

**Item 5.****Development Application: 44-48 O'Dea Avenue, Waterloo (Building A) - D/2018/789**

File No.: D/2018/789

**Summary**

<b>Date of Submission:</b>	12 July 2018  Amended plans 10 December 2018, 14 March 2019 and 1 April 2019
<b>Applicant:</b>	Crown W48 Pty Ltd
<b>Architect:</b>	Silvester Fuller
<b>Developer:</b>	Crown Developments Pty Ltd
<b>Owner:</b>	Crown W48 Pty Ltd and SP44338
<b>Cost of Works:</b>	\$26,962,451
<b>Zoning:</b>	The site is located in the B4 mixed use zone. The proposal is defined as a 'mixed use development' comprising 'retail premises' and 'residential accommodation', which are both permissible with consent.
<b>Proposal Summary:</b>	<p>The subject development application (DA) seeks consent for the construction of a mixed development ranging between two to six storeys in height, containing two retail tenancies, 37 residential apartments, three levels of basement parking and associated services. This building is referred to as building A.</p> <p>The development also includes the provision of access via a tunnel for the adjoining building to the east, building D. This tunnel will go under the future public domain, known as Lachlan Place. A development application for building D was approved by the Local Planning Panel on 24 October 2018.</p> <p>The application is referred to the Local Planning Panel for determination as the proposal is subject to the provisions of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development and is accompanied by a Clause 4.6 variation request exceeding 10% of the maximum height of buildings development standard.</p>

**Proposal Summary  
(continued):**

The proposed development is also Integrated Development under the Water Management Act 2000, requiring the approval of Water NSW. General Terms of Approval have been issued by Water NSW.

Building A is one of five buildings proposed on the site at 44-48 O'Dea Avenue and 52D O'Dea Avenue. These five building envelopes were approved under concept development consent D/2016/1450. This concept application also approved subdivision and preparatory works.

The proposal was notified for a 30 day period between 19 July 2018 and 19 August 2018. Two submissions were received by the City, which raised concern regarding the visual appearance of the building, impact of the development on traffic and oversupply of residential accommodation in the area.

Amended plans and information were received on 10 December 2018, 14 March 2019 and 1 April 2019 to address issues raised by Council staff and the City's Design Advisory Panel (DAP). The preliminary assessment identified a number of issues relating to the height of the building, its relationship to the neighbouring site, the configuration of the retail tenancies, architectural expression, ground floor communal open space, solar access to the proposed apartments, natural cross ventilation, loading dock and waste management arrangements, BASIX, flood levels, documentation inconsistencies and Total Floor Area (TFA) drawings. The drawings have been amended and additional information provided which has generally addressed these issues.

The site is subject to two separate height of building provisions under the Sydney Local Environmental Plan 2012 (Sydney LEP 2012). The proposal is inconsistent with the lower of the two of the height of building development standards by 4.85 metres (11.7%). A written request has been submitted under Clause 4.6 of the Sydney LEP 2012 to vary the height development standard. The proposal is consistent with the objectives of the land use zone and height of building development standard. The proposed variation to the development standard has merit and is supported in this instance.

Subject to the implementation of conditions, as detailed in the report and Attachment A, it is considered that the proposed development is generally compliant with the planning controls for the site.

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

**Development Controls:**

- (i) Environmental Planning and Assessment Act 1979
- (ii) Water Management Act 2000
- (iii) Environmental Planning and Assessment Regulation 2000
- (iv) Sydney Water Act 1994 No.88
- (v) State Environmental Planning Policy No.55 - Remediation of Land
- (vi) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (vii) State Environmental Planning Policy No.65 - Design Quality of Residential Apartment Development
- (viii) State Environmental Planning Policy (Infrastructure) 2007
- (ix) Sydney Local Environmental Plan 2012
- (x) Sydney Development Control Plan 2012
- (xi) City of Sydney Development Contributions Plan 2015
- (xii) Green Square Affordable Housing Program

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Sun's Eye and Shadow Diagrams
- D. Clause 4.6 Variation Request

## Recommendation

It is resolved that:

- (A) The written request seeking variation to Clause 4.3 'Height of buildings' development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be supported in this instance.
- (B) Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act, 1979, a deferred commencement consent be granted to Development Application No. D/2018/789 subject to the conditions set out in Attachment A to this report.

## Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposed development is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979, in that it achieves the objectives of the planning provisions for the site and does not result in any unreasonable environmental impacts for the reasons outlined in the report.
- (B) The development is consistent with the objectives of the B4 Mixed Use zone pursuant to the Sydney Local Environmental Plan 2012 (Sydney LEP 2012).
- (C) The variation to Clause 4.3 height of building development standard under the Sydney LEP 2012 pursuant to Clause 4.6 is supported and it is considered to be in the public interest.
- (D) The development is consistent with the permitted Floor Space Ratio (FSR) under Clause 4.4 of the Sydney LEP 2012.
- (E) The development exhibits design excellence pursuant to Clause 6.21 of the Sydney LEP 2012. In particular, the development exceeds the minimum BASIX targets for water and energy.
- (F) The development will provide a high level of amenity for future occupants as it is consistent with the design quality principles of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and meets the objectives of the Apartment Design Guide.
- (G) The development is consistent with the concept development consent (D/2016/1450) applicable to the site pursuant to Section 4.24(2) of the Environmental Planning and Assessment Act 1979.
- (H) The development is generally consistent with the objectives of the Sydney Development Control Plan 2012 (Sydney DCP 2012), specifically the Green Square and Lachlan Precinct provisions which apply to the site.
- (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 most recently carried out on 8 May 2019.
2. 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.'
3. The site is legally identified as lot one in deposited plan 789878 and lots one to seven in strata plan 44338, and has the street address of 44-48 O'Dea Avenue, Waterloo. The wider development site also includes lot 20 in deposited plan 1225160 and includes the street address 52D O'Dea Avenue. This is shown in the figure below.



**Figure 1:** Aerial photograph of the site and surrounding area.

4. The site contained a number of commercial and industrial warehouse buildings, a multistorey above ground car park and a central landscaped garden.
5. These have been demolished as per the concept approval (D/2016/1450). Photos of the existing site are shown in the figures below.



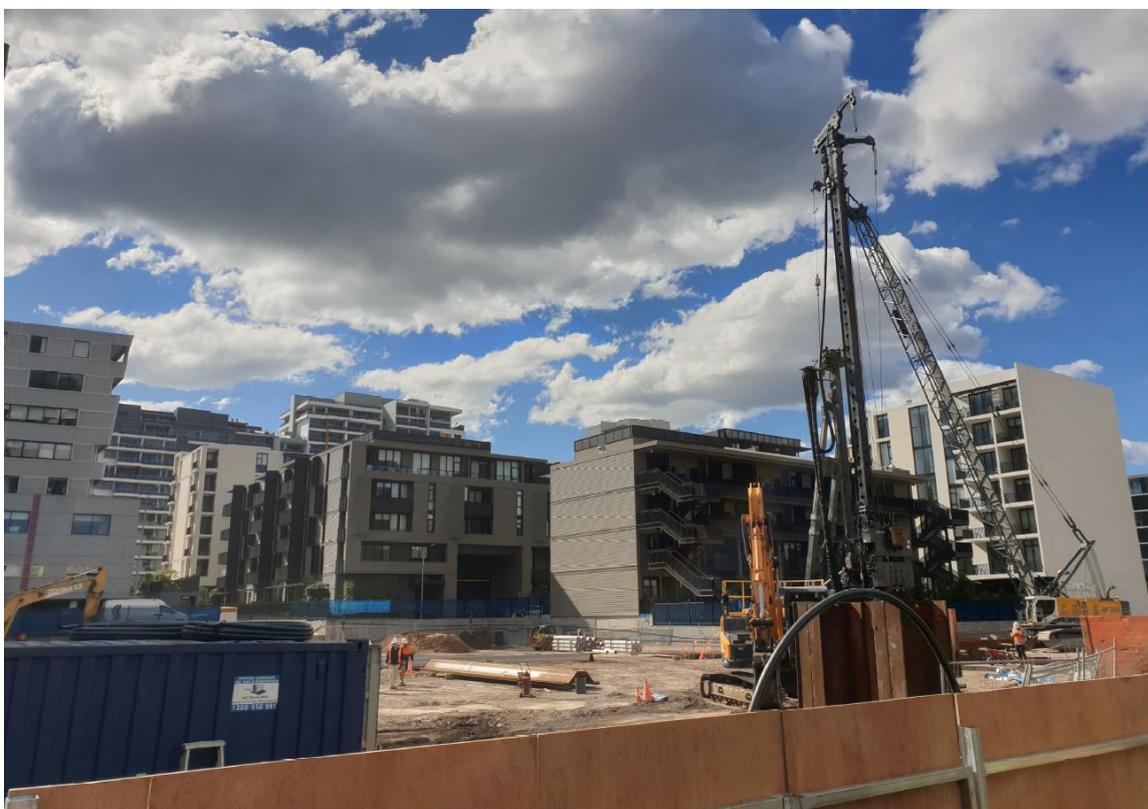
**Figure 2:** Photo of site fronting O'Dea Avenue.



