

**Item 5.****Section 4.55 Application: 44-48 O'Dea Avenue Waterloo (Building C)**

File No.: D/2016/1450/F

**Summary****Date of Submission:** 13 November 2018**Applicant/Developer/Owner:** Crown W48 Pty Ltd**Architect:** Koichi Takada Architects**Cost of Works:** \$149,500,000**Zoning:** B4 - Mixed Use zone. The mixed use development and infrastructure are permissible with consent.

**Proposal Summary:** This application is made pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979) to modify the concept development consent D/2016/1450/E. The application should be read in conjunction with the detailed design development application D/2018/802, which is submitted to the Central Sydney Planning Committee (CSPC) for concurrent consideration.

The application seeks to modify the approved building envelope for building C, located fronting O'Dea Avenue and the future Reed Street and Hatbox Place.

The modifications propose increasing the approved building heights of the podiums and the length of the tower element, adding one basement level and one additional storey. This application is required to ensure that the detailed design development application is not inconsistent with the concept approval in accordance with Section 4.24 of the EP&A Act 1979.

Building C is affected by three maximum height of buildings development standards - RL 40.15, RL 46.35 and RL 91.00. The application seeks to increase the building height of the podium and the length of the tower such that the building exceeds the maximum RL 40.15 by up to 6.15 metres (15.3%) and the maximum RL 46.35 by up to 42.4 metres (91.5%). The tower will not exceed the maximum height RL 91.00.

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

Condition (9) of the existing concept approval sets maximum parapet and building heights within the three maximum height of buildings development standards. The application seeks to amend these to reflect the increased length of the tower and the stepped transition of the podium down to Hatbox Place.

Notwithstanding non-compliance with the numerical height of buildings development standard and the height in storeys control, the proposed modifications will not adversely impact the amenity and future development potential of adjoining properties. The form and scale of the building is generally consistent with desired character with the tower fronting O'Dea Avenue transitioning to the lower scale, fine grain on Hatbox Place.

A clause 4.6 statement accompanies the detailed design development application demonstrating that the proposed variations to the height of buildings development standard are supportable on environmental planning grounds, are consistent with the objectives of the zone and the development standard and are in the public interest.

The fourth basement level will accommodate additional car parking spaces, however this will not exceed the maximum permitted in accordance with Clause 7.3 of the Sydney Local Environmental Plan 2012. The additional basement level will not adversely impact the surrounding area.

The additional storey will accommodate communal facilities including a gym, spa, lounge area and pool, as well as the plant room. The additional storey is generally within the maximum 20 storey and RL 91.00 permitted with the exception of the pool and awning which extend over the maximum height component of RL 46.35. The additional storey will not adversely impact the amenity of the surrounding area and is consistent with the scale of development envisaged within the Lachlan Precinct controls.

Condition 63 requires the submission of a signage strategy with the detailed design development application. The applicant has advised that they will not submit a strategy. As such, a condition of consent on that application deleting the proposed signs. To ensure the concept and detailed design consents are consistent, it is recommended that condition 63 is modified to delete the requirement for a signage strategy at detailed design stage for building C.

**Proposal Summary:** The application was notified for 14 days in accordance with Schedule 1 of the Sydney Development Control Plan 2012 from 4 December to 19 December 2018. Two submissions were received raising the following concerns:

**(continued)**

- Insufficient community facilities provided
- Increased traffic
- Overshadowing of the 42 O'Dea Avenue

The matters are addressed within the report.

The application is recommended for approval.

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

**Development Controls:**

- (i) Water Management Act 2000
- (ii) State Environmental Planning Policy No. 64 - Advertising and Signage
- (iii) State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
- (iv) Apartment Design Guide 2015
- (v) Sydney Local Environmental Plan 2012
- (vi) Sydney Development Control Plan 2012

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Submissions (Confidential)

**Recommendation**

It is resolved that consent be granted to Section 4.55 Application No. D/2016/1450/F, and that the conditions of consent be amended (with additions shown in ***bold italics*** and deletions shown in ~~strikethrough~~, as follows:

(A) Amend Condition (2) (a) to insert the following revised plans:

Drawing Number	Architect	Date
MP-100-006 Rev <del>H I K L</del>	<del>Turner</del>  <b><i>Koichi Takada Architects and Silvester Fuller</i></b>	<del>22 February 2017</del>  <del>13 August 2018</del>  <del>21 November 2018</del>  <b><i>11 December 2018</i></b>
MP-250-101 Rev <del>G I J</del>	<del>Turner</del>  <b><i>Koichi Takada Architects and Silvester Fuller</i></b>	<del>17 February 2017</del>  <del>21 November 2018</del>  <b><i>11 December 2018</i></b>
MP-350-101 Rev <del>G K I J</del>	<del>Turner</del>  <b><i>Koichi Takada Architects and Silvester Fuller</i></b>	<del>17 February 2017</del>  <del>15 October 2018</del>  <del>21 November 2018</del>  <b><i>11 December 2018</i></b>

(B) Amend condition 9 (a) to amend the maximum parapet and top of building heights for building C:

<b><i>Building Development component</i></b>	Top of the parapet (AHD)	Top of the building component (AHD)
Building C - Lot 12a	2 storey component 33.300	2 storey component 33.900
	3 storey component 36.400	3 storey component 37.000
	4 storey component 39.500	4 storey component 40.900
	5 storey component 42.600	5 storey component 43.200
	6 storey component 45.700	6 storey component 46.300

Building C - Lot 12b	7 storey component 48.800	7 storey component 51.130
	8 storey component 51.900	8 storey component 54.430
	9 storey component 55.000	9 storey component 55.600
Building C - Lot 12c	19 storey component 85.500	19 storey component 86.600
	20 storey component 89.850	20 storey component 91.000

- (C) Amend Condition (63) to delete the requirement for a signage strategy to be submitted with the detailed design application for building C as follows:

**(63) SIGNAGE STRATEGY**

A detailed signage strategy shall be submitted with each Stage 2 development application *with the exception of building C*. The signage strategy must include information and scale drawings of the location, type, construction, materials and total number of signs proposed for the development.

**Reasons for Recommendation**

The application is recommended for approval for the following reasons:

- (A) The development as modified is substantially the same as was originally approved and is consistent with the requirements of Section 4.55(2) of the Environmental Planning and Assessment Act 1979.
- (B) The variations to the maximum height of buildings development standard, height in storeys control and maximum parapet and top of building heights under Condition (9) of the concept consent will not adversely impact the desired future character and amenity of the surrounding area. In particular, the modifications do not preclude the development potential of neighbouring sites with regard to solar access.
- (C) The building envelope as amended continues to achieve design excellence with regards to the provisions of Clause 6.21 of the Sydney Local Environmental Plan 2012 having regard to the desired future character of the Lachlan Precinct, the relationship to surrounding buildings and the public domain.
- (D) The development is in the public interest.

