the recommended conditions of consent.</p>

**Proposal Summary:**  
**(continued)**

Section 4.55(2) application D/2016/1450/F is submitted to the Central Sydney Planning Committee (CSPC) for concurrent assessment and determination to amend the concept approval as it relates to building C. The application relates to the approved building heights in metres and storeys and the extent of basement excavation for building C.

The development has been the subject a competitive design process, with the winning scheme a collaboration between Kengo Kuma and Associates and Koichi Takada Architects. The proposal is consistent with the winning scheme and has adequately addressed the recommendations of the competitive design selection panel.

The application proposes exceeding the maximum height of buildings development standards for the site. Three building heights apply to the site - RL 40.15 (four storeys), RL 46.35 (six storeys) and RL 91.00 (20 storeys). Furthermore, condition 9 of the existing concept approval sets maximum parapet and building heights within the three maximum height of buildings development standards.

The maximum extent of the variation to the RL 40.15 is 6.15 metres (15.3%) and to the RL 46.35 is 42.4 metres (91.5%). The variations reflect the increased length of the tower to the north and the stepped transition of the podium down to Hatbox Place. The tower will not exceed the maximum RL 91.00.

A written request to vary the development standards in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 has been submitted (see attachment D) and demonstrates that in the context of the development and extent of variations, compliance with the standard is unnecessary and there are sufficient environmental planning grounds to justify the variation. The variations are consistent with the objectives of the height of buildings development standard and the B4 - Mixed Uses zone and are therefore in the public interest. The variations are supported.

The development complies with the maximum floor space ratio permitted and provides the required building setbacks for the site.

**Proposal Summary:****(continued)**

A design verification statement prepared by Koichi Takada Architects accompanies the application and demonstrates that the development complies with the design quality principles of the State Environmental Planning Policy No. 65 and the objectives of Parts 3 and 4 of the Apartment Design Guide.

As amended, the development achieves a high standard of architectural design, materials and detailing, with particular attention to the provision of green walls and landscaped terraces that will contribute positively to the public domain. The development achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore achieves design excellence.

The application was notified and advertised for 30 days between 24 July 2018 and 24 August 2018 in accordance with the provisions of the Environmental Planning and Assessment Regulation 2000. Three submissions were received raising concerns regarding:

- Overshadowing
- Insufficient car parking
- Traffic generation
- Oversupply of housing
- Insufficient public transport
- Non-compliance with the height standard

These concerns are addressed within the report.

The development is acceptable and recommended for deferred commencement approval to satisfy design modification requirements and the provision of a public art plan prior to the activation of the consent.

**Summary Recommendation:**

The development application is recommended for deferred commencement approval.

- Development Controls:**
- (i) Water Management Act 2000
  - (ii) Sydney Water Act 1994 No. 88
  - (iii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
  - (iv) State Environmental Planning Policy No. 55 - Remediation of land
  - (v) State Environmental Planning Policy No. 64 - Advertising and Signage
  - (vi) State Environmental Planning Policy No. 70 - Affordable Housing (Revised Schemes)
  - (vii) State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
  - (viii) Apartment Design Guide 2015
  - (ix) Sydney Local Environmental Plan 2012
  - (x) Sydney Development Control Plan 2012
  - (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. Solar Access Diagrams
  - D. Revised Clause 4.6 Statement
  - E. Competitive Design Process Selection Panel Recommendations
  - F. Submissions (Confidential)

## Recommendation

It is resolved that:

- (A) the written request seeking a variation to Clause 4.3 'height of buildings' 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) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2018/802, 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 departure from the height of building standards in cl 4.3 of the Sydney Local Environmental Plan 2012 is supported by a statement in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012. The statement demonstrates that compliance with the standard is unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify the extent of the variation proposed. The development is consistent with the objectives of Clause 4.3 - height of buildings development standard and the B4 - Mixed Use zone.
- (B) The development is consistent with the winning scheme of a competitive design process and achieves a high standard of architectural design, materials and detailing, with particular attention to the provision of green walls and landscaped terraces that will contribute positively to the public domain. The development achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore achieves design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (C) Subject to deferred commencement and design modification conditions, the development will provide a good standard of amenity and contribution to the public domain with regard to the design quality principles of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and the Apartment Design Guide.
- (D) Subject to conditions, the development is in the public interest.

## 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 development applications for Building D (D/2018/304) and Building E (D/2018/222) were approved at the Local Planning Panel meeting on 24 October 2018. The detailed design for Building B (D/2018/614) was approved by the Local Planning Panel meeting on 5 December 2018.
5. The approved building envelopes and Concept plan is provided at Figures 1 and 2.

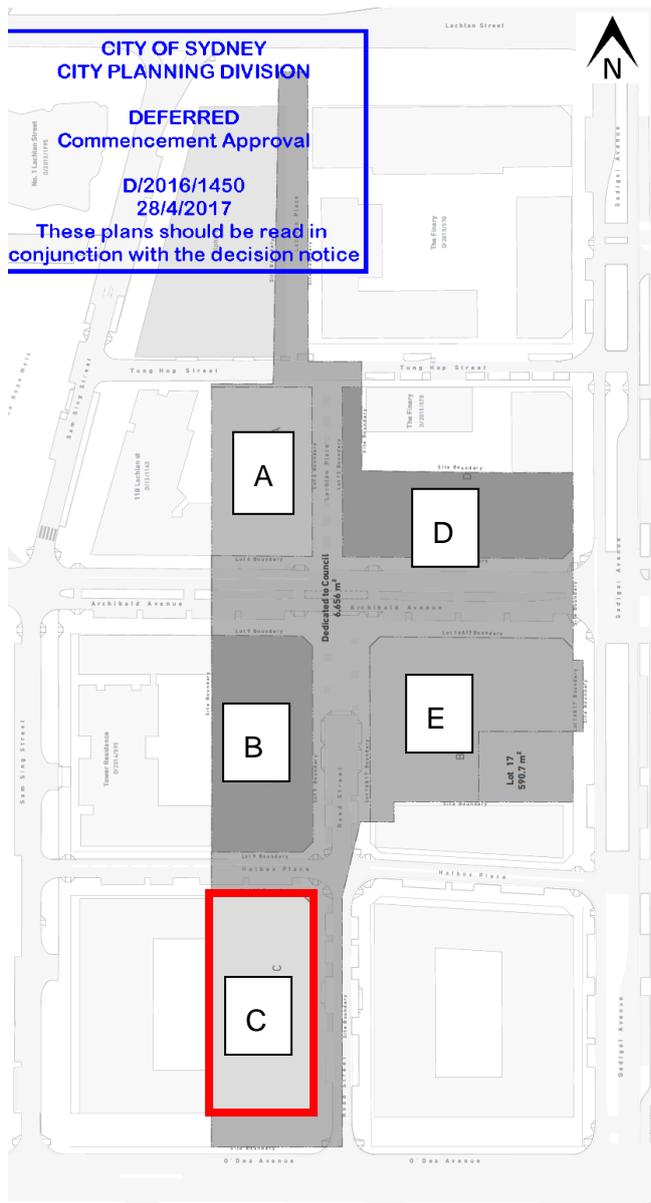


Figure 1: Concept DA approved plans showing proposed new lots and roads. The subject application regards building C, outlined in red

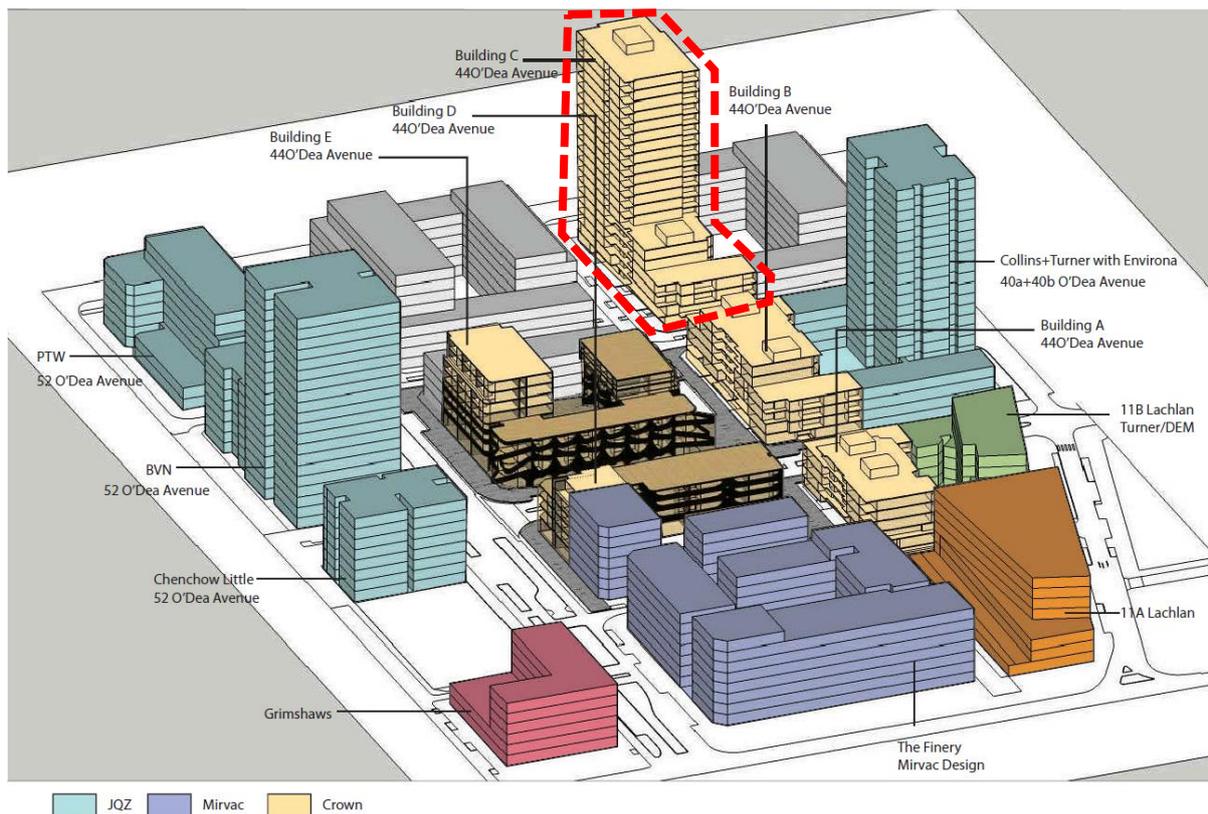


Figure 2: Wider concept plan showing Building C envelope, the four other building envelopes at 44-48 O'Dea Avenue and other key developments within the Lachlan Precinct.

### The Site and Surrounding Development

6. The site is located in the eastern part of Waterloo, an established suburb comprising a mix of commercial, industrial and residential uses. The site is also located within the urban renewal precinct referred to in the Sydney DCP 2012 as the 'Lachlan Precinct.'
7. 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, is irregular in shape and has a total area of approximately 16,929sqm. The site has a north-south orientation from Lachlan Street to O'Dea Avenue, with street frontages to Gadigal Avenue to the east and Archibald Avenue to the west.
8. In the wider Sydney context, the site is located in the northeast section of the Green Square Urban Renewal Area. The site is approximately 300 metres 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.
9. Figure 3 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: 44-48 O'Dea Avenue highlighted in blue, with the location of building C fronting O'Dea Avenue in red

10. Building C will have a site area of 1,961sqm and three street frontages to O'Dea Avenue, Reed Street and Hatbox Place. Demolition works have cleared the two storey warehouse that formerly occupied the site. As shown in the figures below, the surrounding area is characterised by a mix of low scale, large floorplate commercial warehouses and residential apartment buildings.



Figure 4: The application site fronting O'Dea Avenue



Figure 5: A view of the site from the future Reed Street, looking south towards O'Dea Avenue



Figure 6: The Nurses' and Midwives' Association building to the east of the site at 50 O'Dea Avenue



Figure 7: A two storey storage warehouse located to the west of the site at 40-42 O'Dea Avenue



Figure 8: Residential apartment development located opposite the site on O'Dea Avenue and Victoria Parade Road



Figure 9: Residential apartment development located opposite the site on O'Dea Avenue



Figure 10: A view of the Collins + Turner building at 40a-40b O'Dea Avenue northwest of the site

**Proposal**

11. The application seeks approval for construction of a 20-storey mixed use building with four levels of basement car parking, ground level retail and 152 apartments.

**(a) Basement Levels 1-4**

- (i) Parking for 120 cars
- (ii) 12 motorcycles
- (iii) 152 resident bike parking spaces
- (iv) Storage for residential apartments
- (v) Fire services and sprinkler pump room

**(b) Ground Floor**

- (i) One retail tenancy with amenities
- (ii) Two x three bedroom apartments
- (iii) Two x residential lobbies and manager's office
- (iv) Communal open space
- (v) Vehicular entry and loading area
- (vi) One employee bike parking space and end-of-trip facilities
- (vii) Visitor bike parking
- (viii) Separate residential and commercial waste storage
- (ix) Public art
- (x) Services and substation

**(c) Levels 1 - 18**

- (i) 150 residential apartments (11 x studio, 42 x 1 bed, 84 x 2 bed and 14 x 3 bed)
- (ii) Two x communal open spaces on Levels 4 and 8

**(d) Level 20**

- (i) Roof top swimming pool
- (ii) Gym and Spa
- (iii) Lounge area
- (iv) Plant room

12. A schedule of materials and samples accompanies the application.
13. The application has been amended during the course of assessment, resulting in the loss of one apartment, three car spaces and modifications to the form of the landscaping to the tower.
14. A selection of the proposed plans and photomontages are provided below.

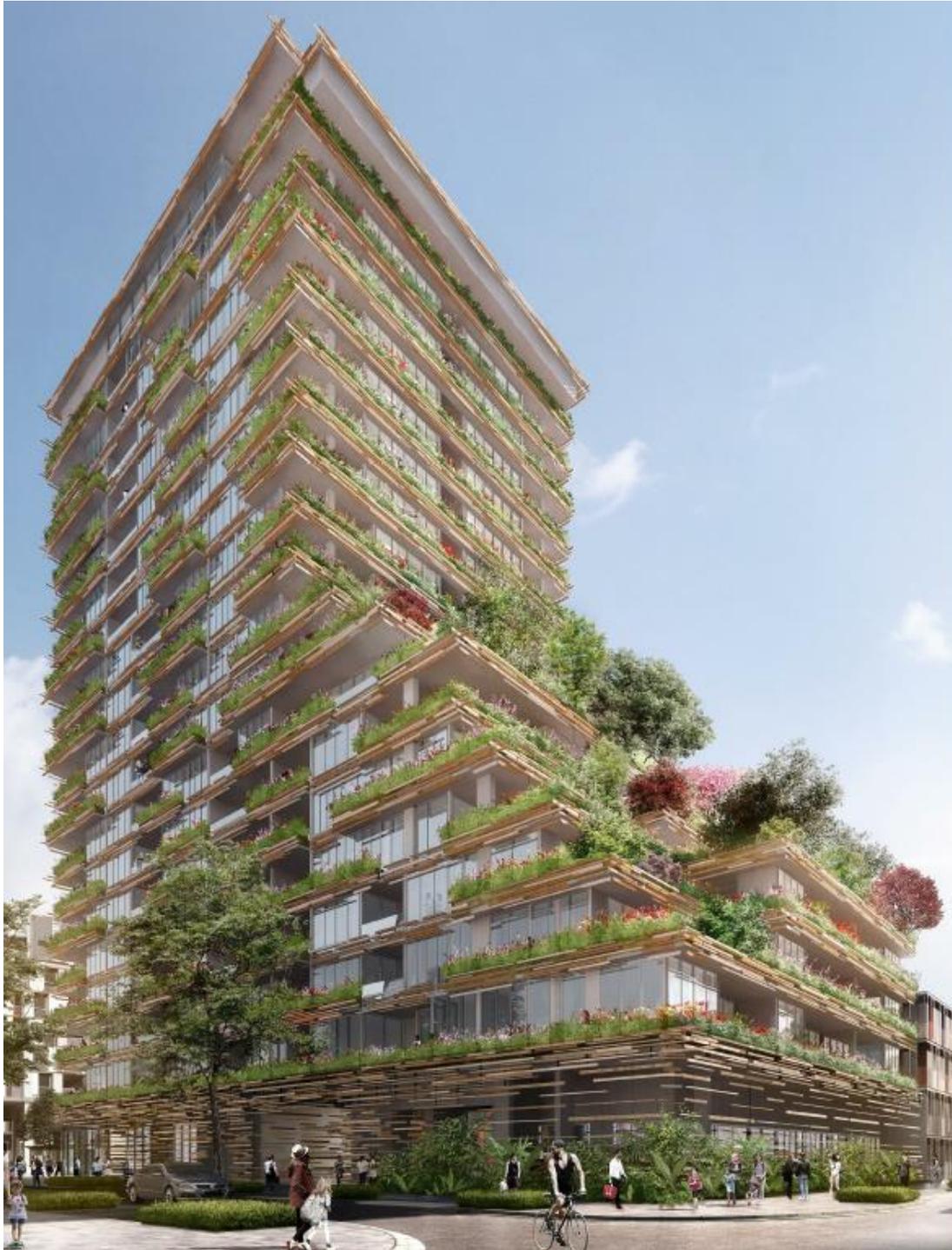


Figure 11: A photomontage of the north and east elevations, from the future intersection of Reed Street and Hatbox Place