**Figure 3:** Photo of existing driveway fronting O'Dea Avenue and existing adjoining building to the east.



**Figure 4:** Photo of existing building fronting O'Dea Avenue and existing adjoining building to the west.



**Figure 5:** The subject site of building A viewed from Archibald Avenue looking north-east.



**Figure 6:** 'The Noble' at 11B Lachlan Street, looking north-east from the corner of Archibald Avenue and Sam Sing Street.



**Figure 7:** 'The Noble' at 11B Lachlan Street, looking south-east from the corner of Tung Hop Street and Sam Sing Street.



**Figure 8:** 'Alpha G' at 11A Lachlan Street, looking north-east from the corner of Tung Hop Street and Sam Sing Street.



**Figure 9:** The subject site of building A viewed from Tung Hop Street looking south.



**Figure 10:** Looking east from Tung Hop Street across the subject site to 'The Finery' at 15 Lachlan Street.



**Figure 11:** Looking west from Tung Hop Street across the subject site to 'The Noble' at 15 Lachlan Street.

6. This concept consent also approved:
  - (a) Site preparatory works including demolition, tree removal, remediation and excavation, road, public domain and civil works.
  - (b) Concept approval for five building envelopes for residential, retail and commercial land uses.
  - (c) Subdivision into five lots.
7. Building A is proposed on lot 6 which is 1,504sqm in size. This is shown in the figure below.

