

Item 4.**Development Application: 5-7 Bourke Road, Alexandria – D/2018/1208****File No.:** D/2018/1208**Summary**

Date of Submission:	5 October 2018 Amended plans and additional information received on 27 November 2018, 25 February 2019 and 1 April 2019.
Applicant:	Mr Alan Yazbek
Architect:	Candalepas Associates
Developer:	Infinity Construction Group
Owner:	Orfanos Investments Pty Ltd, Maxso Pty Ltd and Alan Yazbek Investments Pty Ltd
Cost of Works:	\$15,722,457.30
Zoning:	The site is zoned B7 Business Park. The proposed development is defined as 'commercial premises' and is permissible with consent in the zone.
Proposal Summary:	<p>The concept (stage 1) development application (DA) seeks consent for a commercial building envelope up to 35 metres in height (accommodating approximately nine storeys) and removal of two street trees. The proposed indicative uses comprise office premises, ground floor shop and above ground car parking.</p> <p>The application is referred to the Local Planning Panel for determination as a Public Benefit Offer accompanies the application. The Public Benefit Offer is for the dedication of land to Council for footpath widening and for the future Liveable Green Network including embellishment works and a monetary contribution.</p> <p>The application was notified and advertised for a period 30 days between 23 October 2018 and 21 November 2018. Three submissions were receiving raising concern with tree removal and overshadowing. The issues raised in the submissions have been addressed in the report, and conditions of consent are recommended to address these issues where appropriate.</p>

**Proposal Summary
(continued):**

A draft Voluntary Planning Agreement (VPA) has been prepared incorporating the works proposed by the developer in the Public Benefit Offer. The draft VPA was publicly exhibited for a period of 28 days between 6 May 2019 and 3 June 2019. At the time of writing this report, no submissions had been received.

The preliminary assessment of the DA identified a number of issues relating to the building setback from Bourke Road, deep soil planting, ecologically sustainable development (ESD) targets, Design Excellence Strategy and Public Art Strategy. These issues have primarily been addressed through the submission of amended plans and additional information.

The key outstanding issues are deep soil planting and a need to reduce the amount of above ground car parking to no more than 50% of the permitted parking for the site. Both are addressed through a recommended conditions of consent.

Subject to conditions, the proposal is largely compliant with the relevant planning provisions contained in Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.

The application is recommended for approval subject to deferred commencement conditions requiring the execution and registration of the VPA.

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

Development Controls:

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

Attachments:

- A. Recommended Conditions of Concept
- B. Proposed Building Envelope
- C. Indicative Drawings

- D. Draft Voluntary Planning Agreement and Public Benefit Offer
- E. Design Excellence Strategy

Recommendation

It is resolved that:

- (A) 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/2018/1208 subject to the conditions set out in Attachment A to the subject report; and
- (B) the Design Excellence Strategy for 5-7 Bourke Road, Alexandria, prepared by SJB Planning and dated April 2019, be endorsed in accordance with Section 3.3.1 of the Sydney Development Control Plan 2012 and Section 1.2 of the City of Sydney Competitive Design Policy.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The concept development is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979, in that subject to the imposition of appropriate conditions as recommended, it achieves the objectives of the planning controls for the site and does not result in unreasonable environmental impacts for the reasons outlined in the report to the Planning Panel.
- (B) The proposal is consistent with the objectives of the Sydney Local Environmental Plan 2012 (SLEP 2012).
- (C) The concept development complies with the maximum permitted height under Clause 4.3 of SLEP 2012, and the subsequent detailed development application is capable of complying within the maximum permitted floor space ratio within the parameters of the building envelope, pursuant to Clauses, 4.4 and 6.14 of SLEP 2012. The detailed DA is also capable of achieving up to an additional 10% additional floor space within the parameters of the building envelope, pursuant to compliance with Clause 6.21 of SLEP 2012 and the recommended conditions of consent.
- (D) The proposal, subject to conditions, satisfies the relevant provisions contained in Clause 6.21(4) of SLEP 2012 as the proposed land use is suitable for the site, the proposal sets out ecological sustainable development key targets for the development, the building envelope does not detrimentally impact of view corridors or result in unacceptable overshadowing, and the massing and setbacks of the building envelope are compatible with the character of the area.
- (E) The proposal is generally consistent with the provisions of the Sydney Development Control Plan 2012 (SDCP 2012), particularly the Green Square and Southern Employment Lands specific provisions which apply to the site. Subject to the imposition of a condition reducing the extent of car parking, the proposal is capable of complying with the above ground car parking provisions of Section 5.2.12 of the SDCP 2012.
- (F) The Design Excellence Strategy complies with Section 3.3 of the SDCP 2012 and the City of Sydney Competitive Design Policy.

- (G) The proposal will improve the quality of the public domain through dedication of land towards the widening of the footpath along Bourke Road and through dedication of land for future public open space being the Liveable Green Network.
- (H) Deferred commencement approval enables the voluntary planning agreement to be executed and registered on title.
- (I) For the reasons above and as outlined in this report, the proposed development is in the public interest subject to conditions.

Background

The Site and Surrounding Development

1. A site visit was carried out by City staff on 22 November 2018.
2. The site is legally described as lots 9 and 10 in DP 155734, and is commonly known as 5-7 Bourke Road, Alexandria.
3. The site is generally square in shape, with an area of approximately 1393sqm. It has a sole street frontage to Bourke Road measuring approximately 35.2 metres in length. A separated cycleway is located directly in front of the site. The site is relatively flat and contains an existing part one, part two storey industrial building.
4. The rear of the site is traversed by a Sydney Water drainage channel which forms part of the concrete channel known as 'Sheas Creek'. The channel is fully enclosed on the subject land by the existing building on the site. This drainage channel forms part of the Liveable Green Network under the Sydney Development Control Plan 2012 (SDCP 2012).
5. The site is located on the northern side of Bourke Road and approximately 100m west of the intersection of Bourke Road and Wyndham Street. The site is located approximately 200m from the Green Square Town Centre and Green Square Station. The site is surrounded by primarily commercial, light industrial uses and public infrastructure/operational uses.
6. Directly adjoining the site to the north at 12-20 Mandible Street, on the opposite side of the drainage channel, is a recently constructed private art storage facility known as 'Dangrove'.
7. Adjoining the site to the east at 189 Wyndham Street is the Fire and Rescue NSW Training Facility. Further to the north-east at 177 Wyndham Street is the recently constructed Sydney Trains Operational Centre.
8. To the south of the site on the opposite of Bourke Road are a range of one to two storey industrial and commercial buildings, including a cafe.
9. Adjoining the site to west at 9-13 Bourke Road is a part one, part two storey industrial warehouse building with an open at grade car park located in the western portion of the site.
10. The site is not a heritage item, is not located in close proximity to a heritage item and is not located within a heritage conservation area.
11. Photos of the site and surrounds are provided at Figures 1 to 8 below:

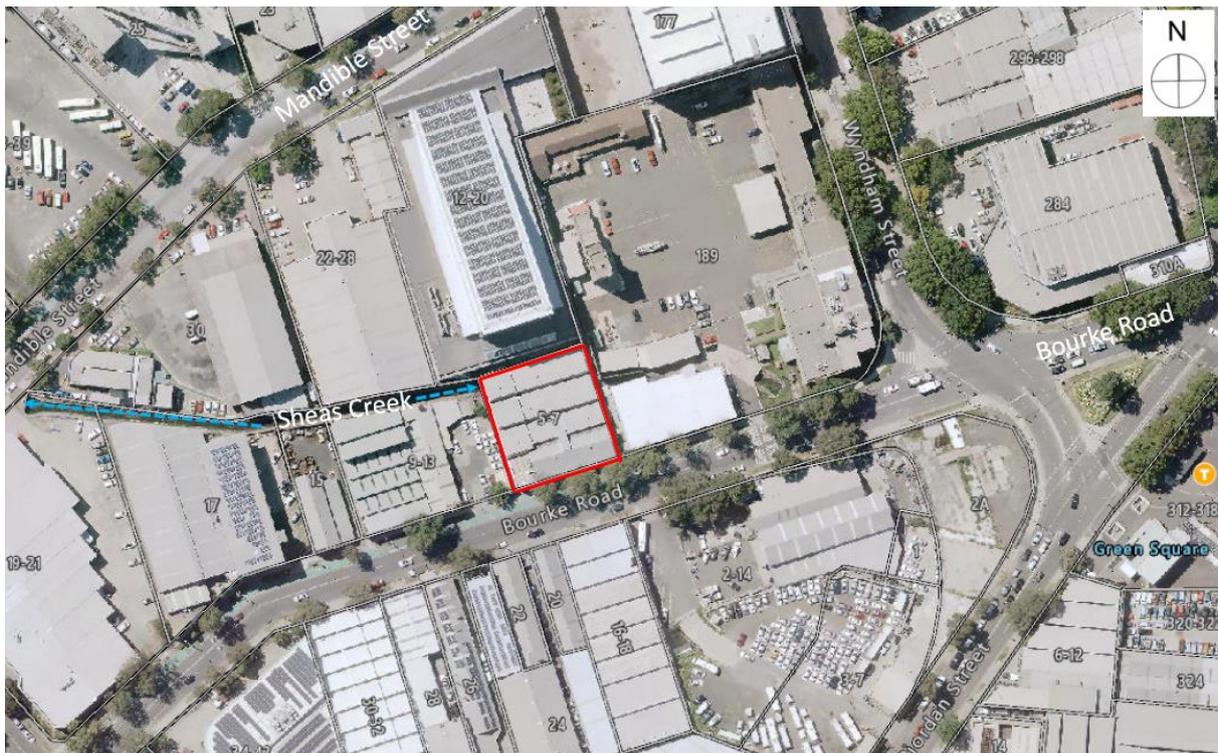


Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from Bourke Road, looking north-west



Figure 3: Site and Sydney Trains Operational Centre viewed from Bourke Road, looking north-west



Figure 4: Site viewed from Bourke Road, looking north-east



Figure 5: Site viewed from Bourke Road facing north-west. The private art storage facility known as Dangrove is visible behind the subject site and has a maximum height of approximately 35m.