## Background

### The Site and Surrounding Development

1. 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.'
2. 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. The site also has a street frontage to Gadigal Avenue to the east and the end of Archibald Avenue to the west.
3. 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.
4. Figure 1 is an aerial view of the collective redevelopment site under the Concept DA, with the site boundaries of the subject development application shaded red.

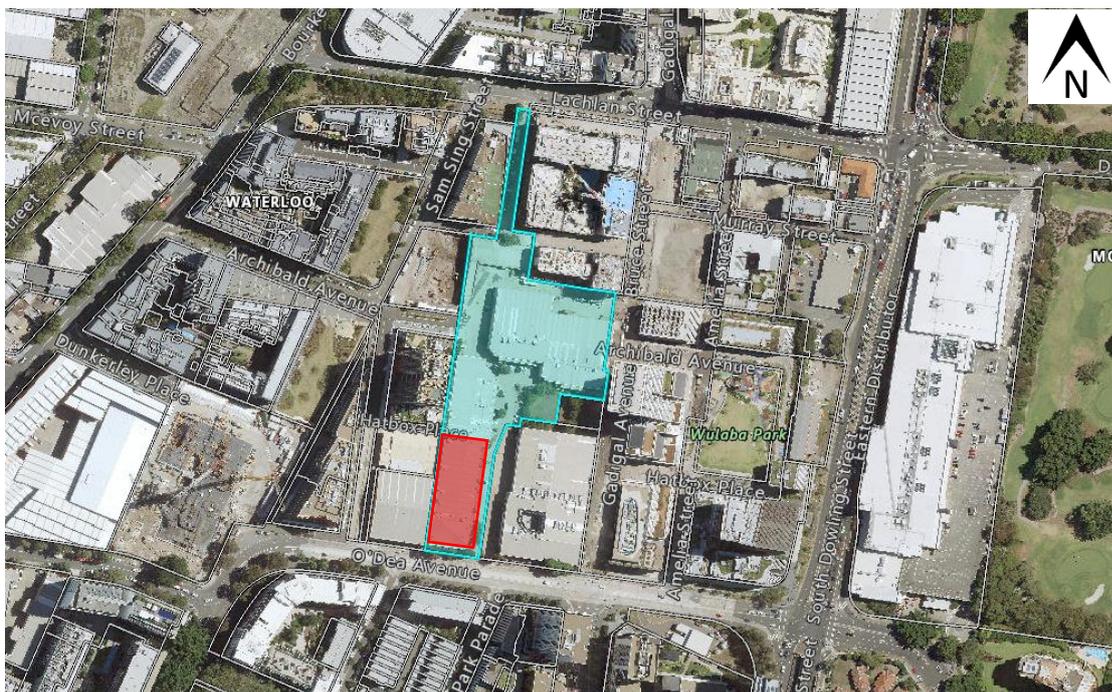


Figure 1: 44-48 O'Dea Avenue highlighted in blue, with the location of building C fronting O'Dea Avenue in red

5. Building C is located on Lot 12 that will have a site area of 1,961sqm and has 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 report regarding development application D/2018/802, the surrounding area is characterised by a mix of low scale, large floorplate commercial warehouses and residential apartment buildings.

## Proposal

6. The application proposes to modify the concept approval D/2016/1450 (as amended) with regards to the approved envelope for Building C only.
7. Specifically, the application seeks to:
- amend the maximum building heights identified on the approved plans (Condition 2 - Approved Stage 1 Development) and under Condition 9 - Building Height;
  - increase the depth of the indicative basement under Building C to RL7.850 to add a further basement level to the concept approval;
  - add one additional storey to the tower (but within the maximum approved height of RL 91.00); and
  - amend Condition (63) to delete the requirement for a signage strategy to accompany the detailed design application.
8. The proposed changes reflect and should be read with the detailed design development application D/2018/802 submitted concurrently to the Central Sydney Planning Committee for consideration.
9. The proposal seeks to amend the approved plans under Condition (2) - Approved Stage 1 Development as detailed in the table below:

Drawing Number	Architect	Date
MP-100-006 Rev <del>H I K L</del>	Turner <i>Koichi Takada Architects and Silvester Fuller</i>	<del>22 February 2017</del> <del>13 August 2018</del> <del>21 November 2018</del> <b>11 December 2018</b>
MP-250-101 Rev <del>G I J</del>	Turner <i>Koichi Takada Architects and Silvester Fuller</i>	<del>17 February 2017</del> <del>21 November 2018</del> <b>11 December 2018</b>

Drawing Number	Architect	Date
MP-350-101 Rev <del>G-K-I-J</del>	Turner  <i>Koichi Takada Architects and Silvester Fuller</i>	<del>17 February 2017</del> <del>15 October 2018</del> <del>21 November 2018</del>  <i>11 December 2018</i>

10. Condition (9) - Building Height currently permits the following parapet and building heights for the three components of the site:

Building component	Top of the parapet (AHD)	Top of the building component (AHD)
C1A (Lot 12a)	39.20	39.20
C1B (Lot 12b)	44.80	46.350
C1C (Lot 12c)	85.10	91.00

11. The condition is proposed to be amended in accordance with the table below to reflect the proposed building envelopes:

Building component	Top of the parapet (AHD)	Top of the building component (AHD)
C1A (Lot 12a)	2 storey component 33.300	2 storey component 33.900
	3 storey component 36.400	3 storey component 37.000
	4 storey component 39.500	4 storey component 40.900
	5 storey component 42.600	5 storey component 43.200
	6 storey component 45.700	6 storey component 46.300

Building component	Top of the parapet (AHD)	Top of the building component (AHD)
C1B (Lot 12b)	7 storey component 48.800	7 storey component 51.130
	8 storey component 51.900	8 storey component 54.430
	9 storey component 55.000	9 storey component 55.600
C1C (Lot 12c)	19 storey component 85.500	19 storey component 86.600
	20 storey component 89.850	20 storey component 91.000

12. Figures 2 and 3 below show the approved and proposed building envelopes. The proposed modifications include:
- the addition of a fourth basement level;
  - the addition of an additional storey within the maximum permitted height; and
  - variations to the form of the podium of Building C that has resulted from winning scheme of the competitive design process. Specifically, in order for the envelope to be consistent with the detailed design development application, the proposal seeks to increase the length of the tower over the lower podiums and increase the heights of the podiums.
13. Figure 4, below, illustrates the areas where the detailed design development application seeks to vary the existing approved building envelope for Building C. These highlighted areas are the modifications sought to building envelope under the subject application to ensure that the staged development applications remain consistent as required under the provisions of the Environmental Planning and Assessment Act 1979.