Figure 12: A photomontage of the south and east elevations from O'Dea Avenue



Figure 13: A photomontage of the south and west elevations from O'Dea Avenue

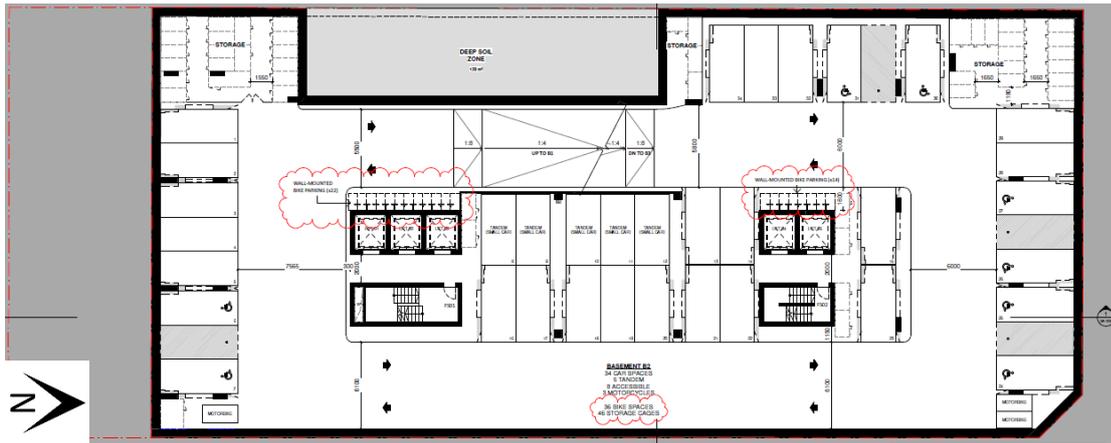


Figure 14: Typical basement plan

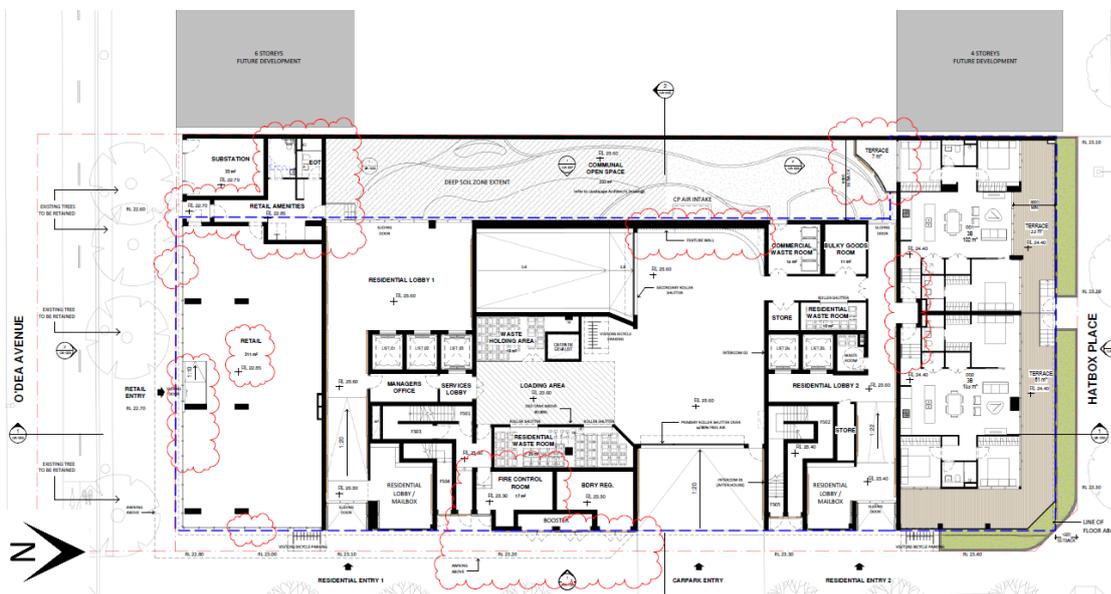


Figure 15: Ground floor plan

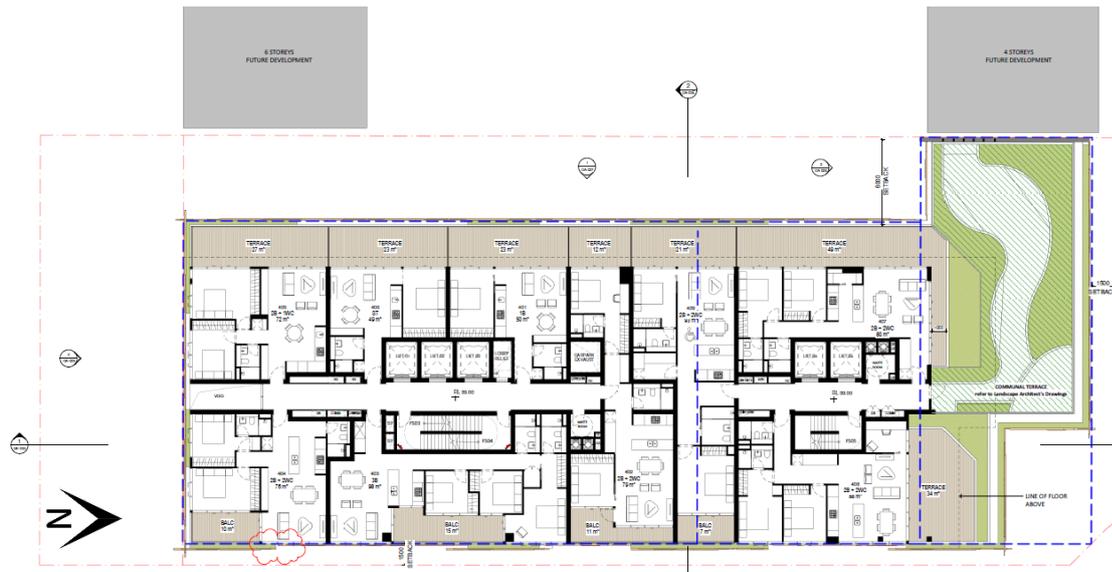


Figure 16: Level 4 plan



Figure 17: Level 8 plan

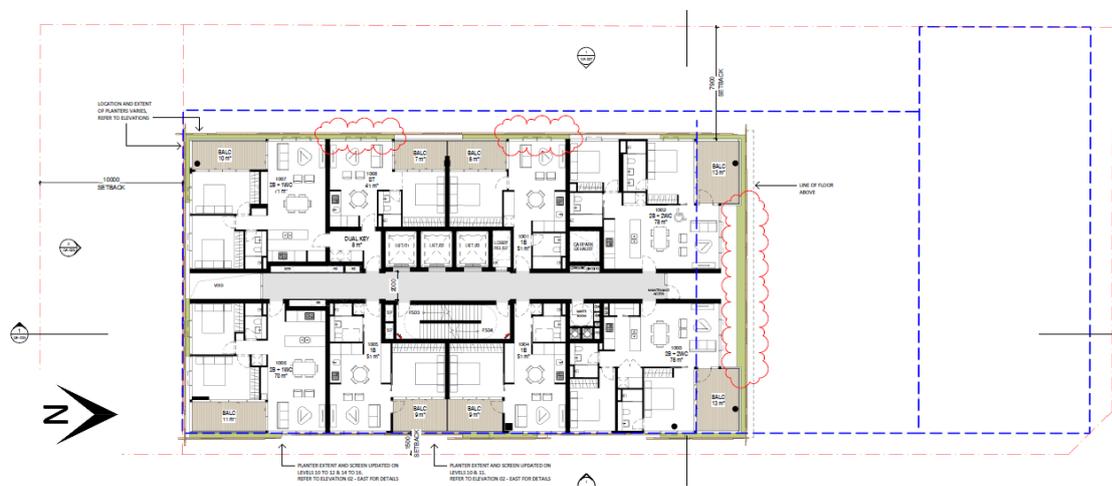


Figure 18: Levels 10-17 plan



Figure 19: Level 18 plan

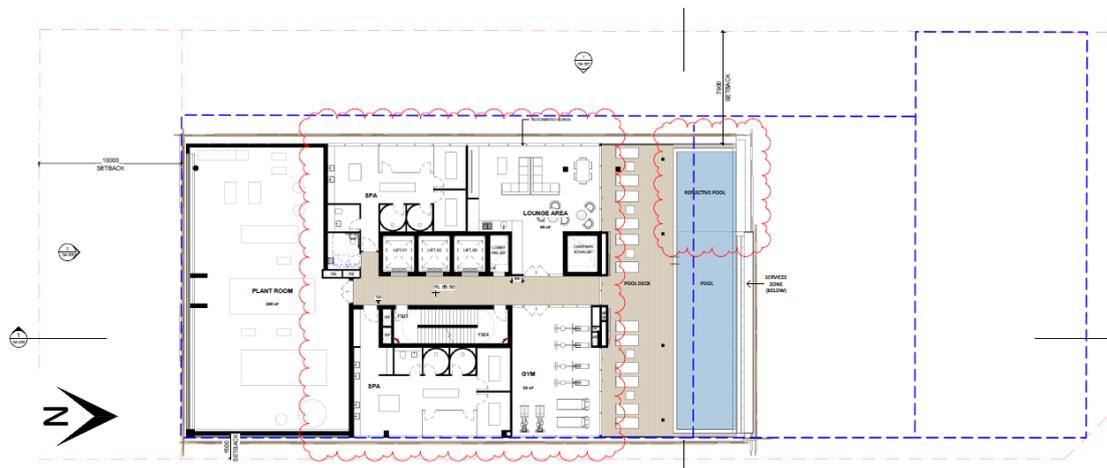


Figure 20: Level 19 plan

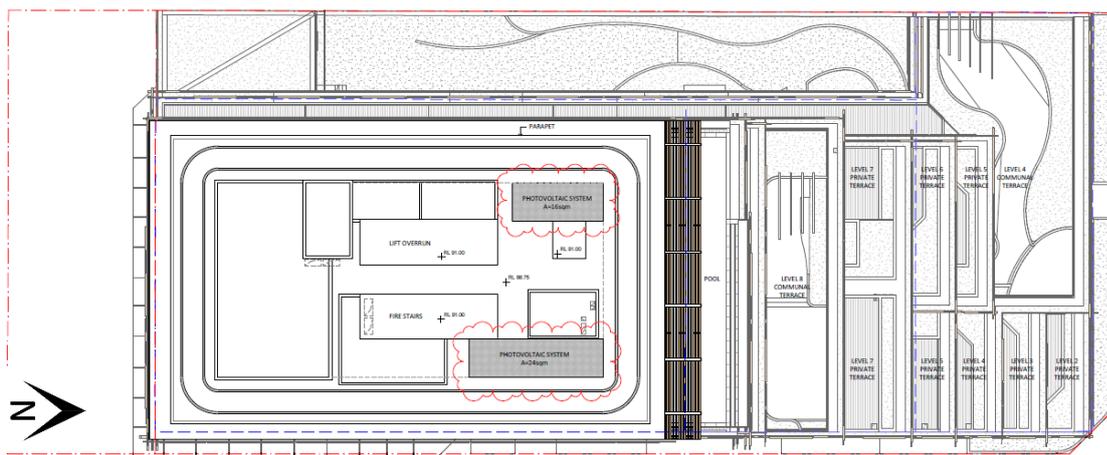


Figure 21: Roof plan



Figure 22: East elevation (Reed Street)



Figure 23: West elevation

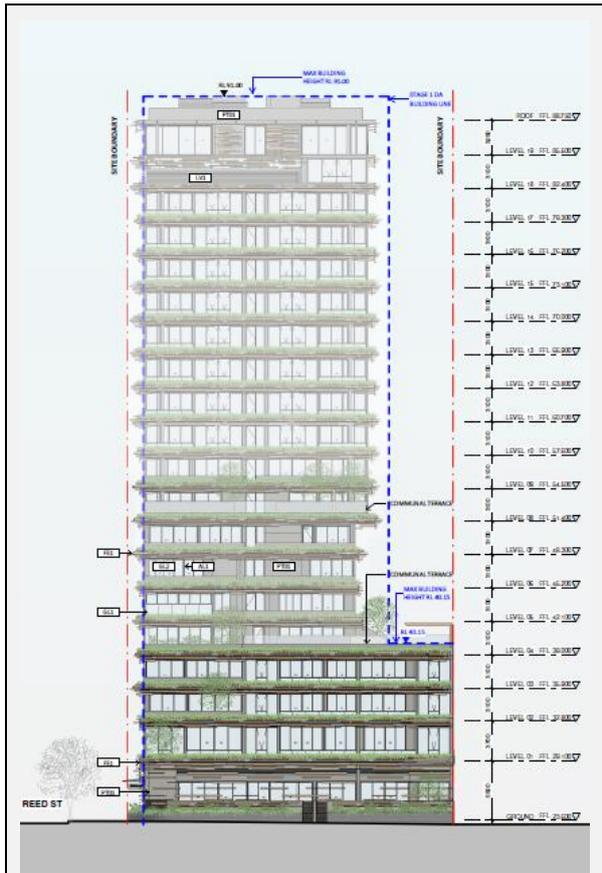


Figure 24: North elevation (Hatbox Place)



Figure 25: South elevation (O'Dea Avenue)



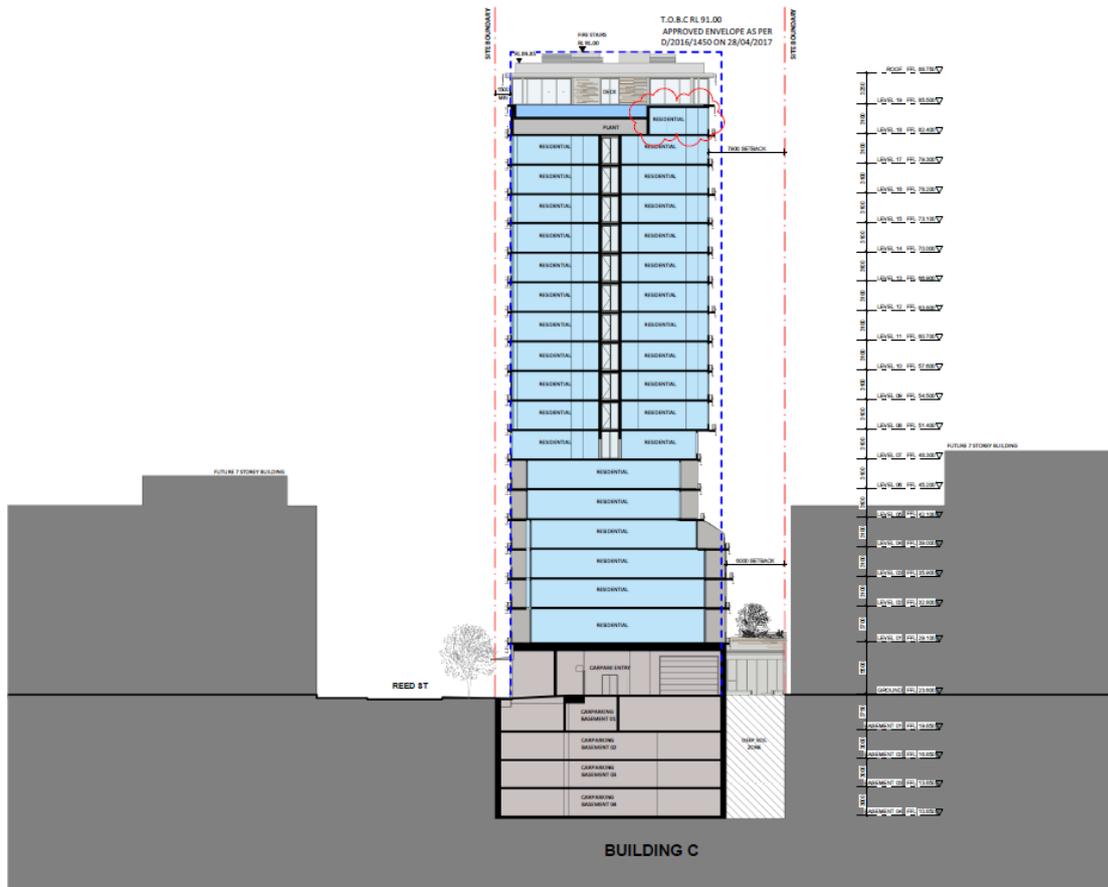


Figure 27: East-west section

## History Relevant to the Development Application

### *D/2016/1450 - concept approval for 44-48 O'Dea Avenue*

15. On 28 April 2017, deferred commencement consent D/2016/1450 was granted for subdivision and preparatory works (including demolition of existing structures, land remediation, excavation, and road, public domain and civil works) and concept approval of building envelopes for five mixed use buildings of up to 20 storeys for residential, retail and commercial land uses. Refer to figure 1 for the location of the buildings. The deferred commencement condition, regarding the execution of a Voluntary Planning Agreement for public domain works, has been satisfied and the consent is therefore active.
16. The consent has subsequently been modified (Modification D) regarding basements, floor levels, building depth and parapet heights to other buildings within the site.
17. Modification F is concurrently submitted to the CSPC for consideration. Modification F seeks to amend the approved building C envelope by varying the maximum heights and depths of the podium and tower, adding an additional basement level and increasing the height from 19 to 20 storeys. The application is recommended for approval.
18. Modifications G and H regard building A and a condition regarding dewatering of the site. The applications are under assessment have no effect on the proposal.