Figure 6: Looking east along Bourke Road



Figure 7: Looking west along Bourke Road

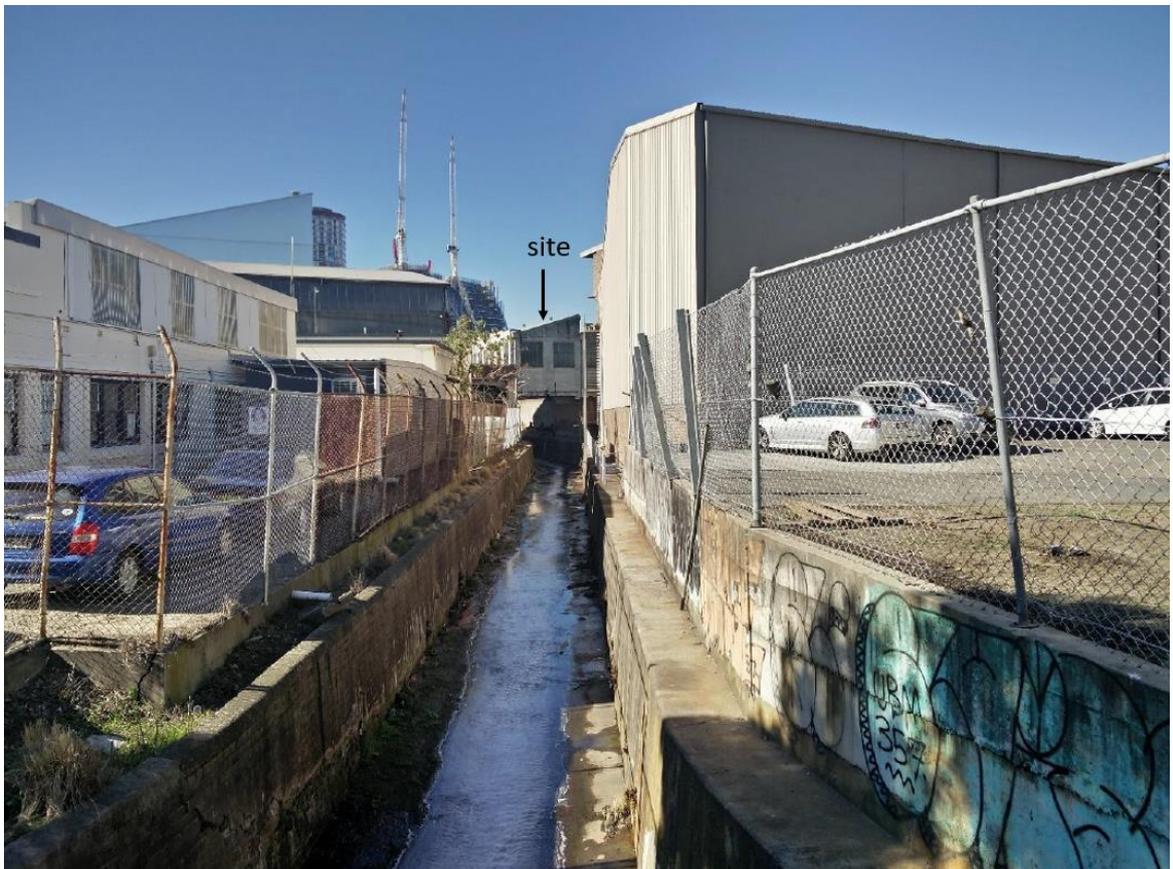


Figure 8: Looking west along the Sheas Creek open stormwater channel (Source: Applicant's SEE)

Proposal

12. The concept (stage 1) Development Application (DA) seeks consent for a building envelope and design parameters comprising:
 - (a) a commercial building 35m in height (RL 43.3), which is indicatively shown as containing nine storeys;
 - (b) indicative land uses (reference scheme) comprising:
 - (i) ground level shop, loading, servicing and car lift including vehicular entrance off Bourke Road;
 - (ii) levels 2 and 3 containing end of trip facilities and 33 car parking spaces, and
 - (iii) levels 4 - 8 office premises;
 - (c) removal of two street trees.
13. The Design Excellence Strategy submitted with the DA states that the proponent will undertake a competitive design process following consent of the concept DA and prior to submission of the detailed design DA (stage 2). The proponent seeks to pursue up to an additional 10% floor space subject to the provisions of Clause 6.21 of Sydney Local Environmental Plan 2012 (SLEP 2012).
14. Plans of the proposed development are provided at Figure 9 to 17 below:

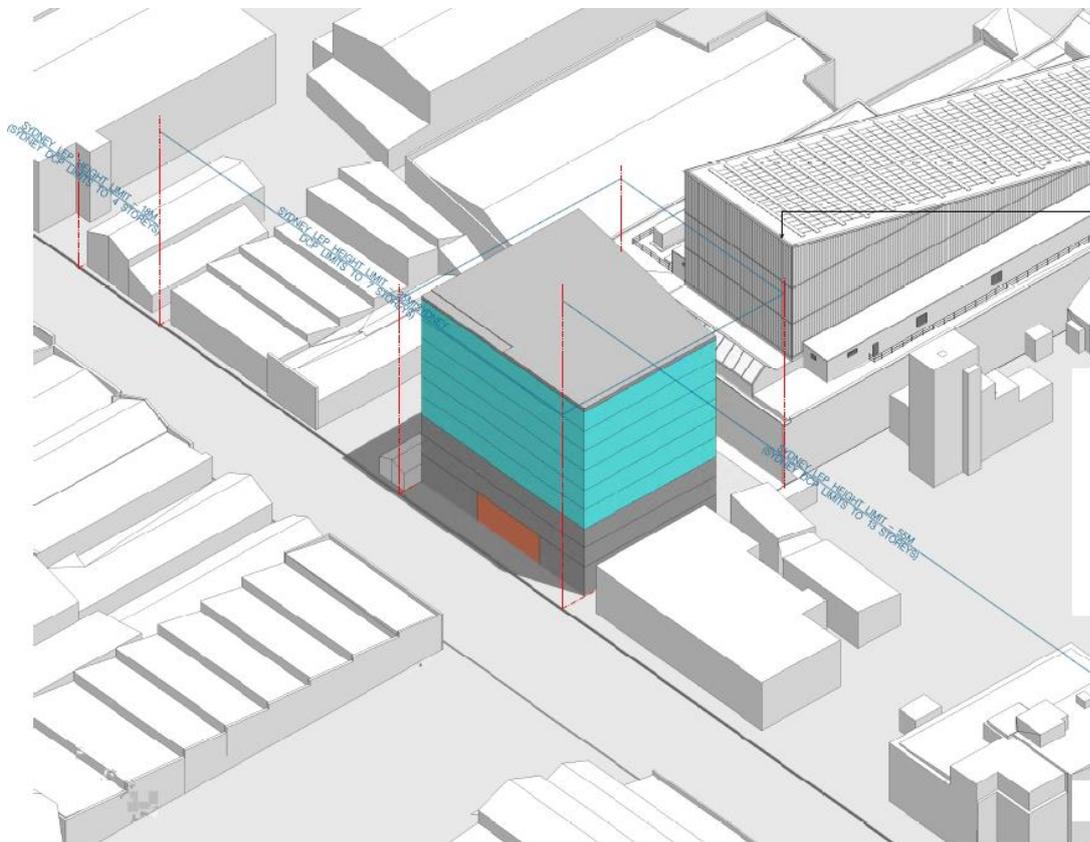


Figure 9: 3D envelope showing south and west elevations

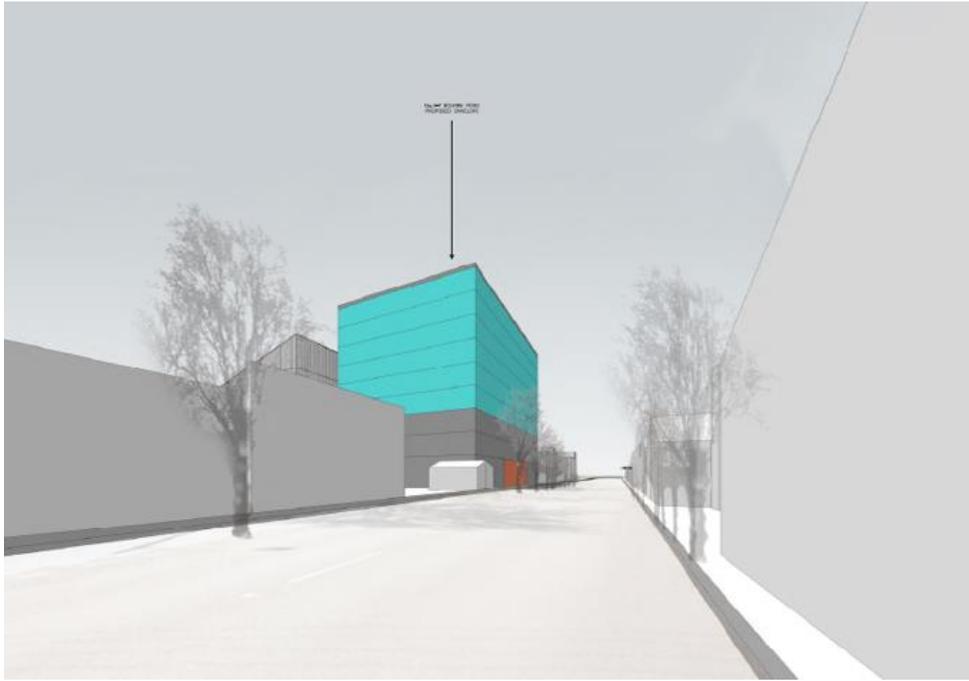


Figure 10: 3D envelope looking east along Bourke Road

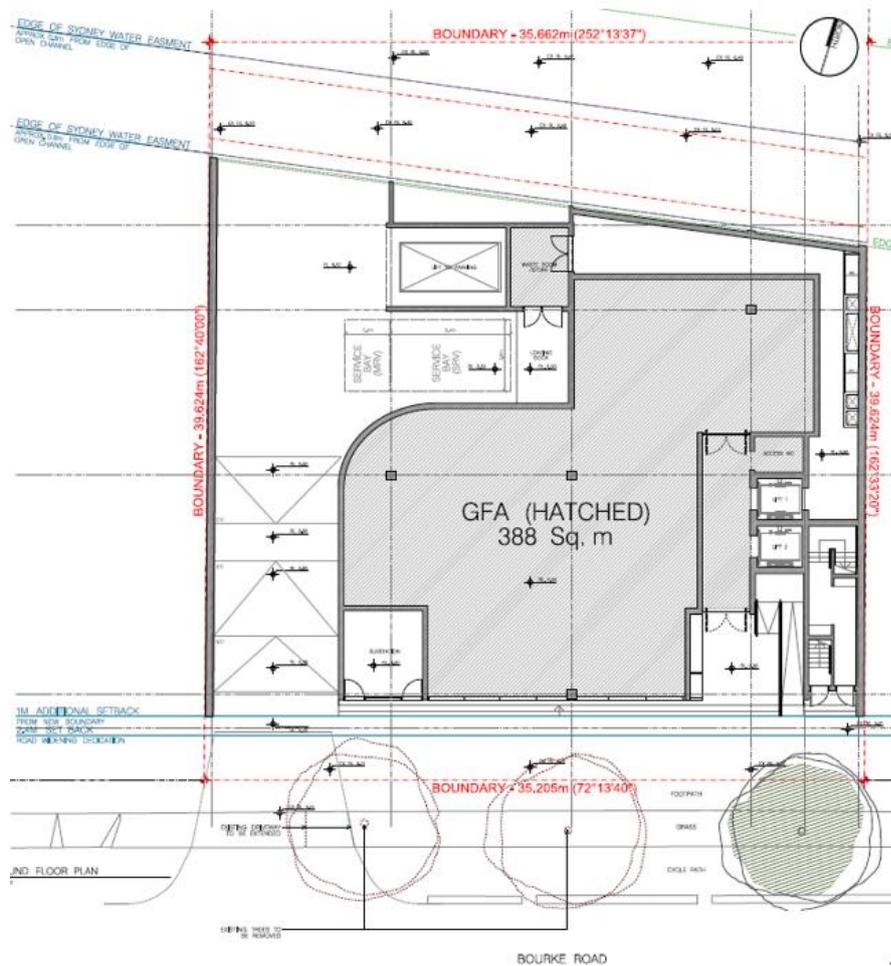


Figure 11: Indicative ground floor plan

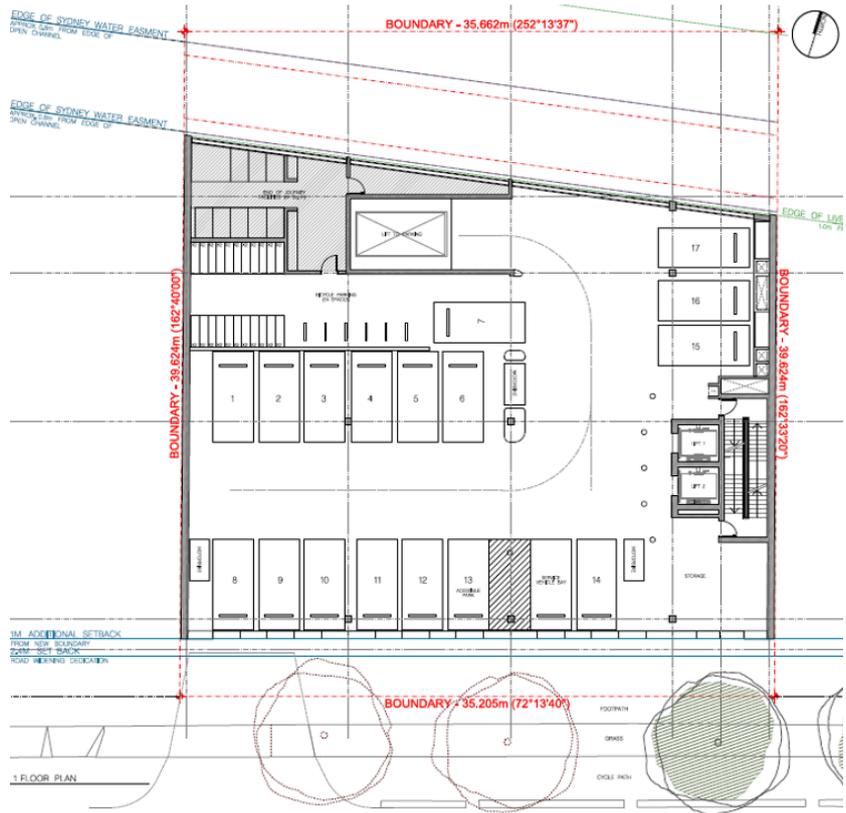


Figure 12: Indicative level 1 floor plan

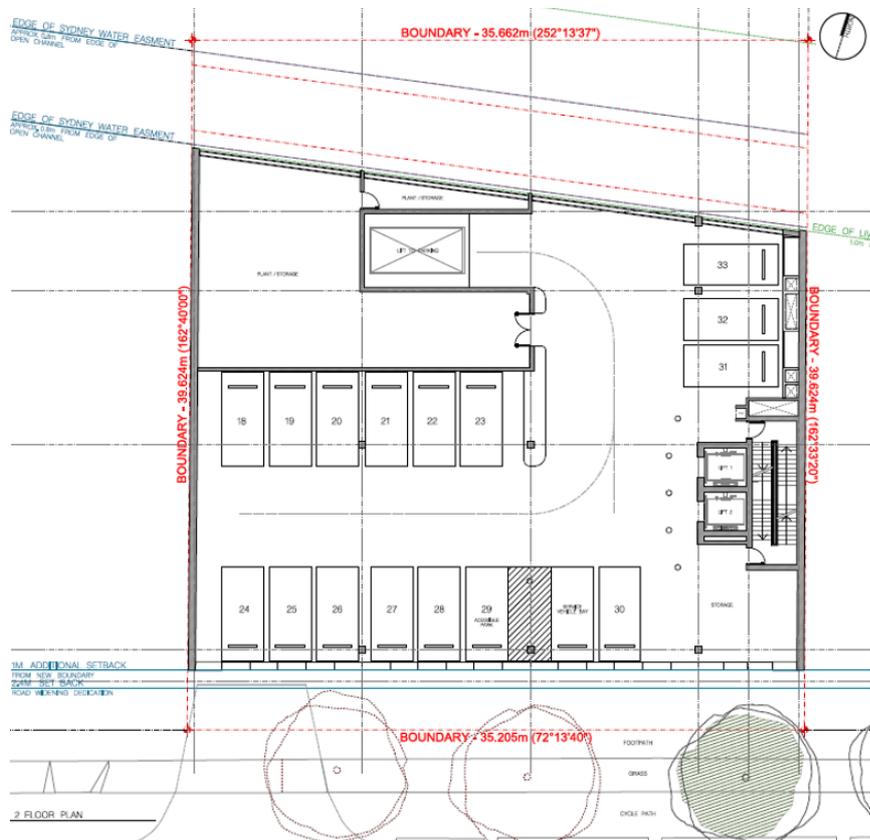


Figure 13: Indicative level 2 floor plan

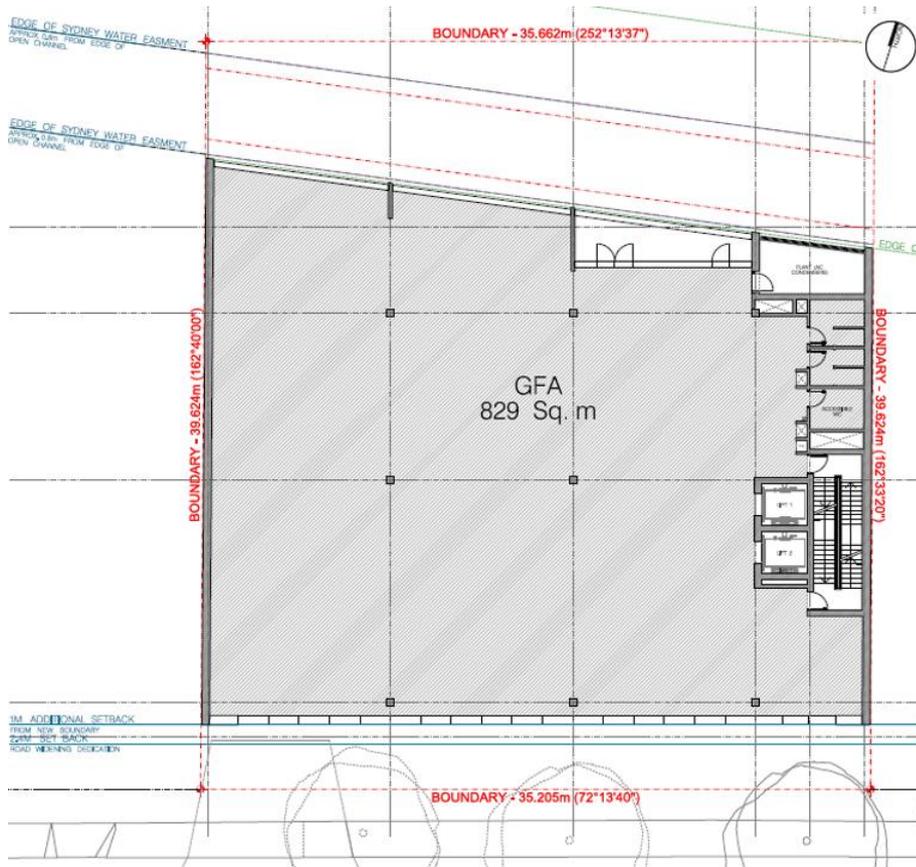


Figure 14: Indicative levels 3-8 floor plan

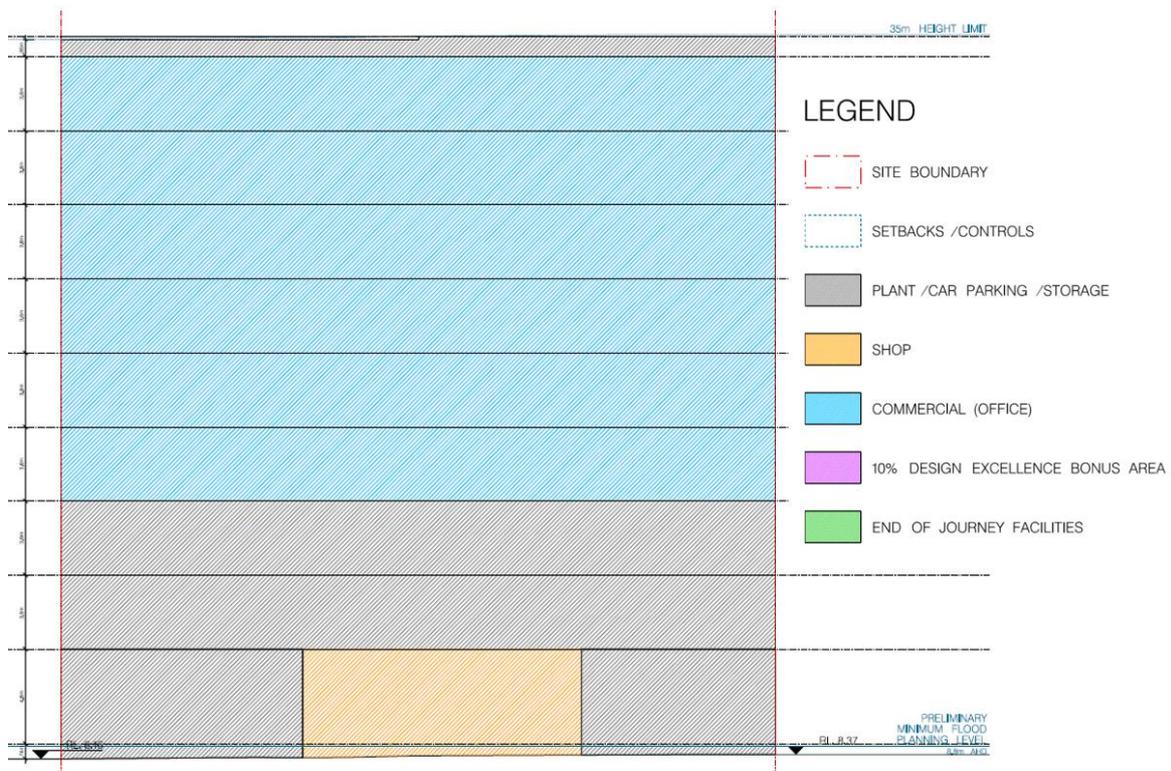