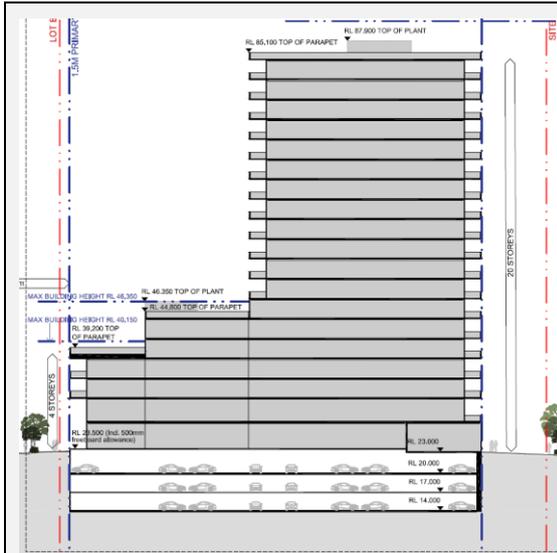


Figure 2: The approved building envelope

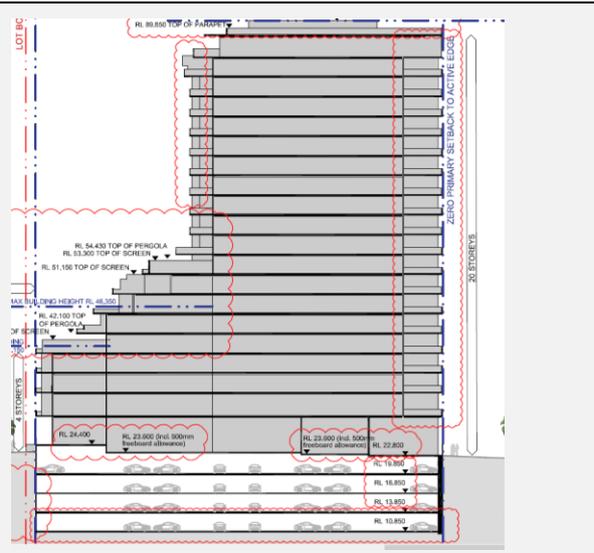


Figure 3: The proposed building envelope

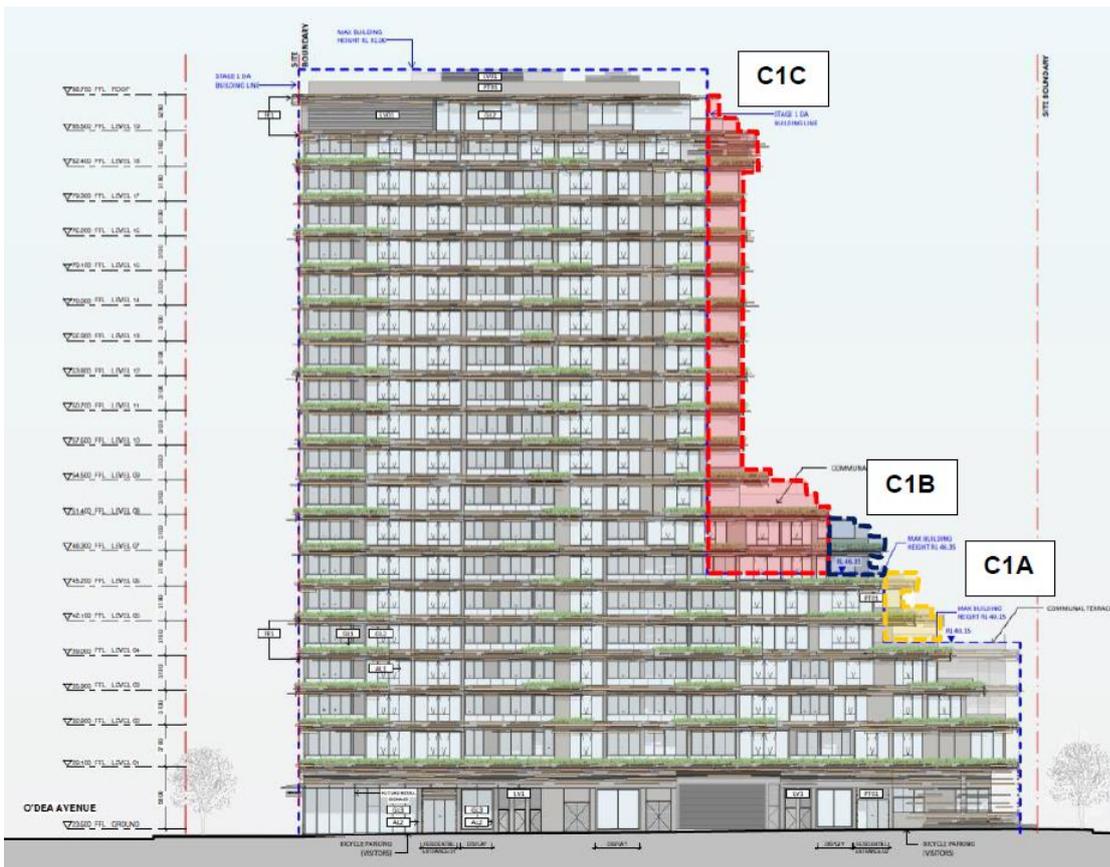


Figure 4: The plan highlights the areas of the detailed design (development application D/2018/802) that exceed the maximum height of buildings standards

## History Relevant to the Development Application

14. A detailed history of the site is provided within the report accompanying development application D/2018/802.

## Threshold Test

15. The development as proposed to be modified is considered to be substantially the same as that originally approved.

## Economic/Social/Environmental Impacts

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

## Water Management Act 2000

17. The concept approval was Integrated Development and subject to general terms of approval from WaterNSW.
18. The detailed design application which includes the additional basement was referred to WaterNSW who issued general terms of approval compatible with existing conditions of the concept consent.

## State Environmental Planning Policy No. 64 - Advertising and Signage

19. SEPP No. 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.
20. Condition (63) - Signage Strategy of the Concept development application 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.
21. As part of the assessment of the concurrent detailed design development application D/2018/802, the applicant was requested to provide a signage strategy. In response, the applicant has requested that a signage strategy be deferred from assessment as part of the detailed design development application by way of a condition of consent, and be subject to a separate approval process.
22. This approach would be inconsistent with Condition (63) of the consent. As detailed in the concurrent assessment report for D/2018/802, deferral of the signage strategy to a separate approval process has merits and is supported. It is recommended that Condition (63) be amended such that a signage strategy is not required to be submitted as part of the detailed design application. A condition of consent is recommended under that consent requiring any future signage to be subject to a separate application.