*Building C - competitive design process*

19. The applicant has undertaken a competitive design process prior to submitting the subject application in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012, the Sydney Development Control Plan 2012 and the City's Competitive Design Policy 2013. The competition was held in accordance with the Design Excellence Strategy approved under D/2016/1450. Of the four firms participating in the competition, the joint scheme presented by Kengo Kuma and Associates (KAAA) and Koichi Takada Architects (KTA) was announced as the winner.
20. A copy of the competitive design alternatives report, including the selection panel recommendations, is provided at attachment E. A selection of the winning scheme's images presented during the competitive design process is provided below:



Figure 28: A photomontage of the north and east elevations, from the future intersection of Reed Street and Hatbox Place



Figure 29: A photomontage of the ground level and public domain interface on Reed Street

### *Building A*

21. Development consent D/2018/789 for building A is currently under assessment and proposes construction of a five storey mixed use development with retail tenancies at ground level, 40 residential units and 2 levels of basement parking and services.



Figure 30: A photomontage of building A (currently under assessment) from above the intersection of Archibald Avenue and Reed Street

### *Building B*

22. On 5 December 2018, development consent D/2018/614 was granted for construction of a six storey mixed use building with ground floor commercial premises, 56 residential units and two levels of basement parking and services.



Figure 31: A photomontage of approved building B viewed from Archibald Avenue and Reed Street

*Building D*

23. On 24 October 2018, development consent D/2018/304 was granted for construction of a seven storey mixed use development with commercial tenancies at ground level, residential units at ground and upper levels, two levels of basement parking and services. Construction of driveway entry and two levels of basement for Building A and tunnel connections between the two basements.



Figure 32: A photomontage of approved building D on Archibald Avenue

*Building E*

24. On 24 October 2018, development consent D/2018/222 was granted for construction of a 6-8 storey mixed use development with 11 commercial tenancies at ground level, upper level residential comprising of 95 units and two levels of basement parking and services.



Figure 33: A photomontage of building E

25. Council is continuing to work with the applicant on the road construction, alignment levels, drainage, lighting and landscaping approved under D/2016/1450.

**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.

**Sydney Airport Referral Act 1996**

27. Section 182 of the Commonwealth Airports Act 1996 specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.
28. Schedules 2 and 5 of the Civil Aviation (Building Control) Regulations 1988 identify the subject site is subject to a prohibition of the construction of buildings more than 150 feet in height (45.62m) above existing ground height.
29. Section 183 of the Commonwealth Airports Act 1996 specifies that controlled activities may not be carried out in relation to prescribed airspace unless an approval has been granted. The relevant approval body is the Civil Aviation Safety Authority (CASA).
30. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA, has advised that as the development complies with the approved maximum height of RL 91.00 no further assessment is required and the development is acceptable.

**Water Management Act 2000**

31. 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 extract groundwater is therefore required under Section 91 of the Water Management Act 2000.
32. The applicant has applied for Integrated Development consent. As such, the application was referred to Water NSW for approval.
33. On 12 September 2018, Water NSW issued General Terms of Approval which are included as conditions of consent at Schedule 4 of Attachment A.

**Sydney Water Act 1994 No. 88**

34. 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.
35. 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 days.
36. 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**

37. 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.
38. 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. 64 - Advertising and Signage**

39. SEPP 64 was gazetted on 16 March 2001 and aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.
40. Clause 8 of SEPP 64 states the following:

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and

that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.
41. The application proposes three projecting wall signs to the ground floor retail tenancy. Two signs will be located under the awning fronting O'Dea Avenue and one under the awning fronting Reed Street. The signs are proposed to be 1.5 metres wide x 0.5 metres high and approximately 3.5 metres above the footway. No details are provided regarding materials, colours and illumination and no signage is proposed for the residential lobbies. The signs are shown on the architectural plans and do not constitute a signage strategy.
42. Condition 63 - Signage Strategy of the Concept DA consent requires that a detailed signage strategy is to be submitted with each detailed design application. The signage strategy is to include information and scale drawings of the location, type, construction, materials and total number of signs proposed for the development.
43. The applicant was requested to provide a signage strategy during the assessment of the application. The applicant has requested that a signage strategy be deferred by way of a condition of consent and be the subject of a separate approval process.
44. The application is therefore inconsistent with the current requirements of Condition 63 of the Concept Approval consent and insufficient information has been provided to assess the proposed signage in accordance with the assessment criteria of the SEPP.
45. As detailed in the concurrent assessment report for D/2016/1450/F, it has been recommended that the requirement to defer the timing to provide a signage strategy for this building be supported, and that the requirement for a signage strategy shall be subject to a separate approval. Condition 63 of the Concept Approval consent has been recommended to be amended to that effect as part of the concurrent modification to the D/2016/1450/F.

46. The following conditions have been recommended for this application in relation to signage:
- (a) That a signage strategy for all business identification signage, building identification signage and way-finding signage for Building C shall be the subject of signage strategy to be submitted and approved prior to the issue of a Construction Certificate for Stage 5; and
  - (b) That no consent is given to the three under awning signs illustrated on the architectural plans, and that any future signage is subject to a separate development application or the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and be consistent with the signage strategy for the building.

### **State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development**

47. SEPP 65 provides that in determining an application for a residential apartment development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including nine design quality principles at schedule 1.
48. An amended design verification statement prepared by Koichi Takada (NSW registration 6901) has been submitted during the assessment of the application that addresses the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement therefore satisfies the requirements of Clause 50(1A) of the Regulation 2000.
49. The nine design quality principles under Schedule 1 and the relevant objectives of the Apartment Design Guide are discussed below.
- (a) **Principle 1: Context and Neighbourhood Character**

The building, by way of its form and scale, is consistent with the desired future character of the Lachlan Precinct, located within the greater Green Square Urban Renewal Area. The planning controls envisage a mixed use tower in this location of which the building generally conforms (notwithstanding modifications to the height of buildings standards discussed further within the report) and is consistent with the emerging character of the surrounding area - see figure 2 above.

The building has been the subject of a competitive design process, and with its distinctive green walls and landscaped terraces, will become a landmark building for the area. The retail premises and active frontage to O'Dea Avenue is consistent with the controls.

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

The building is consistent with the tower form envisaged for the site with a 20-storey form fronting O'Dea Avenue tapering down to the lower scale character opposite on Reed Street and Hatbox Place.

While the floorplate of the tower is greater than the 750sqm floorplates recommended under Section 5.4.3.3 of the Sydney DCP 2012 and the proposal seeks some variation to the LEP and Concept DA maximum heights for part of the envelope, the overall scale of the building is not considered to detract from the public domain and relates to the scale and form of the various towers in the Lachlan Precinct. Further discussion on the variations of the envelope and the building height development standard are discussed in the issues section of this report and the concurrent assessment report for the modification to the Concept Approval.

(c) **Principle 3: Density**

The development demonstrates compliance with the maximum floor space ratio standard for the site and provides a suitable number and variety of apartment types with regard to their amenity.

(d) **Principle 4: Sustainability**

In accordance with condition 11 - Ecologically Sustainable Development of the concept approval, the development is required to achieve BASIX energy and water scores a minimum 5 points above the minimum. The BASIX certificates satisfy the conditions.

The development provides roof top solar panels as recommended by the competitive design process selection panel that will contribute to communal lighting within the development.

(e) **Principle 5: Landscape**

The tower and podiums are characterised by dense green walls and landscape terraces creating the effect of a "stacked forest". A variety of species have been selected to contribute to local biodiversity and visual interest. Amended plans have been submitted during the assessment of the application demonstrating that sufficient soil profiles, irrigation and access for maintenance are provided. Due to the importance of the success of the landscape component of this design to the overall integrity of the scheme, detailed landscape conditions have been recommended for imposition.

The addition of a planter at ground level fronting Hatbox Place will contribute to the public domain and the privacy of residents.

(f) **Principle 6: Amenity**

The development is considered to provide a good standard of amenity for residents. In particular:

- (i) The development provides more than the minimum required communal facilities including a BBQ, pool, gym, entertaining spaces, places for respite and interaction. The common open spaces on levels four, eight and the roof (a total of 682sqm) receive more than the minimum recommended solar access.
- (ii) As a result of the orientation of the Lachlan Precinct, the siting of the Concept Approval envelope and the predominance of the east-west axis of the building floor plate, a total of 72% of apartments within the development will receive at least 1 hour and 45 minutes solar access to living rooms and balconies on 21 June. Two of 152 apartments (1.3%) receive no solar access during midwinter, well below the maximum 15% permitted. Refer to further discussion in the issues section of this report. .
- (iii) 62.3% of apartments located on the first nine storeys will be naturally cross ventilated, exceeding the minimum 60% recommended (in total, 56% of all apartments will be cross ventilated). In accordance with the design criteria of Objective 4B (Natural Ventilation) of the ADG, apartments at ten storeys or greater are deemed to be cross ventilated.
- (iv) The development complies with minimum apartment sizes and provides a comfortable layout for residents.

The relevant objectives of the Apartment Design Guide are addressed below.

(g) **Principle 7: Safety**

The development provides passive surveillance of the surrounding street network and internal communal open spaces. The residential lobbies are designed to avoid areas of concealment and conditions of consent are recommended requiring the installation of CCTV cameras and alcove lighting.

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

The development provides a variety of apartment types in accordance with Section 4.2.3.12 of the Sydney DCP and exceeds the minimum 20% target of apartments with design features meeting the Liveable Housing Guideline's silver level. A condition of consent is recommended requiring the apartments to be certified as compliant with the guideline.

The four levels of communal open space provide a variety of spaces for residents to interact. The ground level apartments are raised above the adjoining footpath for privacy but will maintain exposure for interaction with the public.

(i) **Principle 9: Aesthetics**

The "stacked forest" concept by Kengo Kuma and Associates and Koichi Takada Architects was the winning entrant of the competitive design process and will create a verdant iconic building for the precinct.

50. 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>3B Orientation</b>	<b>Compliance</b>	<b>Comment</b>
Overshadowing of neighbouring properties is minimised during mid-winter	Yes	The development will not adversely overshadow neighbouring residential properties.  See further discussion provided with application D/2016/1450/F submitted to the CSPC for consideration.

<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	Four areas of communal open space are provided - at ground level adjoining the western boundary, at levels 4 and 8 on the northern elevations and on the roof (pool area). The combined area of the communal open spaces is approximately 682sqm or 35% of the site area.  The communal open spaces at levels 4, 8 and on the roof will receive more than two hours solar access at midwinter.  The communal open spaces are split between the two lift cores. A condition of consent is recommended requiring all common open spaces to be available to every resident.
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).		

<b>3E Deep Soil Zones</b>	<b>Compliance</b>	<b>Comment</b>
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of six metres.	Yes	138sqm of deep soil is proposed within the communal open space at ground level, equal to 7% of the site area. The area has a minimum dimension of six metres.

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

<b>3F Visual Privacy</b>	<b>Compliance</b>	<b>Comment</b>
Up to four storeys (12 metres): <ul style="list-style-type: none"> <li>• 6m between habitable rooms / balconies</li> <li>• 3m between non-habitable rooms</li> </ul>	Partial compliance	The tower and upper podium are setback 6 metres from the western boundary up to level 4, and 9 metres at levels 5 - 6.  Further discussion is provided under the Issues heading.
Five to eight storeys (25 metres): <ul style="list-style-type: none"> <li>• 9m between habitable rooms / balconies</li> <li>• 4.5m between non-habitable rooms</li> </ul>		
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	The apartments are designed such that bathrooms and kitchens adjoin corridors, communal stairs and lifts.

<b>3G Pedestrian access and entries</b>	<b>Compliance</b>	<b>Comment</b>
Building entries and pedestrian access connects to and addresses the public domain	Yes	The residential lobbies are located on Reed Street and will be easily identifiable. Public art and visitor bike parking are proposed beside the entrances to draw attention to their location.
Access, entries and pathways are accessible and easy to identify		

3H Vehicle access	Compliance	Comment
<p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</p>	<p>Yes</p>	<p>The car park, loading dock, temporary and future driveway designs provide adequate separation from the residential lobbies and clear sightlines to protect pedestrian safety. Garbage collection will be undertaken within the site.</p> <p>A feature wall has been proposed at the rear of the driveway as requested by the Design Advisory Panel, however no details accompany the application. A condition of consent is recommended requiring further details to be provided prior to the issue of any Construction Certificate.</p> <p>The designs have been reviewed by Council's Traffic Operations, Public Domain and Transport Planning officers who raised no objections.</p>

3J Bicycle and car parking	Compliance	Comment
<p>Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas</p>	<p>Yes</p>	<p>Clauses 7.5 and 7.7 of Sydney LEP provide maximum parking provisions to encourage public and active transport. The development complies with the maximum provisions.</p>
<p>Parking and facilities are provided for other modes of transport</p>	<p>Yes</p>	<p>Motorbike, car share and bicycle spaces and end of trip facilities are provided in accordance with Section 3.11 of the Sydney DCP 2012.</p>

<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.	No	Refer to further discussion in the Issues section of this report.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	Two apartments or 1.3% receive no direct solar access during midwinter.
Design incorporates shading and glare control, particularly for warmer months.	Yes	The proposal has been assessed as acceptable.

<b>4B Natural Ventilation</b>	<b>Compliance</b>	<b>Comment</b>
All habitable rooms are naturally ventilated.	Yes	<p>A condition of consent is recommended requiring a window schedule to ensure all habitable rooms are provided with windows in external walls that have an openable area equal to 5% of the floor area.</p> <p>A condition of consent is recommended to provide windows to living rooms with an effective openable area (as defined in the ADG) to provide ventilation and security.</p> <p>A condition of consent is recommended requiring fly screens to be provided to at least one window within every habitable room. Fly screens are considered to reduce the effective openable area by 50%, as such, the effective openable area must be doubled where a window with a fly screen is the only source of natural ventilation to a habitable room.</p>
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	46/77 apartments (60%) within the first nine storeys achieve natural cross ventilation.

<b>4B Natural Ventilation</b>	<b>Compliance</b>	<b>Comment</b>
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	The maximum apartment depth is 18 metres.

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 apartments are provided a minimum floor to floor height of 3.1 metres which will accommodate a floor to floor height of 2.7 metres.  A condition of consent is recommended to ensure the minimum required floor to floor heights for habitable and non-habitable rooms.
Non-habitable rooms: 2.4m	Yes	
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Yes	The ground floor retail unit is provided a floor to floor height of 5.3 metres.  The ground floor residential apartments are provided floor to floor heights of 4.7 metres, in accordance with the design guidance to allow for a mix of uses.