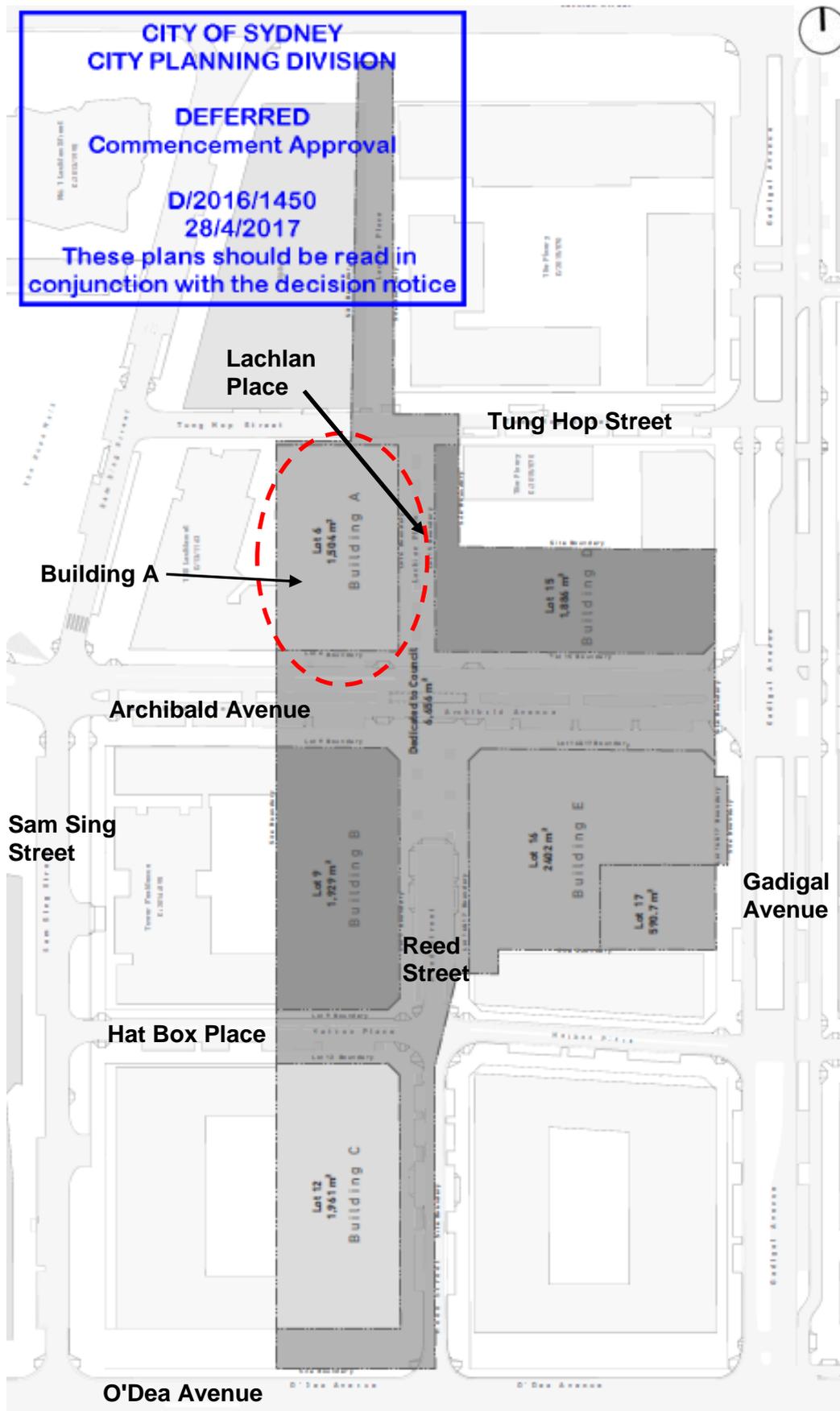
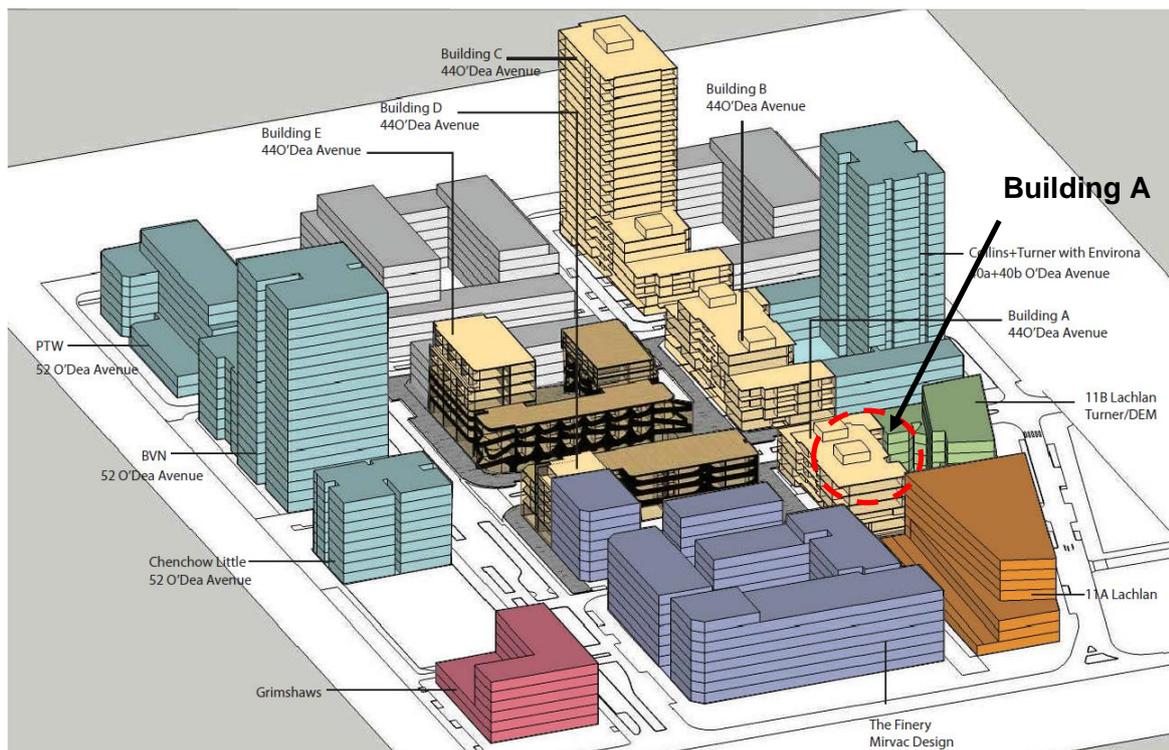