23. The proposed modifications ensure that the detailed design application is consistent with the concept approval as required in accordance with Section 4.24 of the Environmental Planning and Assessment Act 1979.

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

24. 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.
25. A design verification statement prepared by Koichi Takada Architects (NSW registration 6901) accompanies the detailed design development application D/2018/802 submitted concurrently to the CSPC for consideration. This design verification statement outlines the way in which the building meets the nine design quality principles and the objectives of Parts 3 and 4 of the Apartment Design Guide.
26. The subject application seeks to increase the height of various components of the building envelope, provide an additional basement level and an additional storey to the tower. The below assessment therefore focuses on the impacts of these changes. A detailed assessment is provided with the report for the detailed design development application D/2018/802.

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

The modifications to the approved envelope retain the 20 storey form fronting O'Dea Avenue and transition down to the lower scale on Reed Street and Hatbox Place.

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

As above, 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 overall floorplate of the tower has an area greater than that recommended under Section 5.4.3.3 of the Sydney DCP 2012 and the proposed modification seeks a varied form as a result of the competitive design process that does seek variations to the approved maximum building heights in both the concept DA and the LEP, the overall proposed scale of the building is not considered to detract from the public domain and maintains a scale and form relationship with the various towers in the Lachlan Precinct.

(c) **Principle 3: Density**

As seen in the detailed design application, the building envelope is able to accommodate a mixed use development that complies with the maximum floor space ratio standard and provide a variety of apartment types with suitable amenity.

(d) **Principle 4: Sustainability**

No amendments are proposed to condition 11 - Ecologically Sustainable Development, which requires the development to exceed the minimum BASIX energy and water reduction targets by 5 points.

(e) **Principle 5: Landscape**

The more gradual transition from the tower toward Hatbox Place will accommodate landscape terraces.

(f) **Principle 6: Amenity**

The amendments to the envelope do increase the bulk on the northern elevation. This will result in increased overshadowing of adjoining properties to the east (50 O'Dea Avenue) and west (42 O'Dea Avenue). While these sites are currently occupied by commercial uses, the Lachlan Precinct controls envisage mixed use developments on site. As discussed under the Issues heading, the additional overshadowing is not anticipated to compromise the capacity of these sites to accommodate residential development in future.

(g) **Principle 7: Safety**

The proposed changes raise no concerns regarding safety, which are addressed in the detailed design application.

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

The proposed changes raise no concerns regarding housing diversity and social interaction, which are addressed in the detailed design application.

(i) **Principle 9: Aesthetics**

The proposed changes raise no concerns regarding aesthetics, which are addressed in the detailed design application.

**Sydney LEP 2012**

27. The site is located within the B4 - Mixed Use zone. The mixed use development is permissible in the zone with consent.
28. 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	<p>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.</p> <p>The development complies with the maximum RL 91.00, but seeks to increase the width of the tower over the areas designated for the lower podium levels.</p> <p>Further discussion is provided under the Issues heading.</p>
4.4 Floor Space Ratio	Yes	<p>As discussed in the report accompanying development application D/2018/802 and under consideration by the Central Sydney Planning Committee, the development is consistent with the maximum permitted floor space ratio notwithstanding the proposed changes to the building envelope.</p>
4.6 Exceptions to development standards	Not applicable	<p>The detailed design application seeks to vary the maximum height of buildings development standard in accordance with Clause 4.6. A discussion is provided in the planner's report submitted concurrently to the CSPC for consideration.</p> <p>Variations to development standards by way of applications under Section 4.55(2) of the Act are not subject to Clause 4.6 of the Sydney LEP 2012.</p>

**Sydney DCP 2012**

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

<b>2.5.7 Lachlan Locality Statement</b>
<p>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.</p> <p>The changes to the building envelope are generally consistent with the desired future character for the site, which seeks a tower form up to 20 storeys fronting O'Dea Avenue transitioning to the lower scale premises to the north.</p>

4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.3.10 Outlook	Yes	Sufficient building separation is provided and landscaping provided throughout the site, ensuring all apartments are provided a pleasant outlook.

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 building envelope as modified exceeds the maximum height in storeys through the middle section, being up to eight storeys. The tower element also proposes to encroach within the designated middle six storey section.</p> <p>As discussed under the Issues heading the variation to the maximum height in storeys control will not adversely impact the amenity, character and public domain of the surrounding area.</p>

5. Specific Areas	Compliance	Comment
		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.
5.4.3.3 Building form and design - Lachlan	Partial compliance	<p>The modified tower envelope would increase from 800sqm to 888sqm through an increased depth of 4.4 metres. The recommended maximum floor plate of a residential building above 35 metres is 750sqm.</p> <p>The floor plate proposed in the detailed design application, including balconies, is 785sqm.</p> <p>The variation to the approved tower envelope is minor and will not adversely impact the perception of the building's bulk in the context of the Lachlan precinct. The tower retains a vertically proportioned form with a slender profile when viewed from the north and south elevations. The terraced podium adds to the sense of verticality within the design.</p> <p>The variation to the floor plate control is therefore acceptable.</p>

## Issues

### Height, scale and bulk

30. The approved building heights for the three components of the site are listed in Condition (9) of the concept approval and accord with the maximum heights of buildings development standards pursuant to Clause 4.3 of the Sydney LEP 2012. The approved heights are repeated in the table below (RL 91.00 results in a building height of approximately 65 metres).

Building component	Height of buildings standards (AHD)	Top of the parapet (AHD)	Top of the building component (AHD)
C1A (Lot 12a)	40.15	39.20	39.20
C1B (Lot 12b)	46.35	44.80	46.35
C1C (Lot 12c)	91.00	85.10	91.00