Figure 15: South elevation (Bourke Road) showing indicative land uses

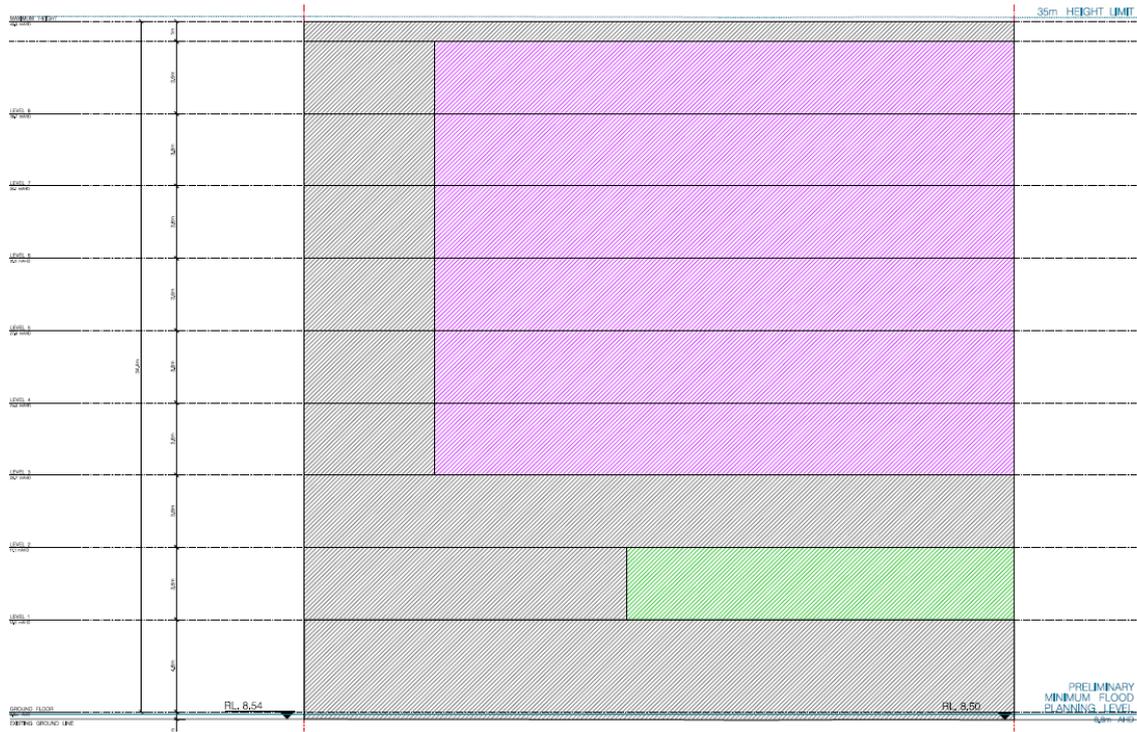


Figure 16: North elevation

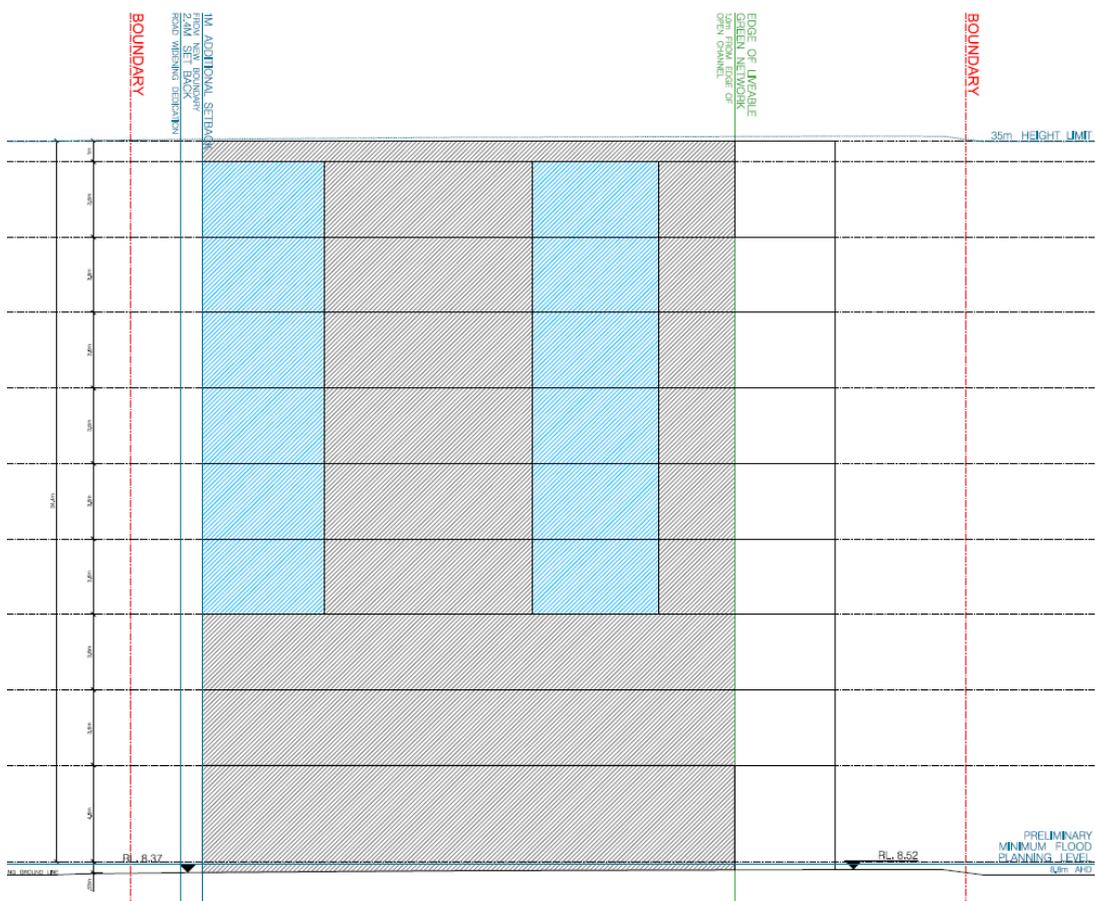


Figure 17: East elevation

19. The amended application has sufficiently resolved the issues raised in the preliminary assessment with the exception of the quantum of deep soil provided to the site. This issue is addressed through a recommended condition of consent and is discussed further in the 'Issues' section.
20. The amended plans received on 1 April 2019 are the subject of this assessment report.