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>	Yes	The apartments comply with the minimum apartment sizes and provide additional floor area to accommodate additional bathrooms.
<p>Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.</p>	Partial compliance	<p>A number of apartments incorporate studies and/or unidentified rooms that are either permanently or possibly obstructed from access to a window within an external wall (for example, units 201, 206, 208 301 and 306).</p> <p>A deferred commencement condition is recommended requiring these rooms to be either consolidated within an adjoining habitable room with a window to an external wall or converted to non-habitable rooms (storage or bathrooms). Amended plans illustrating compliance will be required to be submitted to the satisfaction of the Director, City Planning, Development and Transport prior to the activation of this consent.</p>
<p>Habitable room depths are to be no more than 2.5 x the ceiling height.</p>	Yes	<p>All apartments are open plan and have a maximum room depth of 8 metres measured from the inside of the glass line to the rear cupboards of the kitchen.</p>
<p>8m maximum depth for open plan layouts.</p>	Yes	

4D Apartment Size and Layout	Compliance	Comment
<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	The development provides compliant bedroom sizes.
<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>	Yes	The development provides living rooms compliant with minimum dimensions.
4m minimum width for cross over and cross through apartments.	Yes	The minimum dimension of cross through apartments is 4 metres.

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>	Partial compliance	<p>All apartments are provided with the required area of private open space.</p> <p>Ten apartments have balconies which have variable depths, including some portions of the balcony not meeting the minimum depths specified in the ADG.</p> <p>In this instance, all ten apartments include a sufficient area where the depth does meet the minimum depths, and in all instances provides useable balcony areas.</p>
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	Apartments located on podiums and at ground level are provided balconies exceeding the minimum recommended areas.

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	The maximum number of apartments off a circulation core on a single level is eight. The majority of floors have fewer than eight apartments from one core.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Partial compliance	<p>The apartments served by the northern core are provided two lifts and an average of one lift/13.5 apartments.</p> <p>The apartments served by the southern core are provided three lifts and an average of one lift/41 apartments. This minor variation from the ADG and is not anticipated to adversely impact on the amenity of the apartments.</p>
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 are designed with kitchens, bathrooms, internal corridors and storage areas to adjoin common circulation spaces.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	All internal corridors are provided access to light and ventilation. A condition of consent is recommended requiring a window schedule to demonstrate that ventilation will be provided to the corridors.

<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	<p>A storage schedule accompanies the amended plans and demonstrates that each apartment is provided the minimum or more than that recommended. 50% of the minimum storage areas is provided within apartments.</p> <p>A condition of consent is recommended requiring all storage areas identified on the plans to be fixed and constructed for residents prior to an Occupation Certificate being issued.</p>

<b>4L Ground floor apartments</b>	<b>Compliance</b>	<b>Comment</b>
Design of ground floor apartments delivers amenity and safety for residents	Yes	The finished floor heights of the ground floor apartments have been raised 1.2 metres above the footpath on Hatbox Place and Reed Street to provide improved visual privacy whilst maintaining passive surveillance, in accordance with the design guidance.

<b>4J Noise and pollution</b>	<b>Compliance</b>	<b>Comment</b>
In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings	Partial compliance	An acoustic report submitted with the application identifies noise levels from O'Dea Avenue and is discussed with regard to Section 4.2.3.11 of the Sydney DCP 2012.

<b>4P Planting on structures</b>	<b>Compliance</b>	<b>Comment</b>
Appropriate soil profiles are provided	Yes	Amended landscape plans have been provided, demonstrating that the green roof and wall structures are provided sufficient soil profiles and can be adequately maintained. Further discussion is provided in the Issues section of this report.
Plant growth is optimised with appropriate selection and maintenance	Yes	
Planting on structures contributes to the quality and amenity of communal and public open spaces	Yes	

<b>4Q Universal design</b>	<b>Compliance</b>	<b>Comment</b>
Developments achieve a benchmark of 20% of the total apartments incorporating the Liveable Housing Guideline's silver level universal design features	Yes	Amended plans have been submitted identifying 41/152 apartments (27%) are either liveable or adaptable, exceeding the minimum recommended. A condition of consent is recommended requiring these apartments to comply with the Guidelines.

The development as amended generally satisfies the relevant objectives of the Apartment Design Guide.

#### **State Environmental Planning Policy No. 70 - Affordable Housing (Revised Schemes)**

51. SEPP 70 relates to Section 7.32 of the Environmental Planning and Assessment Act and provides that where the consent authority is satisfied that the development meets certain criteria, and a Local Environmental Plan authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.
52. Clause 7.13 "Contribution for purpose of affordable housing" of the Sydney LEP 2012 authorises that an affordable housing contribution may be levied for development of land in Green Square. The matter is discussed under the heading Financial Implications.

#### **State Environmental Planning Policy (Infrastructure) 2007**

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

#### **Clause 45**

54. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP as the development will involve the penetration of ground within 2m of an electricity distribution pole and requires the installation of an electricity substation.

- 55. In accordance with the Clause, the application was referred to Energy Australia for a period of 21 days and no objection was raised.

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

- 56. An amended BASIX Certificate accompanies the amended plans.
- 57. In accordance with condition 11 of the concept approval, the development is required to achieve BASIX energy and water scores a minimum 5 points above the minimum. The BASIX certificates satisfy the conditions.
- 58. 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.

**Sydney LEP 2012**

- 59. The site is located within the B4 - Mixed Use zone. The proposed mixed use building, providing a retail premises and dwellings, is permissible with consent.
- 60. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	No	The site has three maximum height data with two lower podiums at RL 40.15 fronting Hatbox Place, RL 46.35 in the middle of the site and a tower portion at RL 91.00.
4.6 Exceptions to development standards	Yes	<p>The development complies with the maximum RL 91.00, but increases the width of the tower over the areas designated for the lower podium levels.</p> <p>An amended request to vary the height of buildings development standard has been submitted and satisfies the provisions of Clause 4.6. The variation to the standard is therefore acceptable.</p> <p>Further discussion is provided under the Issues heading.</p>

Development Control	Compliance	Comment
4.4 Floor Space Ratio	Yes	The site is permitted a maximum floor space ratio of 1.5:1.
6.14 Community infrastructure floor space at Green Square	Yes	<p>Clause 6.14 permits an additional 0.5:1 FSR whereby an offer is made towards community infrastructure within Green Square. A public offer was made with the concept application and accepted, thereby awarding an additional 0.5:1 for the overall development.</p> <p>The total permitted FSR across the entire site is therefore 2:1.</p> <p>The concept approval apportions the maximum gross floor area across the five buildings, with building C permitted a maximum gross floor area of 13,120sqm (excluding any design excellence bonus floor space).</p> <p>The design of the building is consistent with that that won the competitive design process and exhibits design excellence. The design excellence strategy given concept approval sought bonus floor space as part of any detailed design application.</p> <p>As such the development is eligible for up to an additional 10% bonus floor space (1,312sqm). The application proposes a gross floor area of 13,763sqm. The application seeks to utilise a total of 563sqm or 4.3% of the permitted additional floor space available under the design excellence provisions. The development is therefore consistent with the maximum gross floor area permitted for the site.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
6.21 Design excellence	Yes	<p>The development exceeds 25 metres in height, has a capital investment exceeding \$100,000,000 and follows the granting of a concept approval under Clause 7.20.</p> <p>A competitive design process has been held with the winning scheme being a collaboration between Kengo Kuma and Associates and Koichi Takada Architects. The proposal has been designed by the winning architects, is consistent with the winning scheme and has adequately addressed the recommendations of the competitive design selection panel. A copy of the selection panel recommendations is included at Attachment E.</p> <p>The development achieves a high standard of architectural design, materials and detailing, with particular attention to the provision of green walls and landscaped terraces that will contribute positively to the public domain. The development achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore achieves design excellence.</p>
6.27 Lachlan Precinct, Waterloo	Not applicable	<p>The clause permits development greater than 25 metres but less than 30 metres to avoid the requirement for a site specific development control plan and competitive design process. A building used wholly for commercial purposes may be eligible for bonus floor space.</p> <p>The development exceeds 30 metres and is a mixed use building. As such the provisions of the clause are not relevant.</p>

Part 7 Local Provisions - General	Compliance	Comment
7.5 Car parking ancillary to residential flat buildings	Yes	<p>The site is located within Category C of the Land Use and Transport Integration map and is therefore permitted a maximum of 145 car spaces (128 for residents, 17 for visitors).</p> <p>The development proposes 116 car spaces for residents, two for visitors and one car share space. The development provides less than the maximum permitted.</p> <p>The proportion of resident and visitor parking is recommended to be varied by way of a condition of consent to comply with Section 3.11.4 of the Sydney DCP 2012.</p>
7.7 Car parking ancillary to retail premises	Yes	<p>The site is located within Category F of the Public Transport Accessibility Level map and is therefore permitted a maximum of 5 car spaces for the retail component.</p> <p>The development proposes one car space and complies with the maximum provision.</p>
Clause 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>Further discussion is provided under the Financial Implications heading.</p>
7.14 Acid Sulphate Soils	Yes	<p>The site is identified as containing class 5 Acid Sulphate Soils. The site is not within 500 metres of other soil classes and as such, an acid sulphate soils management plan is not required to be submitted.</p>

Part 7 Local Provisions - General	Compliance	Comment
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	Yes	<p>The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport.</p> <p>The application was referred to Sydney Airport for concurrence. Sydney Airport advised that they have no objection to the development.</p>
7.17 Development in areas subject to airport noise	Yes	The site is located within the 15 ANEF contour zone and as such the clause does not apply.
7.19 Demolition must not result in long term adverse visual impact	Yes	The application proposes construction of a building and therefore satisfies the provisions of the clause.
7.20 Development requiring preparation of a development control plan	Yes	<p>The proposed building is located outside Central Sydney and exceeds 25 metres.</p> <p>This is a detailed design application submitted in accordance with concept approval D/2016/1450. Pursuant to Section 4.23 of the EP&amp;A Act, the concept application was approved in lieu of a site specific development control plan to satisfy the control.</p> <p>The development is consistent with the concept approval and therefore satisfies the provisions of the control.</p>
7.23 Large retail development near Green Square Town Centre	Yes	The proposed retail premises is less than 1,000sqm and therefore complies with the standard.

**Sydney DCP 2012**

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

**2.5.7 Lachlan Locality Statement**

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 land accessible pattern of streets and a neighbourhood with a varied typology of mixed use development.

The development provides a retail premises fronting O'Dea Avenue, residential fronting Hatbox Place and residential within the upper floors, consistent with the Lachlan Precinct Building Uses map. The building maintains the approved setbacks to the surrounding street network allowing for street tree planting, and provides a unique addition to the skyline within the precinct.

3. General Provisions	Compliance	Comment
3.1 Public domain elements	Yes	<p>A temporary public domain plan has been prepared, whereby half of Reed Street (that part located on the subject site) will be constructed awaiting the redevelopment of 50 O'Dea Avenue. Hatbox Place will serve as a temporary turning area for vehicles, and will be reconstructed following the redevelopment of no. 40-42 O'Dea Avenue.</p> <p>The plans propose visitor bike parking on Reed Street and a planter box to Hatbox Place and part of Reed Street within land to be dedicated to Council. The location of the visitor bike parking will not adversely impact pedestrian access and is acceptable. A condition of consent is recommended deleting the planter box.</p> <p>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.</p>

3. General Provisions	Compliance	Comment
		Council's Public Domain team are continuing to liaise with the applicant regarding the footways and road network surrounding the site to satisfy conditions under the concept approval.
3.1.5 Public art	Yes	<p>A revised public art plan was submitted during the assessment of the application.</p> <p>The plan proposes a mix of LED lights, vegetation and "miscellaneous" materials to the soffit and ground plan of the residential lobbies. The display cases that were originally proposed no longer form part of the public art plan but remain on the elevation plans.</p> <p>It is considered that insufficient information has been provided within the revised public art plan, in particular, no artists have been selected and no indicative designs provided.</p> <p>It is recommended that a deferred commencement condition be imposed requiring an updated public art plan to be provided prior to the activation of the consent.</p>
3.2.3 Active frontages	Yes	<p>The site is required to provide an active frontage to O'Dea Avenue as identified on the active frontages control map. The frontage is an enclosed glazed shopfront with a deep floorplate in accordance with the control.</p> <p>The tenancy width is approximately 21 metres. A condition of consent is recommended requiring three entrances evenly spaced within the facade to be provided to more easily accommodate and encourage smaller tenancies.</p>

3. General Provisions	Compliance	Comment
3.2.4 Footpath awnings	Yes	The application proposes a fixed awning to O'Dea Avenue and wrapping around onto Reed Street. The awning is approximately 4.2 metres above the footpath and two metres wide. The awning will be constructed of galvanised steel. The design of the awning accords with the controls.
3.2.7 Reflectivity	Yes	A reflectivity report accompanies the application and includes recommendations to limit the specular reflectance of glazing to apartments between levels 6 and 16 such that the light reflectivity does not exceed 20% in accordance with the control. A condition of consent is recommended requiring compliance with the recommendations of the report.
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The development is consistent with the winning scheme of the competitive design process and has generally addressed the recommendations of the selection panel, a copy of which is provided at attachment E. Further discussion is provided under the Issues heading.</p> <p>The design excellence strategy approved at the concept stage sought additional design excellence floor space for the development. As discussed with regard to Clauses 4.4 and 6.21 of the Sydney LEP 2012, the development has been assessed as exhibiting design excellence and has sought to utilise an additional 4.3% design excellence floor space.</p> <p>A discussion is provided under the Issues heading regarding the consistency of the detailed design application with the concept approval and conditions.</p>

3. General Provisions	Compliance	Comment
		Insufficient information has been provided within the revised public art plan, in particular, no artists have been selected and no indicative designs provided. A deferred commencement condition is recommended for imposition requiring an updated public art plan to be provided.
3.4 Hierarchy of Centres, City South	Yes	The proposed retail premises is less than 1,000sqm and will provide an active frontage to O'Dea Avenue. The design is therefore consistent with the control.
3.5 Urban Ecology	Yes	<p>The development incorporates extensive landscaping at ground level and to the wall of the podium and tower. A variety of species are proposed and will contribute to biodiversity of flora and fauna in the city.</p> <p>Further discussion is provided under the Issues heading.</p>
3.6 Ecologically Sustainable Development	Yes	Condition 11 of the concept development consent required the development to exceed the minimum BASIX water and energy targets by 5 points, which has been achieved.
3.7 Water and Flood Management	Yes	Conditions of consent are recommended to manage stormwater drainage.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	<p>The subdivision of the site has been granted concept approval.</p> <p>Conditions of consent are recommended regarding the strata subdivision of the site.</p>

3. General Provisions	Compliance	Comment
3.11 Transport and Parking	Yes	<p>The development provides a loading dock to accommodate waste collection and servicing internally. Sufficient area is provided for vehicles waiting to enter and exit the site without queueing.</p> <p>Vehicles leaving the site during the temporary public domain layout will exit left onto Reed Street and exit the development via either Gadigal Avenue, Archibald Street or Lachlan Street.</p> <p>Sufficient resident, employee and visitor bike parking and end of trip facilities are provided in accordance with the control.</p> <p>Sufficient motorbike and car share spaces are provided in accordance with the control.</p> <p>Where fewer residential car spaces than the maximum are provided, the proportion of resident and visitor spaces is to be maintained. Conditions of consent are recommended to</p> <ul style="list-style-type: none"> <li>• reduce the number of resident spaces to 104 and increase the number of visitor spaces to 14</li> <li>• ensure that apartments are allocated a maximum of one car space per unit</li> <li>• locate all visitor spaces on the first basement level in a consolidated area</li> </ul>
3.12 Accessible Design	Yes	<p>Conditions have been recommended for the development to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the NCC.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles. A condition of consent is recommended requiring alcove lighting to deter loitering.</p>

3. General Provisions	Compliance	Comment
3.14 Waste	Yes	<p>A condition of consent is recommended requiring a revised waste management plan to address demolition and construction waste.</p> <p>The development proposes the use of garbage chutes and a compaction machine. Conditions are recommended requiring sufficient area to accommodate the chutes, compaction machine and bins for twice weekly collection.</p> <p>The waste storage areas are suitably located adjacent to the loading dock. A condition is recommended requiring the bulky waste room to be co-located with the general waste rooms.</p> <p>Green waste collection is proposed during landscape maintenance and will be dealt with by contract. A condition of consent is recommended requiring the provision of compost bins for residents.</p>
3.16 Signage and Advertising	Yes	<p>As discussed with regard to SEPP No. 64, insufficient information has been provided to satisfy condition 63 of the concept consent which required the submission of a signage strategy. No details of materials and illumination are provided. Furthermore, under awning signs are preferred rather than projecting wall signs.</p> <p>The signs are recommended to be deleted from the proposal and any future signage be subject to a separate development application following the approval of a site specific signage strategy for this building.</p>