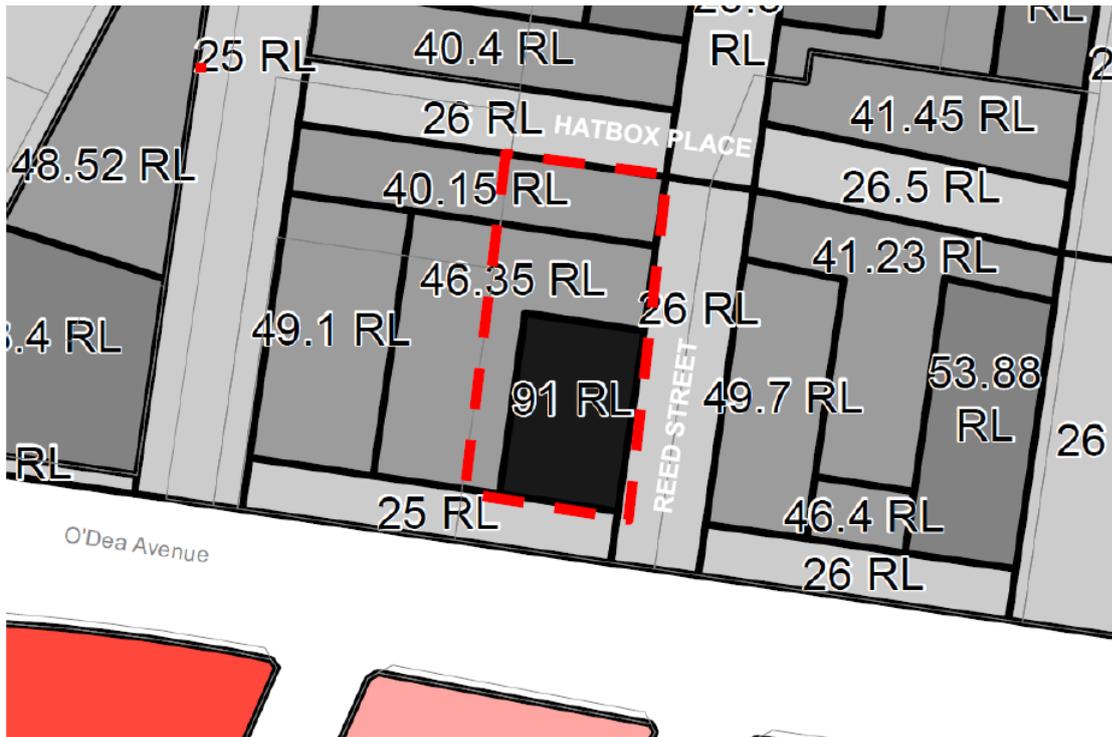


Figure 5: An extract of the height of buildings map with the site outlined in red

31. Section 5.4.3.2 of the Sydney DCP establishes the maximum height in storeys for each component of the site. The table below identifies the maximum and approved heights in storeys.

Building component	Maximum permitted height in storeys	Approved height in storeys
C1A (Lot 12a)	4	4
C1B (Lot 12b)	6	6
C1C (Lot 12c)	20	19

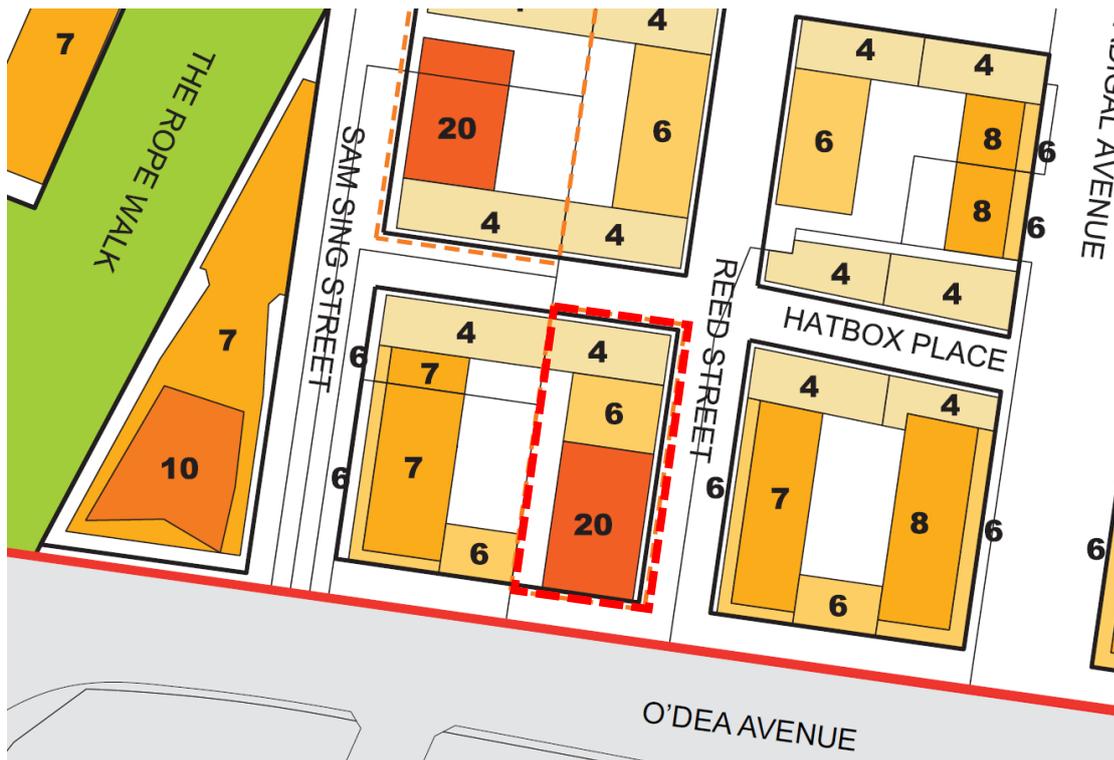


Figure 6: An extract of the Lachlan Precinct Built Form map, figure 5.93 of the Sydney DCP 2012 with the subject site outlined in red

32. The application proposes to modify the approved building envelope such that it will exceed the maximum height of buildings development standards for components C1A and C1B and the maximum height in storeys control.

Building component	Height of buildings standards (AHD and storeys)	Top of the parapet (AHD)	Top of the building component (AHD)
C1A (Lot 12a)	40.15 4 storeys	2 storey component 33.300	2 storey component 33.900
		3 storey component 36.400	3 storey component 37.000
		4 storey component 39.500	4 storey component 40.900
		5 storey component 42.600	5 storey component 43.200
		6 storey component 45.700	6 storey component 46.300

Building component	Height of buildings standards (AHD and storeys)	Top of the parapet (AHD)	Top of the building component (AHD)
C1B (Lot 12b)	46.35  6 storeys	7 storey component 48.800	7 storey component 51.130
		8 storey component 51.900	8 storey component 54.430
		9 storey component 55.000	9 storey component 55.600
C1C (Lot 12c)	91.00  20 storeys	19 storey component 85.500	19 storey component 86.600
		20 storey component 89.850	20 storey component 91.000