Economic/Social/Environmental Impacts

21. 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

22. Section 183 of the Commonwealth Airports Act 1996 specifies that, amongst other things, construction of a building or other structure that intrudes into a prescribed airspace is a controlled activity.
23. Schedules 2 and 5 of the Civil Aviation Building Control Regulations 1988 identify the site is subject to a prohibition of the construction of buildings more than 50 feet in height (15.24m) above existing ground height.
24. 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). The Sydney Airport Airfield Design Manager, as an authorised person of CASA, provided approval for the controlled activity on 29 October 2018.

Sydney Water Act 1994 No. 88

25. Due to a Sydney Water easement (stormwater channel) being located on the site, the application was referred to Sydney Water in accordance with Section 78 of the Sydney Water Act 1994 for a period of 21 days. No formal response was received and it is therefore assumed no objection is raised by Sydney Water.
26. Notwithstanding, as the proposed development will require removal of the existing building and slab from the stormwater channel, City staff have been liaising with Sydney Water through the drafting of the VPA process. Sydney Water have advised that they are not opposed to removal of the slab. The developer will be required to seek Sydney Water's consent prior to any works to the stormwater channel.

State Environmental Planning Policy No 55—Remediation of Land

27. 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.
28. A detailed site investigation report (DESI) was submitted with the development application and concludes that the site can be made suitable for the proposed commercial use, subject to further investigation of groundwater contamination and soil sampling.

29. The City's Health Unit have advised that as the proposal is for a concept DA with no physical works being approved that there is sufficient detail to be satisfied that the site can be made suitable for the proposed use. Conditions are recommended for imposition requiring that a revised DESI or Remediation Action Plan (if required) to be prepared and submitted with the detailed design DA.
30. It is noted that the land to be dedicated to Council for footpath widening and for the Liveable Green Network must be remediated and must not be encumbered by an Environmental Management Plan. A condition of consent is recommended to address this.

State Environmental Planning Policy (Infrastructure) 2007

31. The provisions of State Environment Planning Policy (Infrastructure) 2007 ('ISEPP') have been considered in the assessment of the development application.

Clause 45

32. As the development site is within the vicinity of overhead power lines, the application was referred to Ausgrid under the provisions of Clause 45 of ISEPP for a period of 21 days. No response was received and it is therefore assumed no objection is raised by Ausgrid.
33. It is recommended that a condition of consent be imposed requiring the applicant to liaise with Ausgrid prior to the lodgement of the detailed design DA and that any required substation be accommodated within the design of the development.

Clause 104

34. As this site is located in excess of 90m from the intersection of Bourke Road and Wyndham Street, which is a classified road, the development is not subject to the provisions of Clause 104 (Traffic-generating development) of ISEPP.

Sydney Local Environmental Plan 2012

35. The site is located within the B7 Business Park zone. The proposed use is defined as 'office premises' and 'shop', both of which are permissible with consent.
36. The relevant matters to be considered under SLEP 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	Yes	<p>A maximum height of 35m is permitted.</p> <p>The proposed building envelope shows a maximum height of 35m. However, it is noted that the envelope relies on minimal plant at roof level and no lift overruns.</p> <p>The proposal also includes 2 levels of car parking above ground (accommodating 100% of maximum LEP car parking). Section 5.2.12 SDCP 2012 states that above ground car parking may be considered in Green Square due to water table and contamination constraints, however only up to 50% of the proposed car parking spaces may be above ground (i.e. 1 level). The removal of 1 parking level will enable the proposal to be height compliant.</p> <p>Refer to further discussion in the issues section of this report.</p>

Development Control	Compliance	Comment
<p>4.4 Floor Space Ratio</p> <p>6.13 End of journey space</p> <p>6.14 Community infrastructure floor space at Green Square</p>	<p>Able to comply</p>	<p>A maximum base FSR of 2:1 is permitted under Clause 4.4 of SLEP 2012.</p> <p>The site is eligible for an additional FSR of 1.5:1 under the provisions of Clause 6.14 of SLEP 2012 as the proposal includes a public benefit offer towards the delivery of community infrastructure within Green Square. This is discussed further in the 'Issues' section.</p> <p>The site may also be eligible for up to an additional floor space of 0.3:1 if end of journey facilities are provided in accordance with Clause 6.13 of SLEP 2012.</p> <p>In addition, the proponent is seeking to pursue up to an additional 10% floor space under the provisions of Clause 6.21(7) of SLEP 2012 through the competitive design process and subsequent detailed design DA.</p> <p>Subject to the detailed DA and compliance with the abovementioned provisions, the maximum permitted FSR for the site is 3.88:1.</p> <p>The reference scheme provided demonstrates that the proposed building envelope is generally capable of accommodating the potential maximum FSR/GFA permitted under Clauses 4.4, 6.13, 6.14 and 6.21 of SLEP 2012.</p>

6.21 Design Excellence	Able to comply	<p>Subject to conditions, the proposal satisfies the relevant provisions contained in Clause 6.21(4) of SLEP 2012. Relevant matters to be assessed under Clause 6.21(4) as they relate to the concept DA are provided below:</p> <ul style="list-style-type: none"> • The proposed building envelope does not show that view corridors will detrimentally impacted. • The indicative land use is suitable for the site. • The height, massing and setbacks of the envelope are compatible with the existing and desired character of the locality. • The proposal sets key ecologically sustainable development targets. • The building envelope shows the maximum extent of overshadowing and is assessed as acceptable (discussed further in the 'Issues' section). <p>As the proposal is a concept DA, no architectural design details are approved. Therefore further assessment will be made against other relevant provisions of Clause 6.21(4) under the detailed design DA such as the building's materiality and relationship with the public domain.</p> <p>In accordance with Clause 6.21(7) of SLEP 2012, up to an additional 10% FSR or height may be awarded if a competitive design process has been undertaken, and the detailed design is considered by the consent authority to exhibit design excellence.</p> <p>The applicant has submitted a Design Excellence Strategy as part of this application. The Design Excellence Strategy is recommended to be endorsed as part of this consent, in accordance with Clause 6.21 of SLEP 2012 and the City of Sydney Competitive Design Policy.</p>
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Development Control	Compliance	Comment
		A competitive design process is required to be undertaken prior to lodgement of a detailed design DA in accordance with Clause 6.21(5) of SLEP 2012.
Division 1 Car parking ancillary to other development 7.6 Office premises and business premises 7.7 Retail premises	Able to comply	The site is identified as 'Category F' on the Public Transport Accessibility Map. Based on the indicative GFA of 5363sqm, approximately 34 car parking spaces are permitted under Clauses 7.6 and 7.7 of SLEP 2012. The reference scheme proposes 33 car parking spaces. Refer to further discussion in the issues section of this report relating to above ground car parking.
7.13 Contribution for purpose of affordable housing	Able to comply	The subsequent detailed design DA for the site will be subject to affordable housing contributions under Clause 7.13 of SLEP 2012 and the Green Square Affordable Housing Program.
7.14 Acid Sulfate Soils	Able to comply	The site is classified as containing Class 3 acid sulfate soils. The detailed design DA will be required to submit an acid sulfate management plan or evidence that one is not required in accordance with Clause 7.14 of SLEP 2012.
7.15 Flood planning	Able to comply	The subject site is flood prone. The required flood planning level has been taken into consideration in the reference scheme and complies.
7.16 Airspace operations	Yes	The height of the proposed building envelope does not penetrate the prescribed airspace.

Development Control	Compliance	Comment
7.20 Development requiring preparation of a development control plan	Yes	As the height of the proposed building envelope exceeds 25m, preparation of site specific DCP is required pursuant to Clause 7.20(b) of SLEP 2012. However, in accordance with Section 4.23(3) of the <i>Environmental Planning and Assessment Act 1979</i> , the lodgement of a concept DA may be considered by the consent authority as satisfying the obligation to prepare a DCP.
7.23 Large retail development outside of Green Square Town Centre and other planned centres	Able to comply	The site is located within the restricted retail area which prohibits shops or markets with a GFA greater than 1000sqm. The proposed indicative size of the shop is 388sqm and as such complies with this provision.

Sydney DCP 2012

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

2. Locality Statements – 2.10.4 East Alexandria

The subject site is located in the East Alexandria locality. The proposed concept application is considered to be in keeping with the unique character of the area and design principles in that it will increase public domain amenity through footpath widening and dedication of land for Liveable Green Network and provide a high density employment generating use in Green Square.