4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.3.5 Landscaping	Yes	<p>Amended landscape plans, including a maintenance schedule, were submitted during the assessment of the application. The overall integrity of the design relies heavily on the success of the vegetation and its upkeep.</p> <p>Further details are required to ensure that the landscape component is successful, as such, a number of detailed landscape conditions are recommended for imposition.</p> <p>Further discussion is provided under the Issues heading.</p>
4.2.3.6 Deep soil	Yes	<p>The development provides an area of deep soil equal to 7% of the site area and with a minimum dimension of six metres.</p> <p>The development is consistent with objective 3E of the ADG.</p>
4.2.3.10 Outlook	Yes	<p>Sufficient building separation is provided and landscaping provided throughout the site, ensuring all apartments are provided a pleasant outlook.</p>
4.2.3.12 Flexible housing and dwelling mix	Yes	<p>The proposed unit mix is as follows:</p> <p>Studio/one bed: 34% (53)</p> <p>Two bed: 55% (83)</p> <p>Three bed: 10.5% (16)</p> <p>The development complies with the recommended unit mix.</p> <p>Amended plans have been submitted identifying 41/152 apartments (27%) are either liveable or adaptable, exceeding the minimum recommended of 20%. A condition of consent is recommended requiring these apartments to comply with the Liveable Housing Guidelines.</p>

4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The development is consistent with the approved subdivision layout and generally compatible with the approved building envelope for the site.</p> <p>The design was the subject of a competitive design process and subject to the imposition of conditions to considered to exhibit design excellence.</p>
4.2.6 Waste minimisation	No	A condition of consent is recommended requiring a revised waste management plan to address demolition and construction waste to comply with the Policy for Waste Minimisation in New Developments 2005.
4.2.7 Heating and Cooling Infrastructure	Yes	The plant is located in a consolidated area on the top floor and is contained within the building envelope.
4.2.8 Letterboxes	Yes	Letterboxes are proposed within the residential lobbies and secure from the public domain.
4.2.9 Non-residential uses in the B4 - Mixed Use zone	Partial compliance	<p>The application does not specify a use within the retail premises (shop, food and drink premises or the like) and does not propose hours of operation.</p> <p>Conditions of consent are recommended permitting trading hours from 7am to 10pm every day, and for the building to accommodate mechanical ventilation for cooking in the event that a restaurant is to occupy the premises.</p>

5. Specific Areas	Compliance	Comment
5.2.9 Building design - Green Square	Yes	<p>The proposed building is aligned to the street to define and frame the street edge, activate and provide clear delineation between the public and provide domain.</p> <p>While the development exceeds the maximum height of buildings development standard and height in storeys controls, the building will not affect significant views to the City skyline from surrounding residences.</p> <p>The design was the winner of a competitive design process, and the scheme lodged is generally consistent with that winning scheme. In particular, the building incorporates substantial landscaping and high quality materials to contribute to the public domain. A condition is recommended requiring the winning architects to be engaged/retained during the construction of the building.</p> <p>The development will provide passive surveillance of the surrounding street network.</p>
5.2.10 Setbacks - Green Square	Yes	<p>The building provides a 10 metre setback on O'Dea Avenue which will be dedicated to the City in accordance with the approved VPA and therefore satisfies the control.</p>
5.4.2 Local infrastructure and public domain - Lachlan	Yes	<p>The Concept DA approved the local infrastructure and public domain works associated with the development.</p> <p>The access point for the building off Reed Street is in accordance with preferred access point shown Figure 5.88 - Access Circulation for the precinct.</p>

5. Specific Areas	Compliance	Comment
5.4.3.2 Height of buildings - Lachlan	Partial compliance	<p>This provision specifies that buildings on this site can vary between four storeys fronting Hatbox Place, six storeys in the middle and 20 storeys fronting O'Dea Avenue.</p> <p>The proposal exceeds the maximum height in storeys through the middle section, being up to eight storeys. The tower element also encroaches within the middle six storey section.</p> <p>As previously discussed, the variation to the maximum height in storeys control will not adversely impact the amenity, character and public domain of the surrounding area. Further discussion is provided under the Issues heading.</p> <p>The development exceeds the minimum recommended 4.5 metre floor to floor height at ground level and is consistent with the minimum 3.7 metre floor to floor height at first floor and 3.1 metre floor to floor above first floor.</p>
5.4.3.3 Building form and design - Lachlan	Partial compliance	<p>At 785sqm, the tower floor plates above 35 metres exceeds the maximum recommended floor plate of 750sqm. The minor variation has been assessed as being negligible and acceptable in the context of the green walls and landscaped terraces provided.</p> <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 apartment facades maximise glazing and recessed balconies to enhance views and provide sufficient solar access.</p>

5. Specific Areas	Compliance	Comment
5.4.3.3 Building form and design – Lachlan (continued)		<p>The timber battens to the ground plane and timber-look battens attached to the building facade wrap around the building providing visual interest.</p> <p>The substantial landscaping to the walls and podium of the building will create a visual greening and connection to the streetscape.</p> <p>The design provides for a building that will enhance the new streetscape and is supported from an urban design perspective.</p>
5.4.3.4 Building setbacks - Lachlan	Yes	<p>A 1.5 metre setback is provided to Reed Street and Hatbox Place as required. The setback includes a planter and splay which is reflected in the design of the adjoining deck.</p>
5.4.3.5 Building typologies and use - Lachlan	Partial compliance	<p>The proposed retail premises fronting O'Dea Avenue, 10 metres depth and continuous awning above the footway are consistent with the active frontage control.</p> <p>A minimum of 15 tenancies per 100 metres are encouraged (approximately one tenancy every seven metres).</p> <p>One entrance is provided within the 21 metre frontage. A condition is recommended to provide three entrances evenly spaced within the facade to more easily accommodate and encourage smaller tenancies.</p>

5. Specific Areas	Compliance	Comment
5.4.3.6 Residential uses on the ground and first floor - Lachlan	Yes	<p>The ground floor residential apartments are elevated above the adjacent footway and sufficiently setback to provide visual privacy whilst maintaining passive surveillance of the public domain.</p> <p>The dwellings are provided individual entrances to Hatbox Place. The depth of the balconies will allow daylight to penetrate into living areas.</p> <p>The balustrades are proposed to be solid, contrary to the predominantly open, palisade styled recommended. A condition of consent is recommended requiring the balustrades to be palisade style.</p>
5.4.3.7 Acoustic and visual privacy - Lachlan	Partial compliance	<p>Development is recommended to ensure noise levels do not exceed 35dB for bedrooms (10pm-7am) and 45dB for main living areas (24 hours) with windows closed. Development is recommended to ensure noise levels do not exceed 45dB for bedrooms (10pm-7am) and 55db for main living areas (24 hours) with windows open.</p> <p>An acoustic report submitted with the application identifies the maximum recorded noise levels from O'Dea Avenue at 69dB during the day and 68dB at night.</p> <p>The acoustic report provides recommendations to achieve compliance with noise standards with windows closed and are supported. However, the development does not meet the noise criteria where windows will be open.</p>

5. Specific Areas	Compliance	Comment
5.4.3.7 Acoustic and visual privacy – Lachlan (continued)		<p>It should be noted that O'Dea Avenue is not identified as a busy road (carrying more than 20,000 vehicles a day). A review of this report has concluded that the noise recordings are likely due to the high amount of construction and construction related vehicles currently operating in the surrounding area. The quality of O'Dea Avenue, which has been damaged during ongoing construction and not resurfaced, is considered to have likely contributed to the higher than anticipated noise levels. On this basis, it is concluded that upon completion of the construction of the precinct, the proposed apartments will have adequate internal amenity with regard to acoustic privacy.</p> <p>With regard to visual privacy, it is recommended that the balustrade treatment for the residential balconies on Levels 1 to 4, inclusive, of the development be fitted with translucent glazing. This will mitigate views to balconies from the public domain and adjacent developments, and provide a privacy treatment for future residents.</p>
5.4.3.8 Development levels - Lachlan	Yes	<p>A flood certificate has been submitted during the assessment of the application having regard to the interim and final public domain plans and is acceptable. A condition of consent is recommended requiring the entrance to the retail unit to be set at the level of the adjoining footway, with an internal ramp provided up to the flood planning level of the premises.</p>

5. Specific Areas	Compliance	Comment
5.4.3.9 Parking and access - Lachlan	Yes	<p>Basement car parking is proposed with access from Reed Street in accordance with the desired location identified in Figure 5.88.</p> <p>The site is recommended to provide shared access for any future development at 40-42 O'Dea Avenue to minimise driveways and vehicular crossings. A condition of consent is recommended requiring a break-through panel to be provided in the basement of the subject building to provide vehicular access to any future basement of the adjoining site.</p>

Schedules	Compliance	Comment
Schedule 4 - Projections over or into the public roads	Yes	The building elements including the timber look battens and green wall planters project beyond the footpath alignment no more than 450mm.

## Issues

### Clause 4.6 request to vary a development standard

62. The site is subject to three maximum height of buildings development standards - a height of RL 40.15 applies to the northern part of the site fronting Hatbox Place, a maximum height of RL 46.35 applies to the central and western parts of the site and a maximum height of RL 91 applies to the southeast corner of the site.
63. The height of buildings development standards as they apply to the proposed development are expressed in elevation in Figure 35, below. C1A represents the maximum RL 40.15 adjoining Hatbox Place, C1B represents the maximum RL 46.35 and C1C represents the maximum RL 91.

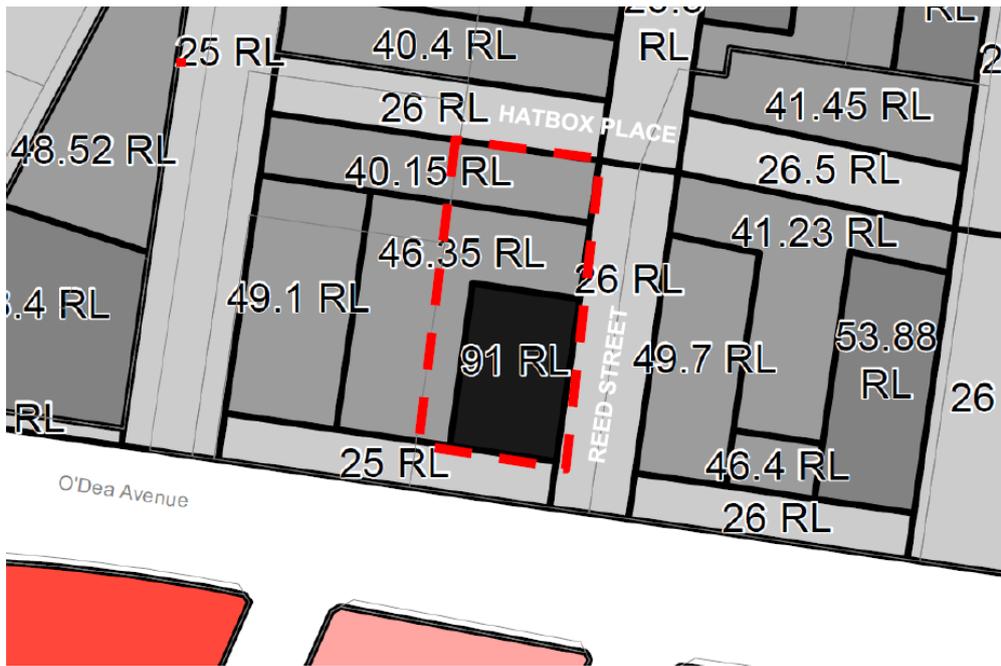


Figure 34: An extract of the height of buildings map with the site outlined in red



Figure 35: The height standards as they apply to the east elevation of the building (Reed Street)

64. The application proposes a number of lateral extensions to the floor plates which result in exceedances to the height standard as illustrated in figure 36. These exceedances reflect the stepping form from the tower to Hatbox Place endorsed by the competitive design process selection panel.

65. As such, the maximum exceedance above the height of buildings development standard in C1A is to the top of a balustrade surrounding non-trafficable landscaping on level 6, being 6.15 metres (15.3%) above the height of buildings development standard. The maximum exceedance above the height of buildings development standard in C1B is to the roof top pergola, being 42.4 metres (91.5%) above the maximum height standard.

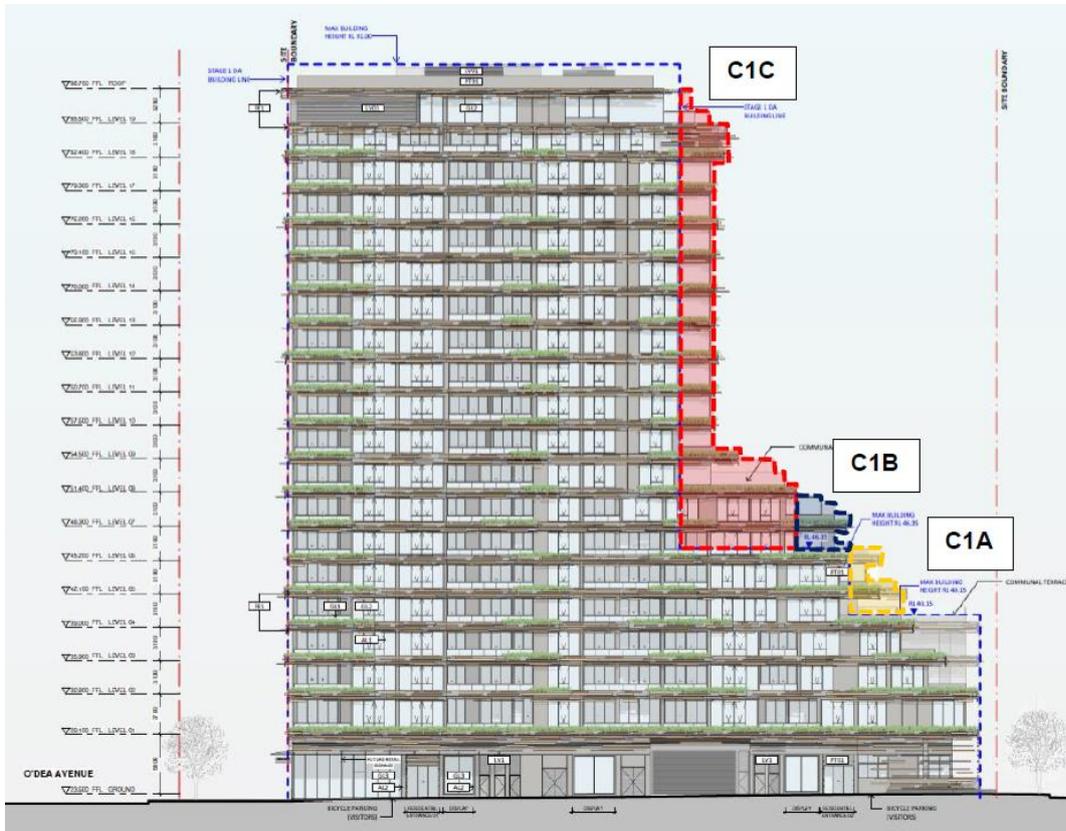


Figure 36: The exceedances to the height standard are highlighted above

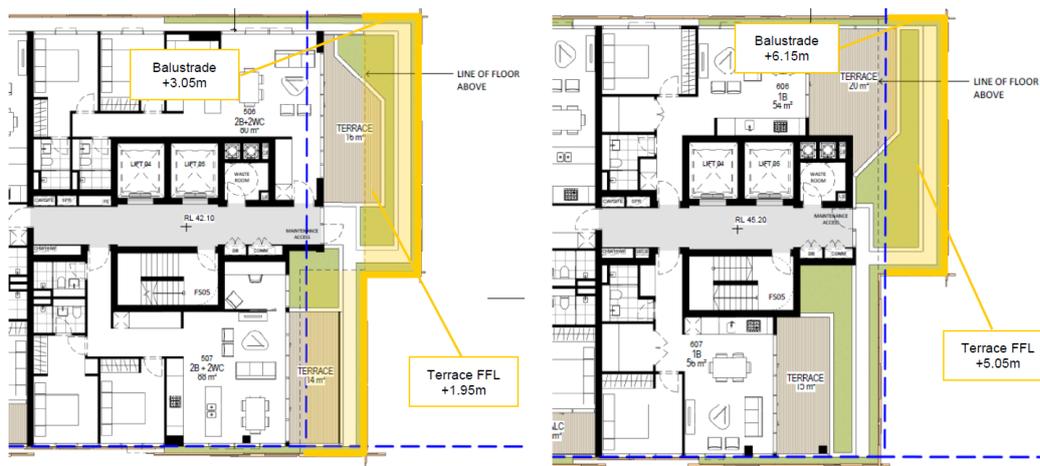


Figure 37: Examples of the extent of the exceedances above the RL 40.15 height of buildings development standard (C1A) at levels 5 and 6



Figure 38: Examples of the extent of the exceedances above the RL 46.35 height of buildings development standard (C1b) at the roof level. The exceedance is caused by a lateral increase in the tower floorplate

66. 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 development standard by demonstrating:
- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
  - That there are sufficient environmental planning grounds to justify contravening the standard.
67. A copy of the applicant's amended written request is provided at Attachment D. The various components of the building that exceed the height standard at each level is identified in detail from pages 9-12.