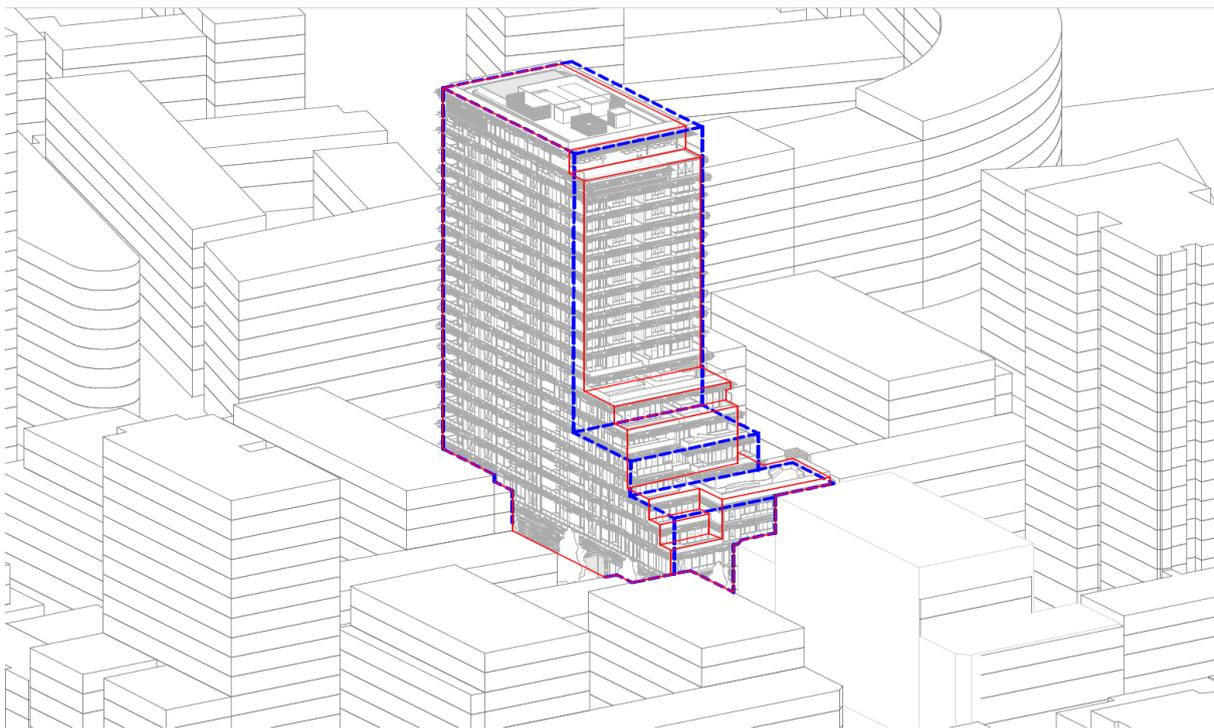


Figure 7: A comparison of the approved building envelope in blue and the proposed building envelope in red

33. Variations to the maximum height of buildings development standards by way of Section 4.55 applications are not subject to the provisions of Clause 4.6 of the Sydney LEP 2012. However, the detailed design development application exceeds the numerical height of buildings development standards and is therefore subject to the provisions of Clause 4.6.

34. As discussed in that report, the applicant has submitted a written request to demonstrate that compliance with the height standard is unreasonable and unnecessary, and that there are sufficient environmental planning grounds to support the extent of the variation proposed in the circumstances of the case. Notwithstanding the non-compliance with the numerical standard, the development is considered to be consistent with the objectives of the height of buildings development standard and the B4 - Mixed Use zone objectives. The variation to the height standard is therefore considered to be in the public interest.
35. Section 5.4.3.2 of the Sydney DCP 2012 provides guidance on when variations to the recommended height of buildings within the Lachlan Precinct are proposed. Variations may be permitted following consideration of -
  - (a) meeting the general environmental performance provisions and built form objectives of this DCP;
  - (b) achieving variety in building height and scale within street blocks and across the Lachlan Precinct;
  - (c) the prevailing scale of the streetscape and the adjacent public domain;
  - (d) the public domain improvements achieved;
  - (e) the cumulative reduction of solar access to the development site and surrounding blocks and public domain; and
  - (f) amalgamating landholdings, where necessary, in accordance with Figure 5.92: Lachlan Precinct – Required Land Amalgamation.
36. With regard to (a), (b) and (c), the modified building envelope is consistent with the environmental performance provisions and built form objectives of the DCP. In particular, the modified building envelope respects the tower form envisaged for the site with the lower levels responding to the fine grain character on Hatbox Place.
37. With regard to (d), the modifications do not impact on the public domain improvements already approved, in particular the street network and retention of significant trees to O'Dea Avenue.
38. Further discussion is provided below regarding the impact of the increased building heights on solar access to neighbouring properties, which has been assessed as acceptable. The changes will not adversely overshadow the public domain, in particular, the development does not overshadow any proposed parks. The variations are therefore acceptable with regard to (e).
39. With regard to (f), the approved subdivision layout and siting of the building is consistent with the Lachlan Precinct planning controls.
40. The variation to the height of buildings development standard, height in storeys control and maximum permitted building heights under condition 9 are supported in this instance.

## Overshadowing

41. Objective 3B-2 of the Apartment Design Guide requires the orientation of proposed building to minimise overshadowing during midwinter. The design guidance states that solar access to living rooms, balconies and private open spaces of neighbours should be considered.
42. The building increases bulk on the northern elevation of the tower and to the top of the podium levels by creating a terraced or ziggurat effect. Conversely, the detailed design application has set the tower back from the western alignment of the approved building envelope. This will result in additional overshadowing to the east and west of the site, however, will improve solar access to 35 O'Dea Avenue to the south.
43. The applicant has provided views from the sun diagrams (see attachment B) that illustrate the impact of the additional bulk. Particular regard is paid to the indicative building envelopes at 42 O'Dea Avenue to the west and 50 O'Dea Avenue to the east. While these sites do not currently accommodate dwellings, the planning controls for the Lachlan Precinct envisage a mixed use building with residential apartments. While it is difficult to determine the future location and number of residential apartments within the adjoining sites (or confirm any future use considering they are located within the B4 - Mixed Use zone), this assessment has considered the impact on these envelopes to ensure that they are not unduly prejudiced in the future from residential development.
44. The views from the sun diagrams demonstrate that additional shadow will be cast to the western elevation of the building envelope of 50 O'Dea Avenue from approximately 1pm during midwinter. The northern and internal western elevations of the building envelope will continue to receive more than two hours solar access during midwinter. As such, the amended building envelope will not overshadow 50 O'Dea Avenue such that it would preclude residential development of the site.