3. General Provisions	Compliance	Comment
3.1.4 Public Open Space	Yes	The proposal includes land dedication towards the future Liveable Green Network.

3. General Provisions	Compliance	Comment
3.1.5 Public Art	Yes	<p>A public art strategy has been submitted with the application. The public art strategy indicatively nominates public art to be provided within the front building setback or on the Bourke Road façade. The proposed budget for public art is \$140,000 which is considered to be commensurate with the scale of development. The provision of public art will be required to be considered during the competitive design process and a detailed public art plan submitted with the detailed design DA.</p>
3.2 Defining the Public Domain	Able to comply	<p>The relationship between the public domain, including the future Liveable Green Network at the rear of the site, will need to be further developed as part of the competitive design process and detailed DA. The proposed building envelope provides for the required front and rear setbacks and it is considered that the detailed design DA will be capable of complying with these provisions.</p>
3.3 Design Excellence and Competitive Design Processes	Able to comply	<p>Prior to the lodgement of a detailed design DA, a competitive process is required to be undertaken.</p> <p>A Design Excellence Strategy has been submitted in accordance with Section 3.3 of SDCP 2012. The Design Excellence Strategy sets out that the proponent will seek to undertake an invited competitive design alternatives process with three designers to be involved. The strategy nominates that the 10% additional floor space will be sought under the provisions of Clause 6.21 of the SLEP 2012 rather than additional height. The strategy also sets out the target benchmarks for ecologically sustainable development.</p> <p>It is recommended the strategy be approved as part of this concept DA.</p>

3. General Provisions	Compliance	Comment
3.4 Hierarchy of Centres, City South	Able to comply	The site is located outside the Green Square Town Centre major retail area. The proposal indicatively nominates 388sqm for proposed use as a 'shop'. This is classified as 'minor retail development' under Section 3.4. Therefore it is unlikely due to the proposed size that the proposed shop would undermine the economic strategy of the Green Square retail centre or impact its viability. However, further assessment will be made under the detailed design DA.

3. General Provisions	Compliance	Comment
3.5.3 Tree Management	Yes - subject to condition	<p>The proposal seeks consent for the removal of two street trees to facilitate the widened driveway access. There are three street trees immediately in front of the site and all three trees are mature and in good health. Tree 1 immediately east of the driveway crossover is <i>Populus nigra Italica</i> (Lombardy Poplar). The second tree east of the driveway crossover (Tree 2) is <i>Populus deltoides</i> (Cottonwood). Both Poplars are mature, in good health and are typical in form and habit for the species.</p> <p>The existing driveway crossover is to be retained. The proposal includes the crossover to be widened with an increased swept path to accept large trucks for the required on site waste collection. The proposed widening of the vehicle crossover will be in conflict with the structural root zone of Tree 1 and the tree will be exposed to vehicle damage and its indicative removal is therefore supported. However the physical removal of the subject tree under this consent is not approved as it is considered premature prior to a detailed design DA being approved on the site.</p> <p>The Traffic Impact Assessment requests the removal of Tree 2. Reasons given are to provide desirable, adequate entering sight distance to vehicles and bicycles. However the City's Transport Access Unit consider that this tree can be retained while achieving adequate sight clearance. Therefore it is recommended that Tree 2 is to be retained and protected in accordance with the provisions of Section 3.5 of SDCP 2012 under the detailed design DA.</p>

3. General Provisions	Compliance	Comment
3.6 Ecologically Sustainable Development	Able to comply	<p>An ESD report has been submitted with the DA which sets out key ESD targets for the proposal including:</p> <ul style="list-style-type: none"> • 5.5 NABERS Energy Commitment Agreement; • Shading to limit solar gain on the north façade glazing (at a minimum); • Installation of Solar Photovoltaic (PV) system targeting a system size of 60kW on the roof top; and • Rainwater collection used for non-potable water uses. <p>These key ESD targets have been incorporated in to the Design Excellence Strategy, and included in the recommended conditions of consent.</p>
3.7 Water and Flood Management	Able to comply	<p>Refer to discussion provided within the SLEP 2012 compliance table.</p> <p>As part of the detailed design DA, further assessment will be made in regards to the management of stormwater.</p>

3.11 Transport and Parking	Able to comply	<p>The reference scheme generally shows that compliance can be achieved with the provisions of Section 3.11 within the building envelope. The reference scheme accommodates end of trip facilities, loading and servicing areas within the site.</p> <p>The indicative floor plans show a loading dock and service bay at ground level; end of trip facilities, 17 car parking spaces and three motorbike spaces at level 1; and 15 car parking spaces at level 2. Above ground car parking at Levels 1 and 2 is proposed to be accessed via a car lift.</p> <p>A Traffic Report has been submitted and estimates 28 vehicle trip generation in the peak hour from the development and accordingly a vehicle queue analysis has been submitted. While the quantum of car parking spaces is not approved under the concept DA consent, the City's Transport Planning Unit consider that the estimated 28 vehicle trip generation is a low estimation based on the indicative GFA and proposed number of car parking spaces. The submitted Traffic Report does not consider the RMS traffic generation guidelines and has factored more parking than Section 5.2.12 of the SDCP 2012 permits above ground.</p> <p>A revised Traffic Report and vehicle queue analysis is required at the detailed DA stage with assessment made regarding the revised number of car spaces and car lift queuing. In addition, all waiting bays for the car lift (that should be designed to be capable of transporting service vans) will be required to be clearly nominated in the detailed design DA drawings. The detailed design DA will need to include additional space(s) nominated for service and delivery vans beyond the single truck loading dock nominated on the ground level.</p> <p>A Green Travel Plan and Transport Access Guide is required to be submitted with the detailed design DA in</p>
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3. General Provisions	Compliance	Comment
		accordance with the provisions of Section 3.11.1 (Managing transport demand) of SDCP 2012.
3.14 Waste	Able to comply	<p>The proposed waste collection facilities and management will need to meet the provisions of Section 3.11.3 of SDCP 2012 and the City's Guidelines for Waste Management in New Developments.</p> <p>The reference scheme includes waste storage areas and has been designed to allow for a waste collection vehicle to enter and exit the site in a forward direction.</p> <p>A Waste Management Plan will need to be submitted as part of the subsequent detailed design DA.</p>

4. Development Types	Compliance	Comment
4.2.1 Building height (storeys)	No - assessed as acceptable	The maximum number of permitted storeys is seven and the proposed number of storeys is nine. This is discussed in the 'Issues' section.
4.2.1.1 Floor to ceiling heights and floor to floor heights	Able to comply	<p>A minimum floor to floor height of 4.5m is required for the ground floor and 3.6m is required for the floors above.</p> <p>The reference scheme shows compliant floor to floor heights for all levels.</p>
4.2.2 Building setbacks	Yes	The Public Domain setbacks map identifies a 2.4m footpath widening setback which the proposal has provided for. In addition, Section 5.2.10 of the SDCP 2012 requires an additional 1m building setback from the new boundary. The proposed building is setback 1m from the future Bourke Road site boundary.

4. Development Types	Compliance	Comment
4.2.2.2 Setbacks above the street frontage height	Yes	Setbacks above the street frontage height are required where adjacent buildings include upper level setbacks or the building adjoins a heritage item. The adjoining buildings do not have upper level setbacks and are not heritage items. The proposed nil setback of the upper levels is therefore compliant and considered appropriate in the context of the streetscape.
4.2.4 Fine grain, architectural diversity and articulation	Yes	This section stipulates that where roads are greater than 18m in width, the street frontage length of an individual building must not exceed 65m. Bourke Road is greater than 18m in width and the proposed building envelope has a street frontage length of approximately 32.2m.

5.2 Specific Areas - Green Square	Compliance	Comment
5.2.3 Community infrastructure	Yes	<p>The concept proposal relies on the additional 1.5:1 community infrastructure floor space. A public benefit offer was submitted by the applicant in order to access the floor space.</p> <p>This offer will contribute to the essential community infrastructure for Green Square through the dedication of land for the future Liveable Green Network and footpath widening along Bourke Road, and a monetary contribution towards infrastructure.</p> <p>This is discussed further in the 'Issues' section.</p>
5.2.7 Stormwater management and waterways	Able to comply	This is addressed above in the SLEP 2012 compliance table and in Section 3.7 of the SDCP 2012 compliance table.

5.2 Specific Areas - Green Square	Compliance	Comment
5.2.7.2 Water Sensitive Urban Design Principles (WSUD)	Able to comply	A Stormwater Concept Plan has been submitted with the concept DA outlining that the proposal is capable of complying with WSUD principles. In order to ensure compliance with Section 5.2.7.2 WSUD, the detailed design DA will need to be accompanied by documentation (including a MUSIC model and Report from MUSIC-link) to demonstrate effectiveness and appropriateness of the selected stormwater quality treatment devices.
5.2.9 Building design	Able to comply	The detailed design DA will be required to comply with the provisions of this section. The reference scheme generally demonstrates that the detailed design DA will be capable of complying.
5.2.10 Setbacks	Yes	The building is required to provide a 1m landscaped setback from the new street frontage property boundary (following land dedication for footpath widening). The proposed building envelope has provided a 1m landscaped setback from the new Bourke Street property boundary.