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

68. The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:
- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
    - The statement has referred to the first of the five part test established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 to demonstrate that compliance with the numerical standard is unreasonable or unnecessary. The test seeks to demonstrate that the objectives of the standard are achieved notwithstanding non-compliance with the numerical standard. A summary of the applicant's assessment against the objectives of the control are provided below:

*Objective (a): To ensure the height of development is appropriate to the condition of the site and its context*

- (ii) The applicant states that the development reflects the tower typology envisaged by the controls and its relationship within the wider Lachlan Urban Renewal Precinct. The tower conforms to the maximum overall height for the site, with the exceedances a result of the tower form extending further north and the gradual, rather than explicit, transition down towards Hatbox Place and the lower scale buildings within the immediate surrounds.
- (iii) Notwithstanding the exceedances, the building is considered to achieve design excellence and is appropriate to the condition of the site and its context.

*Objective (b): To ensure appropriate height transitions between new development heritage items and buildings in conservation areas or special character areas*

- (iv) The proposed development achieves the objective in that there are no heritage items, conservation areas or special character areas surrounding the site.

*Objective (c): To promote the sharing of views*

- (v) Views to the city are identified as the primary corridors to protect with regard to the proposal. The additional massing is concentrated on the northern elevation and therefore will not impact on distant views of the city, which are generally to the northwest of the site. The building also complies with minimum applicable building separation controls.

*Objective (d): To ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas*

- (vi) The development is consistent with the maximum height for the site and therefore maintains the desired transition and variety of height for the Lachlan Precinct and Green Square. The extension of the building footprint along the north-south axis will not impact on height transition between Central Sydney and Green Square and their surrounding areas. The stepped form of the podium provides a more sensitive transition to the surrounding areas than strict compliance with the standard would achieve.

*Objective (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*

- (vii) The development reflects the desired location of the tower form within the Lachlan Precinct, being in the southeast corner of the site. The exceedances at the lower levels are deemed to provide a better transition to the public domain and lower scale buildings in the surrounding area. Appropriate setbacks are provided to the public domain.

*(ii): To ensure the built form contributes to the physical definition of the street network and public spaces*

- (viii) The development responds to the approved street network, with the tower compliant with the maximum permitted height fronting O'Dea Avenue. The building reflects its purpose as being a gateway to the Lachlan Precinct. The building will continue to transition along Reed Street to a lower podium height, responding to the lower scale character to the north. The development is therefore consistent with the street network typologies set out within the Lachlan Precinct controls under the Sydney DCP 2012.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The statement considers three environmental planning grounds to justify contravening the standard: that the extent of the variations provides an acceptable visual impact and appropriate height transition, an appropriate built form and massing outcome, and an acceptable solar access and overshadowing impact.

*Visual impact and height transition*

- (ii) The height of buildings development standard envisages three distinct building heights transitioning from the tower form to the lower scale character north of the site. The development tapers this transition at each level, rather than the abrupt steps set out in the controls. It is noted that the exceedances will not impact on view loss for surrounding areas.

*Built form and massing*

- (iii) The development redistributes bulk within the approved tower profile from the west to the north as shown in figure 37, resulting in a more slender tower when viewed from the north and south profiles. The slimmer profile allows greater building separation from neighbouring sites and results in compliant cross-through apartment depths to ensure good natural cross ventilation and daylight access.
- (iv) The strictures of the height standards in this instance do not provide for the optimal residential amenity, that is the approved envelope is too broad on the east-west axis with regard to Objective 4B of the ADG and as such compliance would result in a lesser environmental outcome for residents.



Figure 39: An extract of the typical floor plan from levels 10-17, illustrating the distribution of bulk and floor space from the west elevation to the north

#### *Solar access and overshadowing*

- (v) The redistribution of bulk to the north elevation will result in additional overshadowing of 50 O'Dea Avenue (the Nurses' building) and reduce overshadowing to 35 O'Dea Avenue. The additional overshadowing caused to 50 O'Dea Avenue is not anticipated to preclude residential land uses as part of its future redevelopment.
- (vi) The development is consistent with the winning design selected through a competitive design process and is also considered to achieve design excellence. The variations to the height of buildings standard contribute to achieving design excellence by accommodating landscaping through terracing, providing landscaping and timber battens integral to the 'stacked forest' effect and allowing the pool and roof top outdoor space to read as a cantilever as was supported through the competition.
- (vii) The statement also provides an assessment against the objects of the Environmental Planning and Assessment Act 1979, see page 25 of the statement.

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

69. 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)?

- 70. The applicant has correctly referred to the test established by Preston CJ in *Wehbe v Pittwater* to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. Specifically, the applicant has addressed the first part of the test by demonstrating that the development meets the objectives of Clause 4.3, notwithstanding non-compliance with the numerical standard.
- 71. A detailed discussion of the applicant's submission with regard to the objectives of the height standard has been provided and satisfies the test under Clause 4.6(3)(a), in that compliance with the height of buildings development standard, to the extent of the variation proposed, is unreasonable and unnecessary.

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

- 72. The statement provides a number of environmental planning grounds specific to the circumstances of the site to justify the extent of non-compliance with the height of buildings development standard. In particular, the design reflects the winning scheme of a competitive design process, with the distinct 'stacked forest' concept appropriately redistributing bulk and tapering the transition between the tower and podiums without adverse impact on the public domain and amenity of the surrounding area.
- 73. Particular attention was given to the visual impact and transition in height provided by the development, the superior form, massing and landscaping of the proposal contrary to what would be achieved through strict compliance, and that the development would not adversely overshadow neighbouring properties.
- 74. The applicant has therefore demonstrated that there are sufficient environmental planning grounds to support the extent of the variation proposed.

Is the development in the public interest?

- 75. With regard to varying development standards, the public interest is conceived as being protected where a development meets the objectives of the zone and the development standard sought to be varied. As has been discussed already, the development is consistent with the objectives of Clause 4.3 notwithstanding the variation to the numerical standard.
- 76. The objectives of the B4 - Mixed Use zone are provided below:
  - (a) To provide a mixture of compatible land uses.
  - (b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
  - (c) To ensure uses support the viability of centres.
- 77. With regard to the first objective, the development provides a mix of retail and residential land uses, consistent with the desired future character of the Lachlan Precinct. The land uses are permissible in the zone.

78. With regard to the second objective, the development provides sufficient and accessible resident, employee and visitor bike parking (and associated end of trip facilities for retail staff) to encourage cycling. The site adjoins a proposed separated cycleway on O'Dea Avenue, which will connect with the recently completed cycleway on Gadigal Avenue, part of the regional cycleway network.
79. The site forms part of the Lachlan Precinct within Green Square, which has been designed to provide sufficient infrastructure and services for residents, visitors and employees within walking distance. The development forms part of a larger redevelopment within the Lachlan Precinct which includes footpaths and new connections.
80. The site is suitably located within walking distance of bus services on O'Dea Avenue and Joynton Avenue with services to the City, south and eastern suburbs. The site also provides fewer car spaces than is permitted which will encourage alternative forms of transport.
81. With regard to the third objective, the development provides an active frontage to O'Dea Avenue in accordance with section 5.4.3.5 of the Sydney DCP 2012 without detracting from the primary retail area of Green Square in accordance with Clause 7.23 of the Sydney LEP 2012.
82. The statement demonstrates that the extent of non-compliance with the height of buildings development standard is consistent with the objectives of Clause 4.3 and the B4 – Mixed Use zone and is therefore in the public interest.

#### Conclusion

83. For the reasons provided above the requested variation to the height of buildings 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 buildings development standard and the B4 - Mixed Use zone.

#### **Compliance with the recommendations of the Competitive Design Process Selection Panel**

84. The development is generally consistent with the recommendations of the competitive design process selection panel, which are included at attachment E. Further discussion is provided with regard to the following matters:

*Relocate Mail Room to allow greater width of frontage to Reed Street.*

85. Figure 40 is an extract of the amended ground floor plan presented to the selection panel during the competitive design process with the mail rooms highlighted. Figure 41 is the amended ground floor layout with the mail rooms enlarged yet remaining in the same location as presented to the panel.

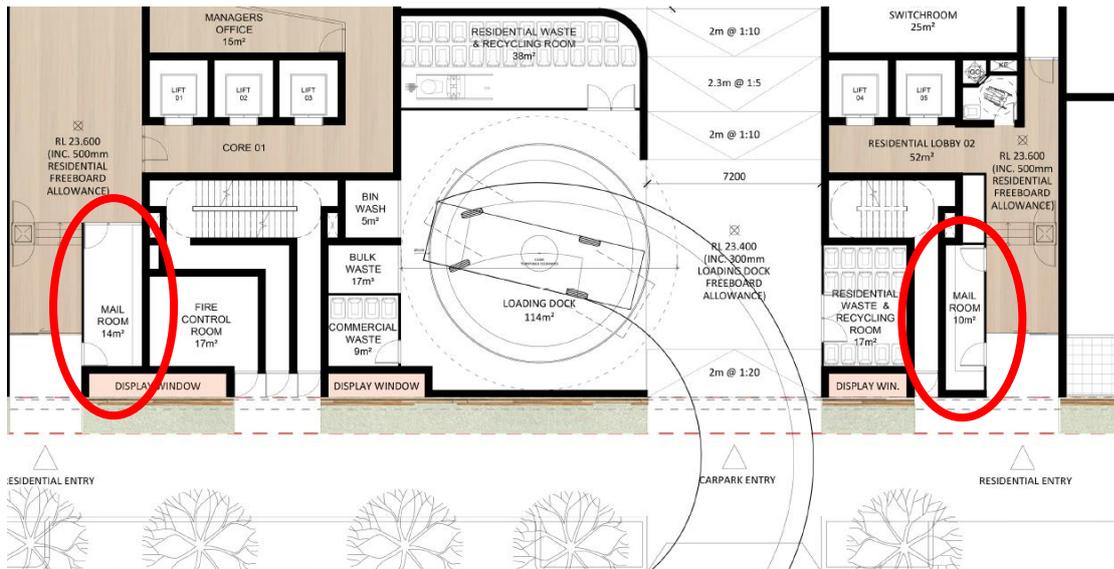


Figure 40: The amended indicative ground floor plan presented to the competitive design process selection panel, with the location of the mail rooms and their impact on the lobby entrances highlighted

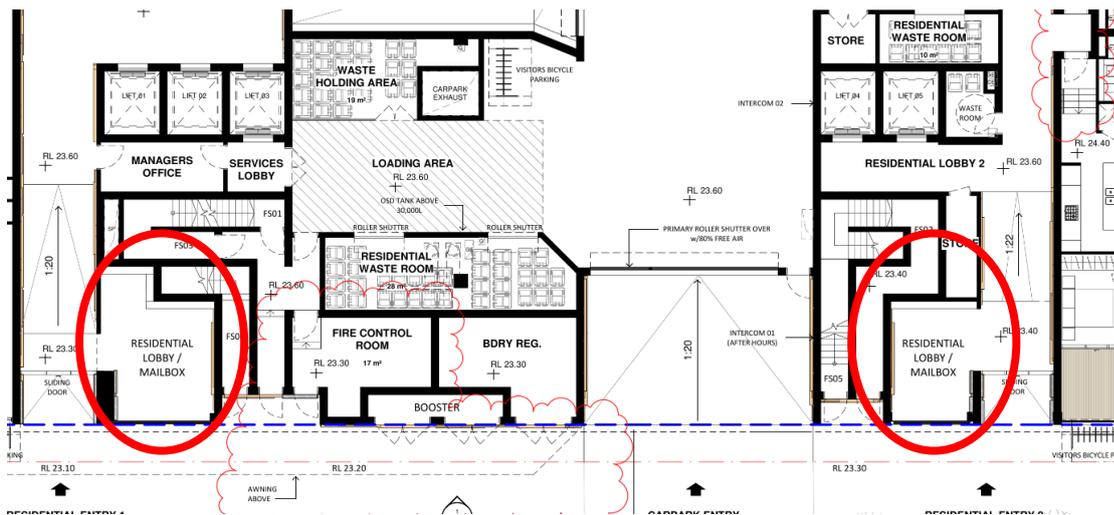


Figure 41: The amended ground floor plan, with the location of the mail rooms and their impact on the lobby entrances highlighted

86. The applicant's response within the Statement of Environmental Effects to the selection panel recommendation is: "The mail room is now located within the building near the lobby entry."

87. While the width of the residential lobbies is similar to that presented during the competitive design process, they are appropriately located for wayfinding, safety and surveillance. The design has been amended to incorporate real timber battens to continue the stacked forest theme and will be co-located with public art (see further discussion below with regard to the recommended deferred commencement condition).

88. The design of the residential lobbies and mail rooms is therefore acceptable.

Location and access to sub-station to be resolved. Sub-station will likely require direct street access.

Design and program of the “through site link” to be resolved with City of Sydney, including planting, and ground level interface with commercial tenancy, residential lobby and residential apartments. The “through site link” to remain part of the development and not part of the public domain.

89. Figure 42 is an extract of the amended ground floor plan presented to the selection panel during the competitive design process with the through site link to the top of the plan and the substation highlighted. Figure 43 shows that the substation has been moved to O'Dea Avenue and the potential location for a through-site link converted to communal open space and deep soil.

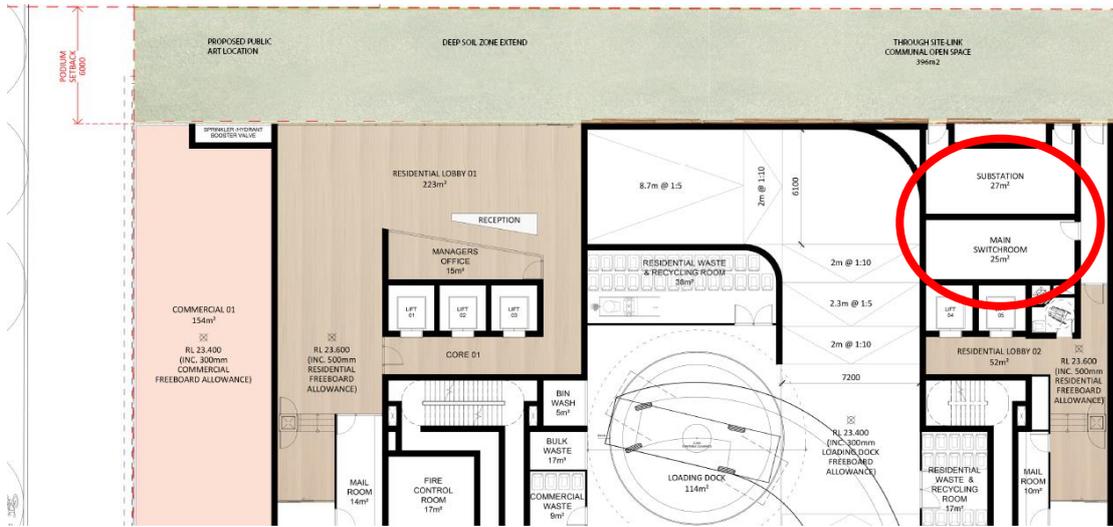


Figure 42: The amended indicative ground floor plan presented to the competitive design process selection panel, with the proposed location of the through-site link in green and the substation circled in red

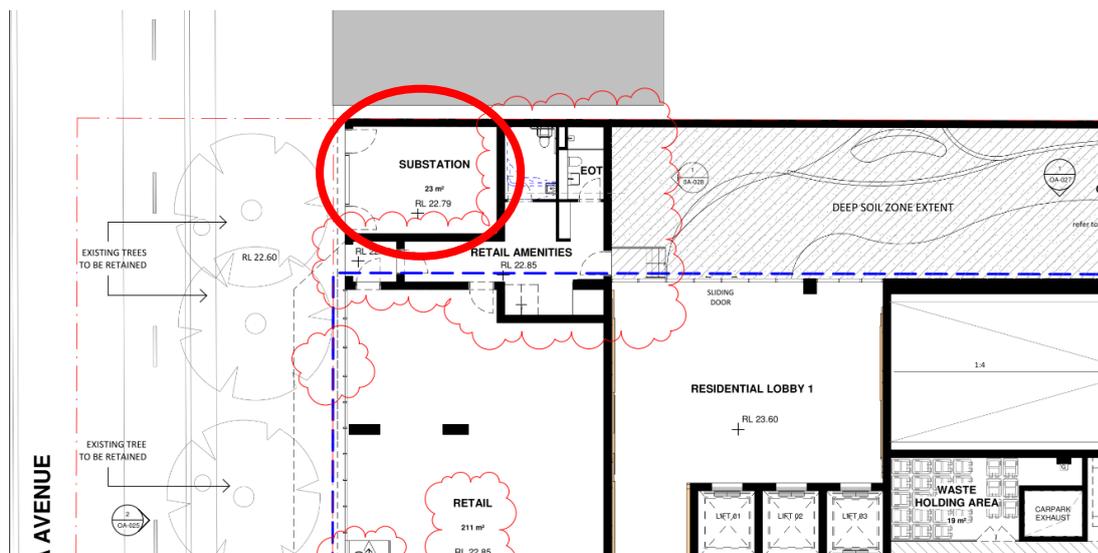


Figure 43: The amended ground floor plan with the substation fronting O'Dea Avenue and the proposed location of the through-site link converted to communal open space

90. The site is not identified as requiring a through-site link on the through-site links map of the Sydney DCP 2012. A through-site link is unnecessary in this location having regard to the construction of the new internal road network within the Lachlan Precinct. The subject area of the site will instead provide for deep soil, landscaping and communal open space for residents. This approach is supported.
91. Substations are generally required to have a street frontage for maintenance and safety. The proposed location of the substation is optimal with regard to the provision of an active frontage to O'Dea Avenue, a fine grain residential character to Hatbox Place and balancing the provision of services, vehicular access and residential lobbies on Reed Street. A green roof is proposed to the substation in accordance with the character of the building.
92. The development is inconsistent with the recommendation to retain the through-site link, however, the proposed ground floor layout is supported.