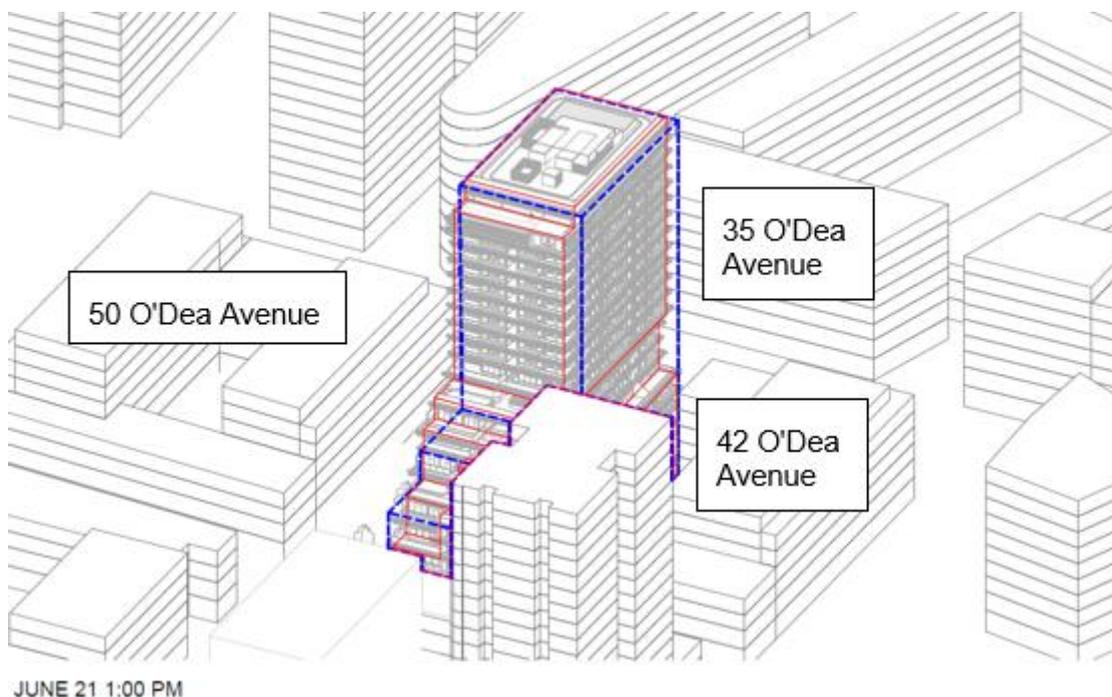


Figure 8: A view from the sun diagram at 1pm during midwinter. The approved envelope is in blue, while the amended envelope is in red

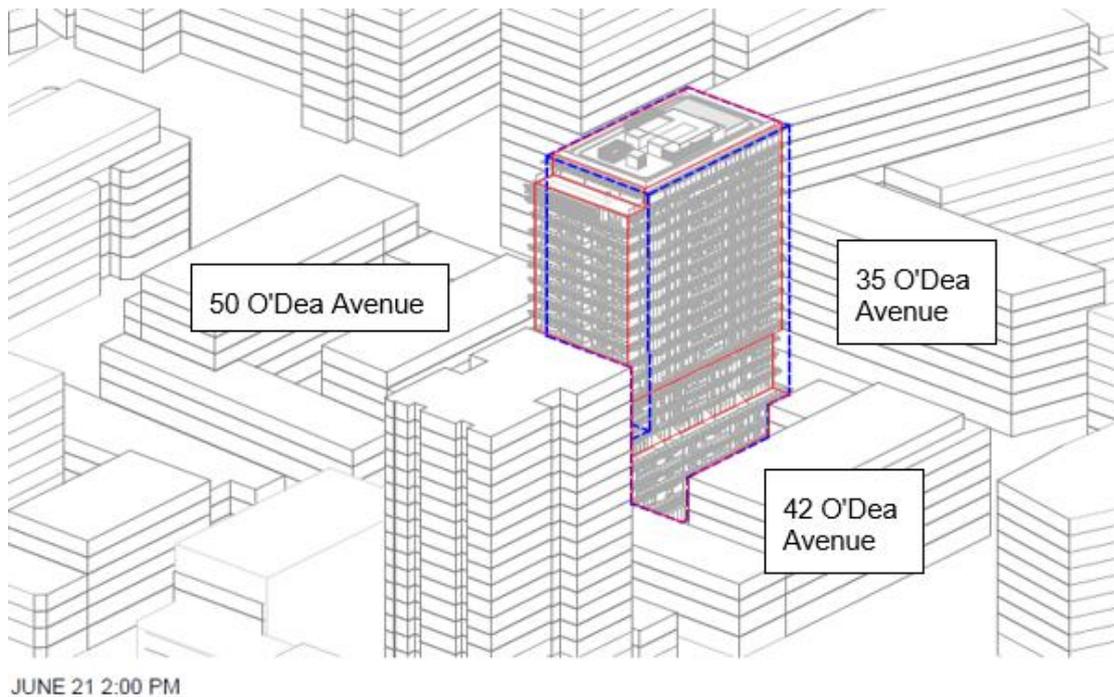
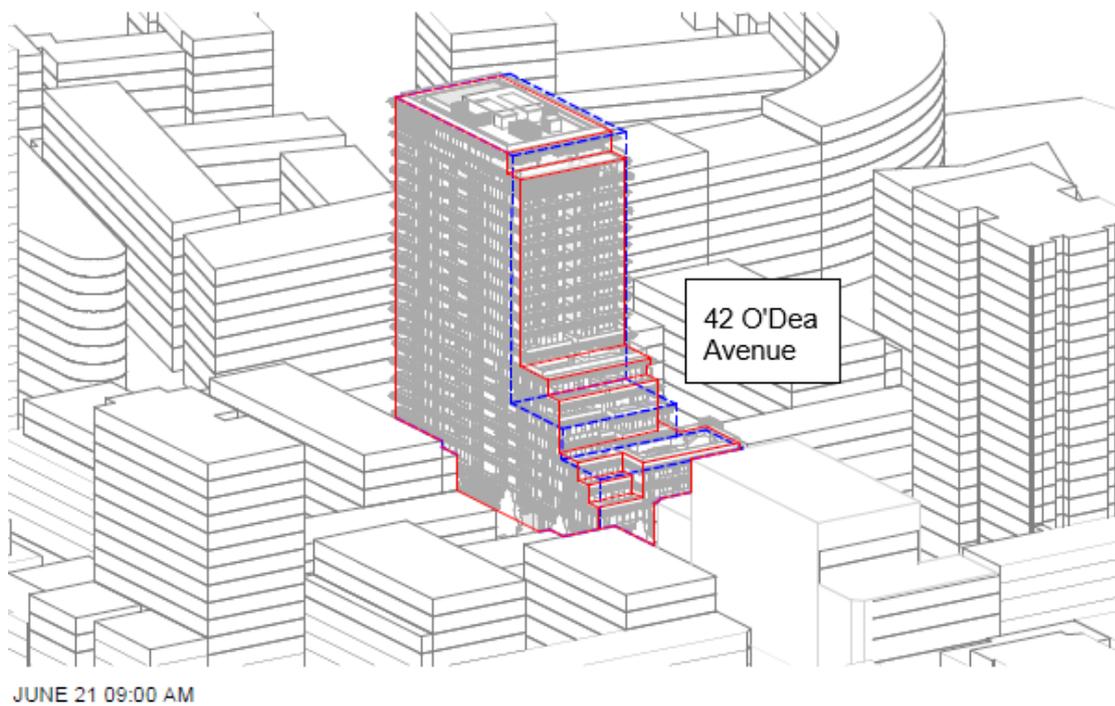