<p>5.2.12 Above ground parking spaces and adaptable car parking spaces</p>	<p>Able to comply</p>	<p>The applicant states that excavation of the site to accommodate car parking is not feasible due to subsurface and ground water conditions, flooding, issues with the structural integrity of the adjacent stormwater channel and contamination. The proposal seeks consent for above ground car parking. The application has been supported by a Flood Report, Geotechnical Investigation Report and Contamination Report, all of which support this justification for above ground car parking.</p> <p>The number of car parking levels and number of car parking spaces is not approved under this consent. However, it is noted that the reference scheme demonstrates compliant floor to floor heights for future adaptability of proposed above ground car parking levels to an alternative use. The detailed design will be required to address how the above ground car parking will be appropriately screened while still providing a high quality façade which contributes to the streetscape.</p> <p>It is considered that due to the considerable site constraints, above ground car parking is warranted in this particular case.</p> <p>Notwithstanding this, Section 5.2.12 of SDCP 2012 permits up to 50% of the proposed car parking spaces to be located above ground. The proposed indicative reference scheme envelope has accommodated two levels of above ground car parking providing 100% of car parking spaces above ground. This is inconsistent with DCP and the extent of above ground car parking would need to be reduced.</p> <p>The detailed design is capable of complying with the provisions of Section 5.2.12 of the SDCP 2012, subject to revision and further assessment.</p> <p>This is discussed further in the 'Issues' section.</p>
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5.8 Specific Areas - Southern Employment Lands	Compliance	Comment
5.8.2.5.1 Landscaping	No	A minimum of 10% of the site area is required for deep soil planting. Refer to the 'Issues' section for discussion.
5.8.2.7 Storage areas	Able to comply	The reference scheme demonstrates that storage areas can be accommodated within the building envelope.
5.8.3.3 Liveable Green Network	Able to comply	The proposal has been accompanied by a public benefit offer for dedication of land towards the future Liveable Green Network. The building envelope complies with the 1m setback from the southern edge of the Liveable Green Network in accordance with Table 5.15 'Landscape setbacks for the Liveable Green Network'. It is considered that the detailed design DA will be capable of providing activation of the Liveable Green Network and Bourke Road within the proposed building envelope. A condition of consent is recommended requiring activation of the streetscape, including the future Liveable Green Network, to be addressed in the detailed design.
5.8.4 Adaptable parking	Able to comply	Refer to discussion above in the Green Square - Section 5.2 of the SDCP 2012 compliance table.
5.8.5 Managing transport demand	Able to comply	As discussed in Section 3.11, a Green Travel Plan and Transport Access Guide is required to be submitted with the detailed design DA to demonstrate how sustainable transport modes will be promoted.
5.8.7.1 Stormwater management and waterways	Able to comply	Refer to discussion above in Sections 3.7 and 5.2.7 of the SDCP 2012 compliance table.

5.8 Specific Areas - Southern Employment Lands	Compliance	Comment
5.8.7.2 Urban ecology	Able to comply	<p>Refer to the discussion at 3.5.3 regarding the proposed tree removal.</p> <p>A condition of consent is recommended for the provision of deep soil planting as discussed in the 'Issues' section. In addition, under the voluntary planning agreement, the proposed works include removal of the existing slab on the northern side of the stormwater canal and provision of further deep soil planting. It is considered that the detailed design DA is capable of complying with these provisions, subject to conditions.</p>
5.8.7.3 Contamination	Able to comply	The proposed development satisfies the provisions of State Environmental Planning Policy No 55 - Remediation of Land. This is discussed in detail at paragraph 27 above.
5.8.7.4 Green roofs and walls	Able to comply	There is opportunity through the competitive design process and subsequent detailed DA to explore the provision of green walls. It is noted that that a key ESD commitment is the provision of photovoltaic solar panels to the roof and therefore there is limited roof space to provide a green roof.
5.8.8 Social infrastructure	Able to comply	The proposed predominant use of the site is office premises. This use is encouraged within the Southern Employment Lands as it is an employment generating use.

Issues

Voluntary Planning Agreement

38. As previously discussed, Section 5.8 (Southern Employment Lands) of SDCP 2012 identifies the Liveable Green Network to the rear of the site, as shown in Figure 19. The existing stormwater channel on the site forms part of the LGN. In addition, the SDCP 2012 requires 2.4m wide footpath widening along the site's street frontage.



Figure 19: SDCP 2012 Liveable Green Network and footpath widening along Bourke Road

39. A public benefit offer has been submitted with the application. A draft VPA has been prepared based on this offer in relation to the proposal and includes the following public benefits:
- (a) Dedication of land along the Bourke Road frontage of the site for footpath widening. The piece of land is approximately 2.4m wide comprising an area of approximately 84sqm as shown in Figure 20.
 - (b) Dedication of land to the rear of the site for the future Liveable Green Network. The land to be dedicated at the rear has an area of approximately 301sqm.
 - (c) Removal of the slab over the existing stormwater channel, remediation of all land to be dedicated to Council and embellishment works, including landscaping.
 - (d) A monetary contribution of \$210,684.50 towards community infrastructure.

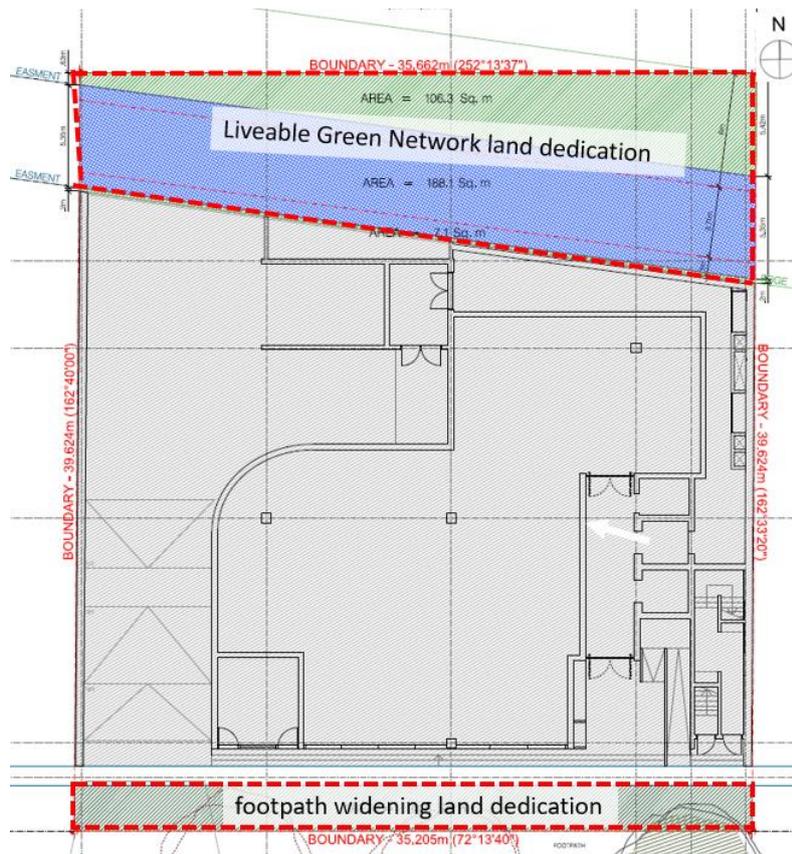


Figure 20: Land to be dedication in accordance with the VPA

40. The public benefit offer and draft VPA results in the application being able to utilise the additional FSR of 1.5:1 under the Green Square community infrastructure provisions contained in Clause 6.14 of SLEP 2012.
41. The draft VPA was publically exhibited for a period of 28 days between 6 May 2019 and 3 June 2019 in accordance with the Environmental Planning and Assessment Regulation 2000. At the time of writing this report, no submissions had been received.
42. A deferred commencement consent is recommended requiring the execution of the VPA and registration on title prior to the consent becoming operative.

Deep Soil Landscaping

43. Section 5.8.2.5.1 of SDCP 2012 stipulates that 10% of the site area is required to contain deep soil landscaping. The minimum dimension for deep soil is 3m in any direction. Based on the existing site area (before land dedication), approximately 139sqm of deep soil landscaping is required. Following the land dedication to Council, there will be no deep soil existing on the site.
44. It is considered that due to the site's constraints and the dedication of approximately 30% of the site to Council, it is considered reasonable to support a variation to this provision. It is recommended that 5% (approximately 69sqm) of the site area is provided as deep soil and accommodated within the building envelope.

45. A condition of consent is recommended requiring the provision of 69sqm to be provided within the proposed building envelope. It is noted that the applicant was given the opportunity to amend the building envelope to incorporate the required deep soil zone, however, they did not amend the proposal. Notwithstanding, it is considered that there is an advantage with exploring the provision of the deep soil zone through the competitive design process stage as it will provide the competitors with flexibility to identify the most suitable location for deep soil.
46. It is acknowledged that consideration may need to be given to reducing the indicative number of car parking spaces in order to achieve the required deep soil zone and the applicant's desired GFA within the parameters of the building envelope.

Storeys

47. The maximum permitted number of storeys permitted under the SDCP 2012 is seven and the maximum height permitted under the SLEP 2012 is 35 metres. Figures 21 and 22 show the SDCP 2012 height in storeys map and the SLEP height of building map, respectively.