Further resolution of ground level interfaces including extension of battening screening to the Reed Street façade and reconsideration of the use of display windows on Reed Street.

Further resolution of the Public Art Strategy (in consultation with the CoS Public Art Panel).

93. The applicant has agreed to incorporate real timber battens at the ground plane, with the design extending down over the Reed Street facade and into the residential lobbies as recommended. However, the Reed Street elevation continues to provide display windows adjoining the residential lobbies, and the public art strategy has not been resolved. Further discussion is provided below with regard to the imposition of a deferred commencement condition.

### **Building separation**

94. Objective 2F of the ADG regards building separation such that sufficient privacy, massing, solar access, deep soil and landscaping may be provided between buildings. Habitable room windows and balconies are to be setback between building by 12 metres up to four storeys, 18 metres from five to eight storeys and 24 metres from nine storeys and above.
95. Objective 3F of the ADG specifically regards visual privacy and requires habitable room windows and balconies to be setback from property boundaries by 6 metres up to four storeys, 9 metres from five to eight storeys and 12 metres from nine storeys and above.
96. Condition 10(L) of D/2016/1450 (as amended) requires the development to demonstrate privacy can be achieved for apartments within the development and any future development to occur at 40-42 O'Dea Avenue. It therefore recommends the building be setback from the western boundary 6 metres for the first four storeys and 9 metres from five to seven storeys, acknowledging that the maximum heights on the adjacent site do not exceed seven storeys.
97. The condition states "the above criteria must be satisfied, unless it can be adequately demonstrated that Objective 3F-1 of the ADG has been met despite non-compliance with this criteria."

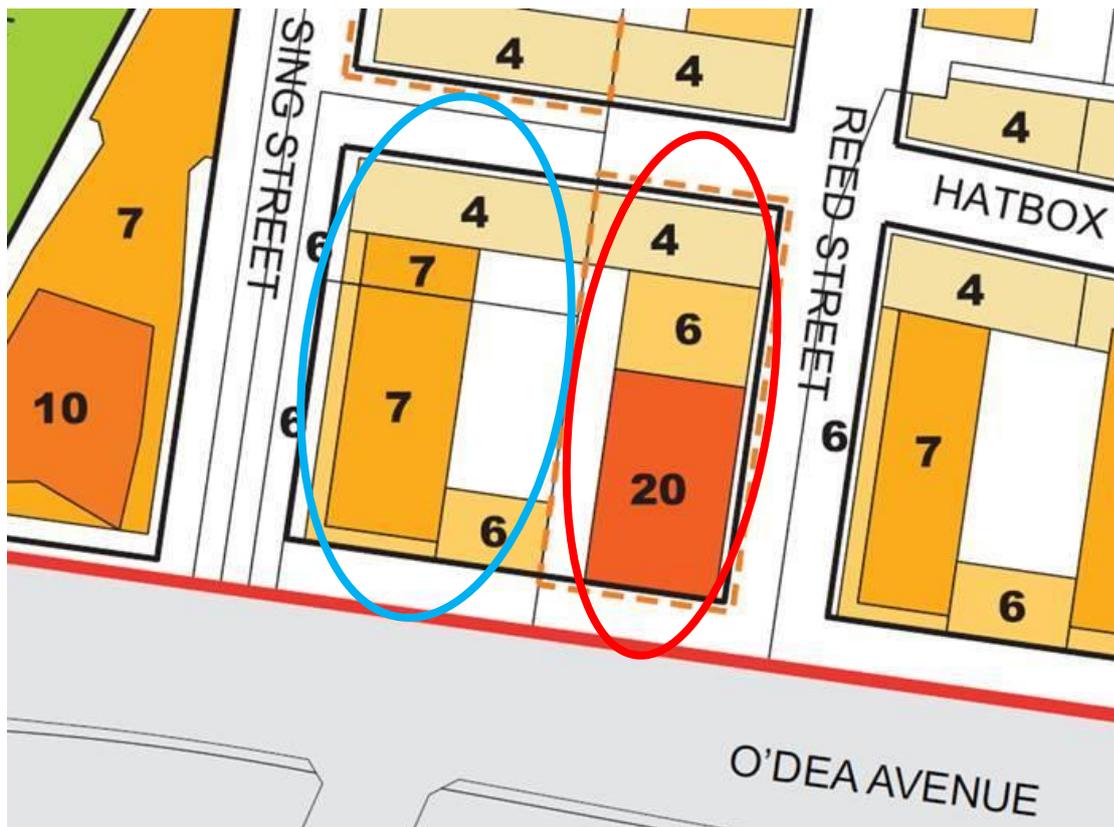


Figure 44: The maximum height in storeys control for the site and surrounding area. The application site is circled in red and 40-42 O'Dea Avenue is circled in blue

98. The west facing balconies on level 4, that is the fifth storey of the development, are setback 6 metres from the western boundary. This is not in accordance with the minimum recommended setback of 9 metres under Objective 3F of the ADG.
99. The separation distance to the west facing wall of the seven storey building at 40-42 O'Dea Avenue is 23 metres from the level 4 balconies, and as such, these elevations will be provided sufficient visual privacy.
100. However, concern is raised regarding potential adverse privacy impacts if living areas and recessed balconies are provided to the northern elevation of any future six storey building at 40-42 O'Dea Avenue. The assessment of this application has concluded that the only affected balcony in the subject development will be to apartment 401. The balcony at apartment 402 and those to the north are more than 18 metres from any future living room or recessed balcony on that elevation and as such will not be adversely overlooked. The balcony to apartment 406 will only be visible at an oblique view and as such their future privacy will not be compromised.
101. Figure 45, below, illustrates the interface between Apartment 401 and the northern elevation of the future development site at 40-42 O'Dea Avenue.

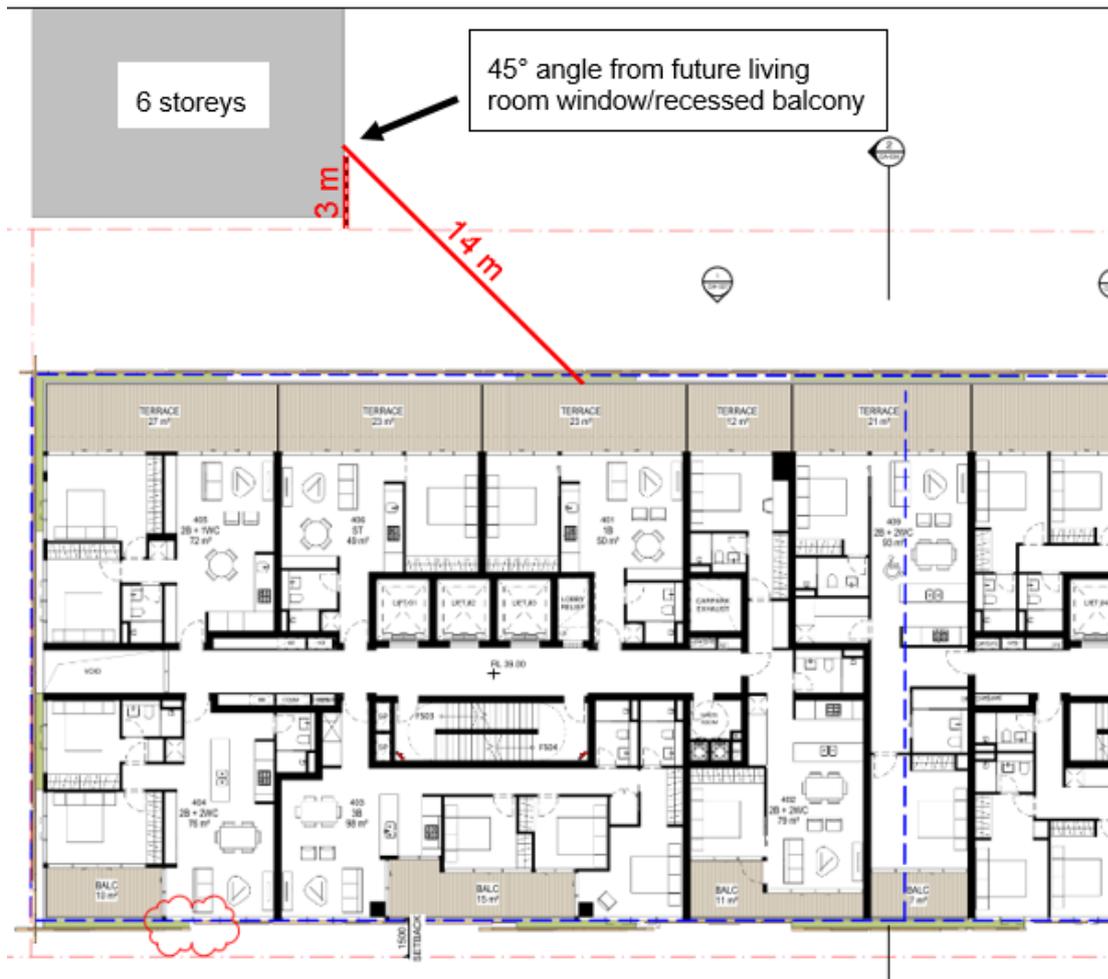


Figure 45: Level 4 (fifth storey) plan

102. As the impact is limited to a single apartment within the development and is also at an oblique angle, the variation to the minimum setbacks of the ADG can be supported in this instance. As outlined elsewhere in this report, it has been recommended that all balconies of Levels 1 to 4 of the development have balustrades fitted with translucent glazing. This includes the western balcony of Apartment 401. This will assist in mitigating privacy impacts between adjacent developments and from the public domain. For Levels 5 and above, the architect and applicant may select either translucent or transparent glazing for the balustrade treatment. This has been recommended as a deferred commencement condition.

#### Compliance with the Concept Development Consent

103. A concurrent section 4.55(2) modification application D/2016/1450/F was lodged on 13 November 2018 to amend the approved concept envelope to be consistent with that proposed under the subject application. The application is presented to the CSPC for consideration.
104. A comparison of the relevant concept consent conditions and the proposal are in the table below.

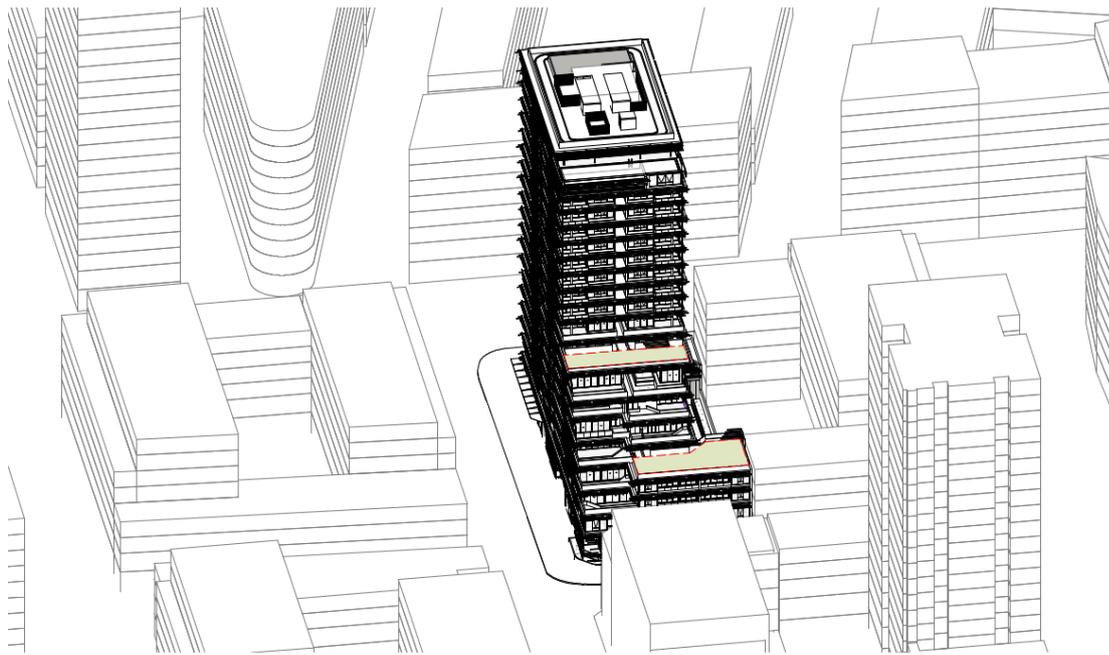
Condition Number	Compliance	Comment
Condition 8 - Allocation of floor space	Yes	As discussed with regard to Clauses 4.4, 6.14 and 6.21 of the Sydney LEP 2012, Building C is proposing 13,786sqm of gross floor area which is consistent with the condition.
Condition 9 - Building height	Partial compliance	As previously discussed, the application proposes variations to the three maximum height of buildings standards across the site and is supported. The development also exceeds the maximum parapet heights across the three parts of the building which are supported.  It is recommended that the CSPC support the concurrent Section 4.55 modification application D/2016/1450/F to vary the approved building envelope.
Condition 28 - Commonwealth Department of Infrastructure and Regional Development Condition		
Condition 10 - Detailed design of Buildings	Yes	<p>The development satisfies the condition as follows:</p> <ul style="list-style-type: none"> <li>• The building has three distinct components by way of its scale,</li> <li>• The building contains an active frontage to O'Dea Avenue</li> <li>• The building contains two lift cores</li> <li>• Mailboxes are securely located within the lift lobby</li> <li>• The development complies with the City's Interim Floodplain Management Policy</li> <li>• Sufficient building setbacks are provided to levels 5 and 6. A design modification condition is recommended regarding the balustrade treatment on lower levels of the building to mitigate privacy impacts.</li> </ul>

Condition Number	Compliance	Comment
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 12 - Waste facilities, collection areas and collection	Yes	The development is able to comply with the condition with regards to waste facilities, collection areas and collection, subject to a conditions.
Condition 35 - Communal open space	Yes	The development provides communal open space exceeding the minimum 25% required under Objective 3D-1 of the ADG.
Condition 39 - Trees that must be retained	Yes	The Melaleuca trees fronting O'Dea Avenue are proposed to be retained as required. Conditions of consent are recommended to protect the trees during construction.
Condition 48 - Parking design	Yes	The basement car park design is acceptable.
Condition 52 - Service vehicle size limit	Yes	The temporary road and driveway design are able to accommodate Council's waste trucks.
Condition 53 - Car share spaces	Yes	A car share space is provided.
Condition 54 - Green travel plan	Yes	A Green Travel Plan accompanies the application and is acceptable.
Condition 56 - Bicycle parking and end of trip facilities	Yes	Sufficient bike parking and EOTF are provided.
Condition 58 - Temporary access arrangements	Yes	The indicative temporary road and footway construction surrounding the development has been endorsed by the Local Pedestrian, Cyclin and Traffic Calming Committee.