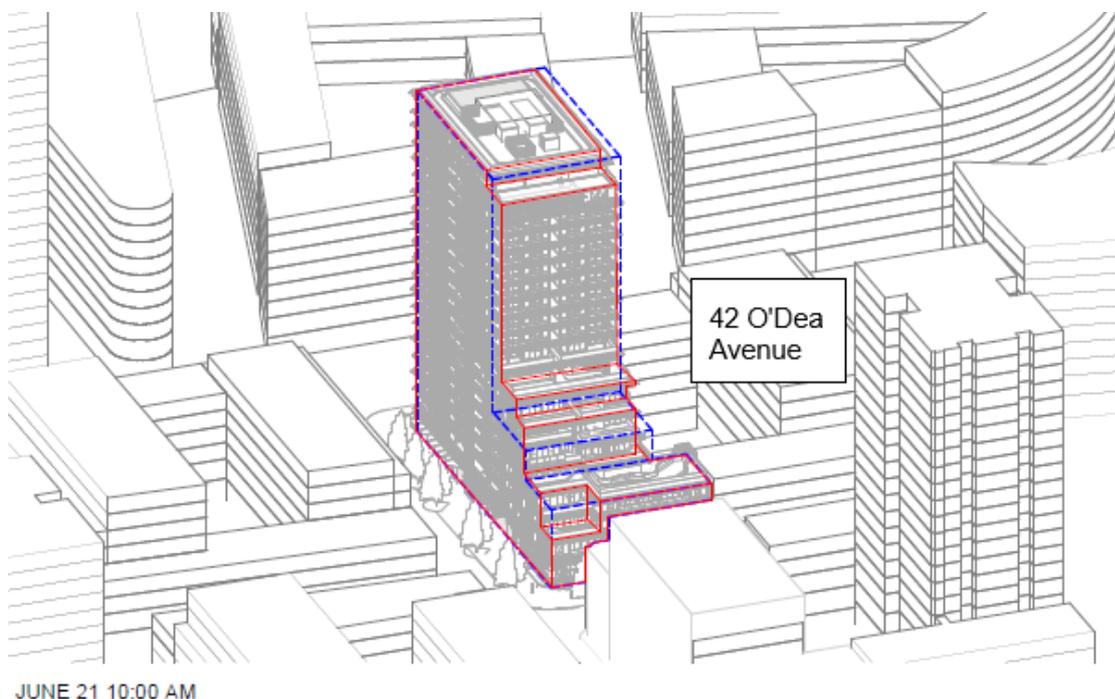
Figure 9: A view from the sun diagram at 2pm during midwinter. The approved envelope is in blue, while the amended envelope is in red

45. The views from the sun diagrams illustrate additional overshadowing of 42 O'Dea Avenue up to 10am during midwinter, specifically the northern elevation of the six storey component fronting O'Dea Avenue. The north and west elevations will continue to receive more than two hours solar access during midwinter. As such, the amended building envelope will not overshadow 42 O'Dea Avenue such that it would preclude residential development of the site.



JUNE 21 09:00 AM

Figure 10: A view from the sun diagram at 9am during midwinter. The approved envelope is in blue, while the amended envelope is in red



JUNE 21 10:00 AM

Figure 11: A view from the sun diagram at 10am during midwinter. The approved envelope is in blue, while the amended envelope is in red

- 46. The amended building envelope therefore satisfies Objective 3B-2 of the Apartment Design Guide.

### Other Impacts of the Development

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

### Suitability of the site for the Development

48. The proposal is of a nature in keeping with the overall function of the site.

### External Referrals

#### Notification, Advertising and Delegation

49. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified. As such the application was notified for a period of 14 days between 4 December 2018 and 19 December 2018. As a result of this notification there were two submissions received raising the following concerns.

- (a) The modifications will reduce solar access to 42 O'Dea Avenue and adversely impact on the development potential of the site.

**Response** - While the increase in height to the podium levels will increase overshadowing of 42 O'Dea Avenue (which is currently used as a commercial storage warehouse), the works will not preclude residential development of the site. Further discussion is provided under the Issues heading.

- (b) The development will increase traffic generation.

**Response** - The additional basement level will increase the site's car parking provision. However, as shown in the detailed design application, the provision of car parking is below the maximum permitted for the development. The site provides bike parking and associated facilities in accordance with Council's controls and is located near separated cycleways, public transport and local services. Section 7.11 contributions will be levied on the detailed design application towards local infrastructure to meet demand.

- (c) The development does not provide community infrastructure.

**Response** - The Voluntary Planning Agreement approved, executed and registered on title includes contributions towards community infrastructure in Green Square.

### Sydney Airport Referral Act 1996

50. 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.
51. 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.
52. 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).

53. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA, has advised that as the development as modified is acceptable as the building complies with the approved maximum height of RL 91.00.

### **Public Interest**

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

### **Relevant Legislation**

55. Water Management Act 2000, Sydney Airport Referral Act 1996, Environmental Planning and Assessment Act 1979.

### **Conclusion**

56. This Section 4.55(2) application seeks to modify the concept approval D/2016/1450/E as it relates to building C such that the detailed design development application and concept approval are consistent. Specifically, the modification will increase the building height within the north and central components, add one additional basement and one additional storey.
57. The building envelope as modified will exceed the maximum height of buildings development standard under Clause 4.3 of the Sydney Local Environmental Plan 2012, height in storeys control under 5.4.3.2 of the Sydney Development Control Plan 2012 and condition 9 of the concept approval regarding the maximum parapet and top of building heights. The variations to the height controls will not adversely impact the amenity of neighbouring properties and the public domain, and is compatible with the built form controls for the Lachlan Precinct.
58. Condition 63 is recommended to be amended deleting the requirement for a signage strategy to accompany the detailed design application.
59. Two submissions were received during the notification of the application raising concerns regarding overshadowing, traffic and the provision of community facilities. The matters raised in those submissions have been considered above.
60. The development is supported and recommended for approval.

### **GRAHAM JAHN, AM**

Director City Planning, Development and Transport

David Zabell, Senior Planner