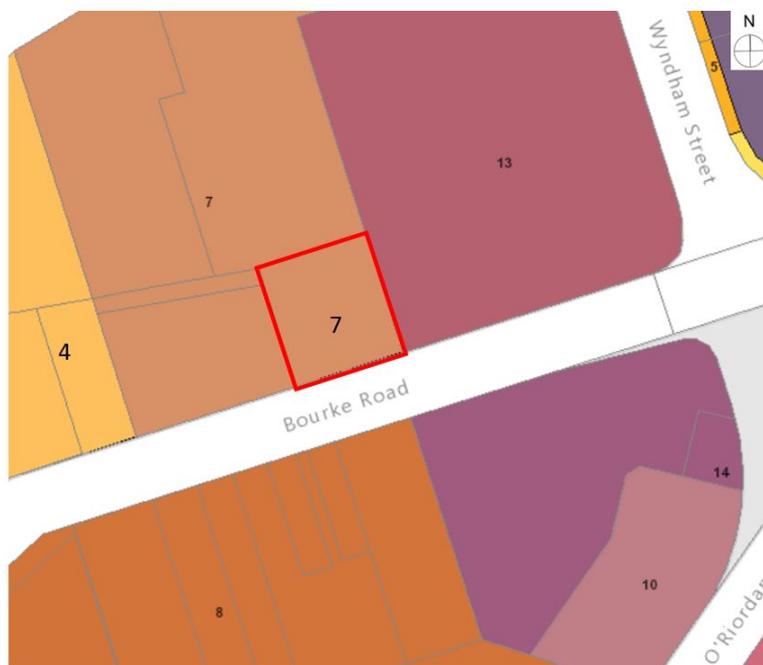


Figure 21: SDCP 2012 - Height in Storeys map



Figure 22: SLEP 2012 - Height of buildings map

- 48. The reference scheme shows nine storeys being accommodated within the SLEP 2012 height development standard (of 35m). This includes provision of compliant ceiling heights of 4.6m at ground level and 3.6m for the levels above, and the reference scheme shows a compliant flood planning level. However, the envelope has accommodated a minimal zone for rooftop plant and no lift overruns within the maximum 35m height control, as shown in Figure 23:

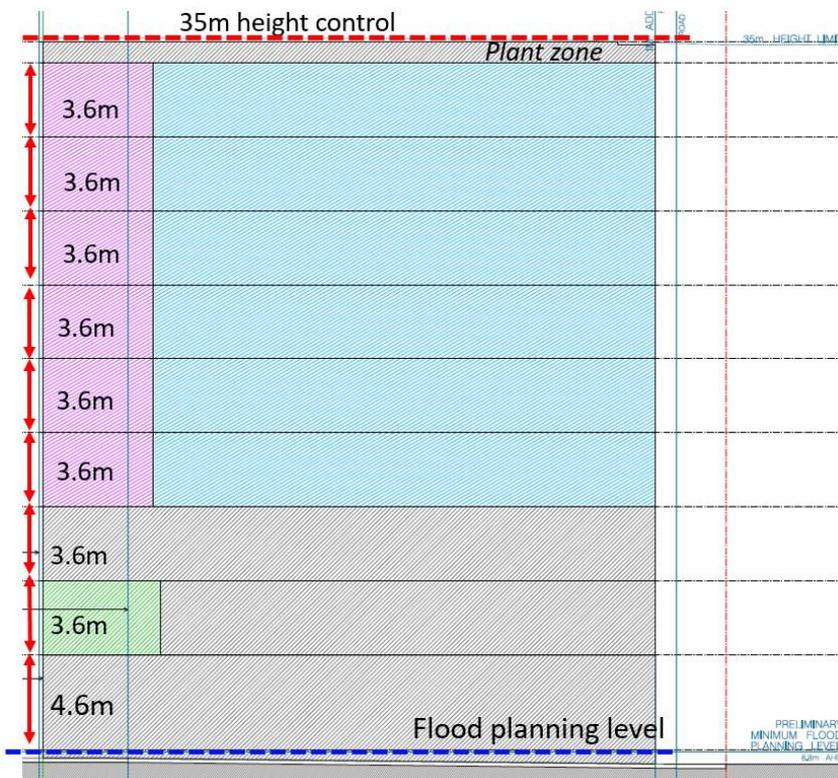


Figure 23: Proposed section showing compliant floor planning level and ceiling heights within the maximum permitted SLEP 2012 height control

49. As part of the nine storeys proposed in the building envelope, the proposal includes two levels of above ground car parking. In the reference scheme this accommodates 33 car parking spaces, which is 100% of the maximum car parking permitted for the proposed uses under SLEP 2012. This is contrary to the provisions of Section 5.2.12 of SDCP 2012 which allows up to 50% of car parking to be located above ground only. In this instance, that would be one level of above ground car parking, indicatively shown as accommodating approximately 17 spaces.
50. In order to comply with these above ground parking provisions, the proposal will need to remove one level of car parking. This will reduce the total number of floors within the envelope from nine to eight. A condition of consent is recommended to delete a level of car parking.
51. A development with a total of eight levels, including lift overruns and a 1.6-1.8 metre roof top plant zone behind parapets, will comply with the 35m maximum height control.
52. An eight storey building is considered to be generally consistent with the emerging character of the area, provided it does not exceed 35m height control. While the number of storeys will not be approved under the concept DA, it is considered that given the above, eight storeys may be acceptable subject to further assessment of the detailed DA.

Above Ground Car parking

53. As detailed above, the proposal includes two levels of above ground car parking that accommodates 100% of LEP car parking provision). This is contrary to the provisions of Section 5.2.12 of the SDCP 2012, which allows up to 50% of car parking to be located above ground in Green Square where it can be demonstrated that the site is constrained by a high water table and or site remediation is environmentally unsustainable.
54. While the conclusion of this assessment is that the site is constrained and meets the parameters of this clause, the extent of car parking provided above ground exceeds the 50% permitted under the DCP. As such, only one level of above ground car parking can be supported for this development, and a condition has been recommended for imposition to reduce the number of car parking levels.
55. It is considered that additional service and delivery space(s) will be required in addition to the single loading dock currently provided at the ground level on the indicative scheme. The traffic generation will need to be revised according to RMS requirements in the detailed design Development Application.

Overshadowing

56. The development will result in additional overshadowing of the commercial properties to the south of the site and along Bourke Road, as shown in the shadow diagrams provided within Attachment B.
57. However, the proposed building envelope complies with the maximum height control as permitted under SLEP 2012. Overshadowing planning provisions relate to the protection of solar access to residential properties and public open space.
58. Section 3.6.3 (photovoltaic solar panels) of SDCP 2012 requires that where possible proposals for new buildings are to maintain solar access to existing photovoltaic solar panels having regard to the performance, efficiency, economic viability and reasonableness of their location.

59. There are solar panels located on the roofs of the buildings 24 and 26 Bourke Road (as identified in Figure 24) which will primarily be impacted by overshadowing between 9.00am - 12.00pm. The buildings at 24 and 26 Bourke Road are 1 - 2 storeys in height with a maximum permitted height of 35m permitted on both of these sites.



Figure 24: Location of solar panels at 24 and 26 Bourke Road

60. Given the solar panels are located on the roofs of buildings which are between one and two storeys in height in an emerging context of higher permissible development, it is considered unreasonable to prohibit the proposed development height on this basis.
61. In light of the compliant building height, the extent of overshadowing is considered acceptable to the commercial properties including solar panels. It is noted that the building envelope shows the maximum extent of overshadowing. The amount of overshadowing may be reduced in the detailed design depending on the siting of building within the approved envelope.

Other Impacts of the Development

62. The proposed development is capable of complying with the BCA.
63. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the Development

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

Internal Referrals

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

External Referrals

67. The application was referred to Sydney Water and Ausgrid who raised no objections, subject to conditions.

Notification, Advertising and Delegation

68. The application was notified and advertised for a period 30 days between 23 October 2018 and 21 November 2018. As a result of this notification, there were three (3) submissions received raising the following concerns:

- (a) ***Substantial overshadowing of the café and solar panels located on the opposite side of the road during the morning***

A detailed response regarding the overshadowing has been provided within the 'Issues' section above.

- (b) ***Tree removal***

A detailed response to this issue is provided in Section 3.5.3 of the SDCP 2012 compliance table above.

69. It is noted that the application was lodged as Integrated Development under the Water Management Act 2000 which was why the application was advertised for a period of 28 days. The application was referred to Water NSW who advised that a controlled activity approval is not required and accordingly the proposed development is not categorised as Integrated Development.

Public Interest

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

Contributions

71. The detailed design DA will be to Section 7.11 contributions and affordable housing contributions.

Relevant Legislation

72. The Environmental Planning and Assessment Act 1979.

Conclusion

73. The proposal has been amended and additional information provided during the assessment, which has satisfactorily resolved most of the issues raised with the original proposal. The key issues remaining are the lack of deep soil provided to the site and a need to reduce the amount of above ground car parking provided to ensure that no more than 50% of the permitted parking for the site. These issues are addressed through recommended conditions of consent.
74. The concept development will comply with the maximum permitted height under Clause 4.3 of SLEP 2012, and the subsequent detailed development application is capable of complying within the maximum permitted floor space ratio within the parameters of the building envelope, pursuant to Clauses, 4.4 and 6.14 of SLEP 2012.
75. The Design Excellence Strategy complies with Section 3.3 of the SDCP 2012 and the City of Sydney Competitive Design Policy. The subsequent detailed DA is also capable of achieving up to an additional 10% additional floor space within the parameters of the building envelope, pursuant to compliance with Clause 6.21 of SLEP 2012 and the recommended conditions of consent.
76. The proposal is generally consistent with the provisions of the SDCP 2012, and the detailed design DA is considered to be capable of complying with these provisions, particularly the Green Square and Southern Employment Lands specific provisions.
77. The proposed land use is consistent with the objectives of the B7 Business Park zone of SLEP 2012 and will provide a high density employment generating use in Green Square.
78. The proposal will improve the quality of the public domain through dedication of land towards the widening of the footpath along Bourke Road and through dedication of land for future public open space being the Liveable Green Network.
79. The proposal is recommended for a deferred commencement approval requiring the VPA to be executed prior to the consent becoming operative.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Tahlia Alexander, Planner