Condition Number	Compliance	Comment
Condition 60 - Reflectivity	Yes	A reflectivity report accompanies the application and demonstrates compliance with Section 3.2.7 of the Sydney DCP 2012.
Condition 61 - Public Art	Partial compliance	Insufficient information has been provided within the revised public art plan, in particular, no artists have been selected and no indicative designs provided. A deferred commencement condition is recommended requiring an updated public art plan to be provided.
Condition 63 - Signage strategy	Yes	It has been recommended that the requirement for a signage strategy be submitted and assessed prior to the issue of a Stage 5 Construction Certificate, rather than be submitted as part of this application. This deferral does not alter the intent of the Concept Approval condition for a cohesive consideration of the signage.
Condition 95 - Trip generation	No	The trip generation rate has not been revised. This is discussed further in the issues section below.

### Solar access

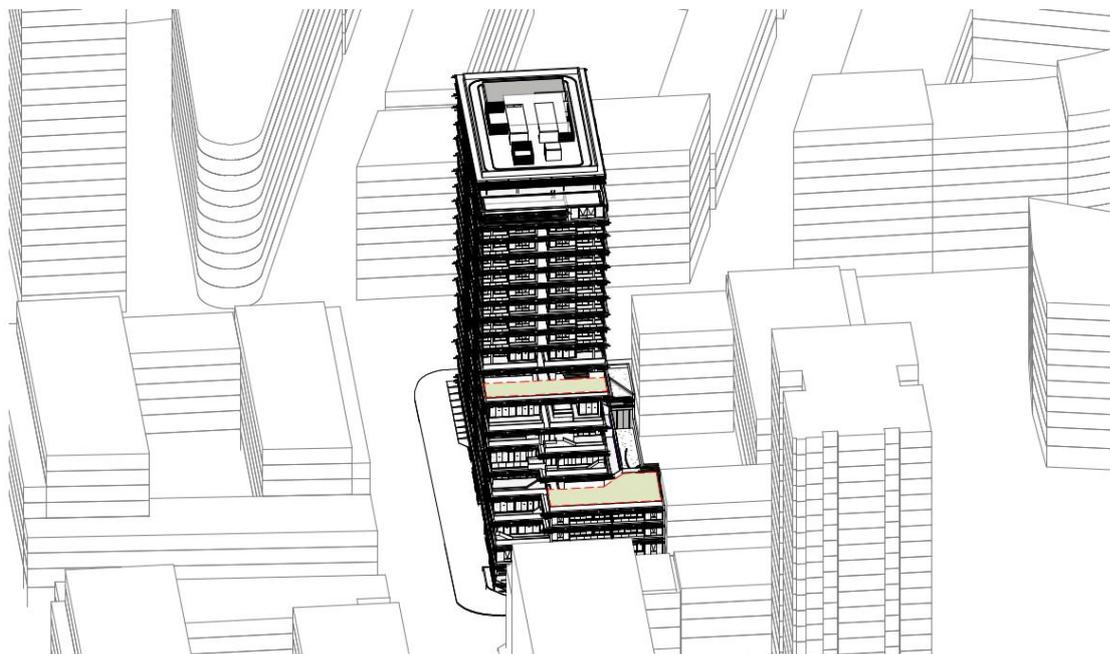
105. Objective 4A-1 requires residential apartment buildings to optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space. To achieve this, the design criteria recommends that a minimum 70% of apartments receive at least two hours solar access to living rooms and balconies between 9am and 3pm during the winter solstice. The design guidance recommends that solar access be measured as a minimum of 1sqm of direct sunlight measured at 1 metre above floor level for a minimum of 15 minutes.
106. The applicant has provided shadow diagrams and view from the sun diagrams (provided at attachment C) to illustrate solar access received by the building. The analysis of the applicant of this material is that 72% or 109 of 152 apartments will receive two hours of solar access at midwinter. This calculation relies on a number of east facing apartments receiving solar access between 9am to 11am.



JUNE 21 10:45 AM

LEGEND

Figure 46: A view from the sun diagram at 10.45am, with the oblique view from the sun providing light into the living rooms and balconies of the east facing apartments



JUNE 21 11:00 AM

Figure 47: A view from the sun diagram at 11am, with the sun unlikely to penetrate through the glass line and provide residents with solar access

107. However, as shown in figures 46 and 47 above, the assessment of City staff is that the east facing apartments receive solar access that penetrates the glass line up until 10.45am, mid-winter.

108. It is therefore the City's assessment that 72% of apartments within the development receive direct solar access between 9.00am and 10.45am during midwinter, with the degree of solar penetration into the apartments decreasing by 11.00am to a total of 44% of apartments receiving the full 2 hours of solar access. Whilst it is acknowledged that this is a variation to the design criteria of the Objective 4A-1 of the ADG, the proposal has been assessed as acceptable in this instance as:
- (a) The site is located within the Lachlan Precinct of Green Square, where the new street pattern and development lots were master planned and incorporated to a site specific section of the Sydney DCP 2012 (Section 5.4).
  - (b) The Concept Development Application for the collective site at 44-48 O'Dea Avenue (D/2016/1450) approved a series of local streets and five development lots that were consistent with this master plan and the DCP controls.
  - (c) The orientation of the approved street network and the building alignments for the Lachlan Precinct have meant that Reed Street and Building C are orientated slightly east of north. This orientation limits the degree of direct solar penetration into the east facing apartments at 11am on the winter solstice to a degree that is not in accordance with the design guidance of the ADG, and as such, has not been included in the City's calculations.
  - (d) The envelope of Building C has long east-west axis and a very limited northern frontage. This footprint does limit the siting of apartments within the development, and the assessment of City staff, is that the proposal has maximised the potential solar access in terms of apartment planning and layouts.

#### **Public art**

109. Sections 3.1.5 and 3.3.7 regard the provision of public art in private developments and are supplemented by the Interim Guidelines for Public Art in Private Development. Public art is recommended to be provided equal to 1% of the estimated cost of development and be formulated through the preparation of a public art plan.
110. Condition 61 of the concept approval required the submission of a public art strategy prior to the competitive design process and was satisfied at the time. A public art plan encompassing all five buildings within the site was submitted with the application.
111. A public art plan was submitted during the assessment of the application. The plan proposes a mix of LED lights, vegetation and "miscellaneous" materials to the soffit and ground plan of the residential lobbies, taking cues from the "many physical and conceptual layers of the forest". Display cases that were originally proposed, and were discouraged by the competitive design selection panel, and no longer form part of the public art plan but remain on the elevation plans.
112. Council's Public Art Manager reviewed the public art plan and requested further information as the plan had not progressed sufficiently. In particular an artist or series of artists had not been selected, and no indicative design had been put forward.
113. A revised public art plan was submitted and again is not supported due to insufficient information. As such, a deferred commencement condition is recommended requiring the submission of a comprehensive public art plan prior to the consent becoming operative.

## Landscaping

114. Objectives 4O and 4P of the Apartment Design Guide regard landscape design and planting on structures. The design guidance has been considered in the assessment of the application in conjunction with the City's Landscape Code Volume 2.
115. The green walls and landscaped terraces are defining features of the building and were instrumental in the success of the design in the competitive design process. Amended plans and additional information have been received during the assessment of the application to demonstrate that the size and durability of the planters, their ability to accommodate the proposed plants and trees, the irrigation system and the methods for access and maintenance can achieve the images conveyed in the design competition and photomontages.
116. Notwithstanding this additional information submitted, due to the integral nature of the landscape in this design, detailed site specific landscape conditions have been prepared by the City's Landscape Assessment Officer to ensure the vitality and success of the planting proposed. These detailed conditions have been included in the attached recommended conditions.

## Other Impacts of the Development

117. The proposed development is capable of complying with the NCC.

## Suitability of the site for the Development

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

## Internal Referrals

### Design Advisory Panel

119. The application was presented to the Design Advisory Panel on 6 September 2018. The Panel the following recommendations:

- (a) The proposed location of the 'art display' is unacceptable. The Public Art proposal for this site should be integrated with the development and preferably be external facing.

**Response:** A deferred commencement condition is recommended requiring an updated public art plan. The display cases are to be deleted from the plans.

- (b) The current proposal does not appear to have a mail room.

**Response:** Mail rooms are provided for each lobby.

- (c) There are internal rooms in some apartments that are unidentified, and corridors without daylight.

**Response:** A condition of consent is recommended requiring these rooms to be either consolidated with an adjoining habitable room or identified as a non-habitable room (for example bathroom or storage).

- (d) There is a heavy reliance on the vertical plantings for the facade but there is a lack of detail on the system. The Panel is not convinced that the proposed 'off the shelf' system will work.

**Response:** Amended plans have been provided to the satisfaction of Council's Landscape officer. Detailed landscape conditions of consent are recommended.

- (e) A detailed landscape plan is required to include adequate private open space and communal open space with soil depth provision for trees. Investigations should include the use of dense planting to provide screening and improve amenity and wind protection.

**Response:** Amended plans have been provided to the satisfaction of Council's Landscape officer. Detailed landscape conditions of consent are recommended.

- (f) There needs to be visual separation and visual privacy for the apartments on the ground floor of Hatbox Place. Proposals should consider lifting the floor levels or better screening without creating a 'blank wall' to Hatbox Place.

**Response:** The floor levels have been increased to be 1.2 metres above the adjacent footway in accordance with Objective 4L-2 of the Apartment Design Guide.

- (g) The environmental response for the facade is unacceptable, particularly for the western facade. The Panel is concerned about the amenity of the apartments, in particular the lack of solar protection and cross ventilation.

**Response:** Further additional information on facade modifications was submitted during the assessment to incorporate further horizontal banding and vertical trellis. This was accompanied by an amended BASIX certificate.

- (h) Investigation regarding the use of timber on the facade is recommended, subject to compliance to the recent changes in the certification of timber for cladding. The Panel recommended that further investigations on the materiality could include other natural materials that provide 'warmth' to the aesthetic of the facade.

**Response:** The applicant has agreed to using real timber on the ground floor.

- (i) The lift lobbies need to be more generous and could include views to the communal open space. All the common corridors should also include natural lighting.

**Response:** The residential lobbies provide views to the ground floor communal open space. The plans have been amended to provide windows to external walls to all internal hallways.

- (j) The variation to the building envelope is acceptable if it does not have negative impacts to the surrounding sites (including proposed developments).

**Response:** The development has demonstrated that the exceedances to the approved building envelope will not adversely impact the surrounding area and the future development potential of 42 and 50 O'Dea Avenue. Further discussion is provided with the report accompanying Section 4.55 modification D/2016/1450/F.

120. The application was referred to the City's Urban Designer, Environmental Health Officer, Transport Planner, Landscape Officer, Surveyor, Waste Officer and Public Domain team.
121. Relevant comments are included above and relevant conditions included in Attachment A.

## External Referrals

### Notification, Advertising and Delegation

122. The application constitutes integrated development and as such the application was notified and advertised for 30 days between 24 July 2018 and 24 August 2018 in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this notification, three submissions were received raising the following concerns:

- (a) The development exceeds the maximum height of buildings development standard.

**Response** - A revised statement justifying the variation to the standard has been submitted in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012. The variations are acceptable. Further discussion is provided under the Issues heading.

- (b) The development will adversely overshadow neighbouring properties to the south on O'Dea Avenue.

**Response** - Shadow and views from the sun diagrams have been submitted during the assessment of the application demonstrating that the proposed development will not result in additional overshadowing of properties located on the opposite side of O'Dea Avenue than was granted concept approval and envisaged in the Lachlan Precinct planning controls. Solar access to 35 O'Dea Avenue will receive a slight increase in solar access compared to the originally approved concept plan.

- (c) The development provides insufficient car parking.

**Response** - The development complies with the maximum number of car spaces permitted and is consistent with the objectives of the City's parking controls which seeks to reduce private traffic generation. A condition of consent is recommended requiring the proportion of visitor to resident parking spaces to comply with the parking controls.

Sufficient bike parking and associated facilities are provided for residents, employees and visitors in accordance with Section 3.11.3 of the Sydney Development Control Plan 2012. The site is also located close to public transport.

- (d) The development will adversely contribute to traffic generation.

**Response** - The development provides fewer than the maximum number of car spaces permitted, provides sufficient bike parking in accordance with Council's controls, is located within close proximity to public transport and forms part of a broader strategic and public domain plan that will encourage walking to nearby shops and services. The development will not adversely contribute to traffic generation.

- (e) Existing public transport will not support the additional demand created by the development.

**Response** - The City has plans for improved cycling routes and the introduction of a light rail corridor along Gadigal Avenue connecting Green Square and the City to accommodate the additional demand from development. A proportion of the section 7.11 contributions levied on the proposal will go towards local transport infrastructure. The provision of public transport (buses, trains and the like) is the responsibility of the NSW state government.

- (f) The development contributes to an oversupply of housing.

**Response** - The development is permissible in the zone and consistent with the land uses identified in the planning controls for the Lachlan Precinct. The impact on property prices is not a matter of consideration under Section 4.15 of the Act.

## Public Interest

123. The proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

## Financial Implications

### Section 7.11 Contribution

124. The development is subject of a section 7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015.
125. The Section 7.11 contributions payable may be offset in accordance with the terms of the Planning Agreement. This will be resolved at the time of payment.
126. An existing land use credit was calculated by apportioning the total existing GFA across the whole of the site to the five new site areas. The proposed dual key units were considered as independent studio and two bedroom apartments respectively. The proposed commercial use was defined as being for shops as per the City of Sydney Development Controls Plan 2015, however should these retail premises be converted to food and drink premises, an additional contribution will be required as the rate per worker is higher for this use.

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

(a) Open Space	\$1,785,830.43
(b) Community Facilities	\$357,494.64
(c) Traffic and Transport	\$407,840.96
(d) Stormwater Drainage	\$161,306.42
Total	\$2,712,472.45

### **Affordable Housing Contribution**

128. Pursuant to Clause 7.13 of Sydney LEP 2012 and the Green Square affordable housing program, the development is subject to an affordable housing contribution (to be indexed at the time of payment) of \$4,503,481.58 (\$4,482,988.62 for residential and \$20,492.96 for commercial). This figure is calculated off a total floor area of 19,432.54sqm (263sqm commercial and 19,169.54sqm residential).
129. A request has been made to stage the timing of the payment of Section 7.11 contributions and affordable housing contributions. Given that this development is for one building within a larger staged development of five buildings, it is considered unreasonable and unnecessary to stage the payment of these contributions.

### **Relevant Legislation**

130. Water Management Act 2000, Sydney Water Act 1994 No. 88, Sydney Airport Referral Act 1996, Environmental Planning and Assessment Act 1979.

### **Conclusion**

131. The application proposes the construction of a 20-storey building with four levels of basement car parking, ground floor retail and 152 apartments. The application follows a competitive design process whereby the collaboration between Kengo Kuma and Associates and Koichi Takada Architects was selected as the winning entry. The proposal is consistent with the winning scheme.
132. The application seeks Integrated Development approval under the Water Management Act 2000 for dewatering. General terms of approval have been granted by Water NSW and are included in the list of recommended conditions.
133. A written request seeking to vary Clause 4.3 of the Sydney Local Environmental Plan 2012, the height of buildings development standard, has been submitted. The variations relate to the lower two north and central height standards applying to the site - RL 40.15 and RL 46.35. The statement demonstrates that compliance with the standard is unnecessary in this instance and that there are sufficient environmental planning grounds to justify the variation. The development is consistent with the objectives of Clause 4.3 and the B4 - Mixed Use zone and is therefore in the public interest.

134. Deferred commencement conditions are recommended requiring design modifications and the provision of a public art plan.
135. Subject to conditions, the development achieves a high standard of architectural design, materials and detailing, with particular attention to the provision of green walls and landscaped terraces that will contribute positively to the public domain. The development achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore achieves design excellence.
136. The development is generally consistent with the design quality principles of the State Environmental Planning Policy No. 65 and the objectives of Parts 3 and 4 of the Apartment Design Guide..
137. Three submissions were received during the assessment of the application raising concerns regarding overshadowing, insufficient car parking, traffic generation, oversupply of housing, insufficient public transport and non-compliance with the height standard. The concerns are addressed within the report.
138. A Section 4.55(2) application, D/2016/1450/F, is concurrently submitted to the CSPC for consideration, seeking to amend the concept approval to ensure the approved building heights in metres, storeys and basement floors are consistent.
139. Subject to conditions, the development is in the public interest and recommended for approval.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

David Zabell, Senior Planner