Figure 12: Concept consent D/2016/1450 showing new lots.

8. Building A is located north of the future Archibald Avenue. Building A is located east of the future Lachlan Place and south of the newly constructed Tung Hop Street.
9. To the west of building A is a part four and seven storey development at 11B Lachlan Street which is currently under construction and is known as 'the Noble.'
10. To the north west of building A, on the opposite side of Tung Hop Street is mixed use building known as the 'Alpha G' development.
11. To the north east of building A, on the opposite side of Tung Hop Street is a mixed use development containing six buildings known as 'the Finery'.
12. To the east of building A, on the opposite side of Lachlan Place, is a future part four and part seven storey mixed development, known is building D. This was approved by the LPP on the 24 October 2018.
13. To the south of building A, on the opposite side of Archibald Avenue is a future building B which was approved by the LPP on 5 December 2018 and building C, which was approved by the Central Sydney Planning Committee at its meeting on 9 May 2019.
14. A wider context plan is included in the figure below.



**Figure 13:** Wider concept plan showing building A within Lachlan precinct (view is looking south from Lachlan Street).

### The Concept Application - D/2016/1450

15. A concept development application (DA) for the site, known as D/2016/1450, was approved by the Central Sydney Planning Committee (CSPC) on 28 April 2017.

16. The application was subject to a deferred commencement approval, which was satisfied on 17 October 2017.
17. The concept development consent was also subject to a voluntary planning agreement (VPA). The VPA was executed on 8 August 2017 and included the following:
  - (a) The transfer of 6,656sqm of land prior to the first occupation certificate issued for the development.
  - (b) Developer works including all road and infrastructure works, asphalt top coat and kerb side tree planting.
18. The VPA also provides for an additional 0.5:1 Floor Space Ratio (FSR) as per Clause 6.14 of Sydney Local Environmental Plan 2012 (Sydney LEP 2012). As a consequence, the total FSR for the site is 2:1. Condition 8 of the concept consent apportioned the total maximum gross floor area (GFA), that being 33,860sqm to the five building envelopes.
19. There is also an offset of \$3,171,290.50 against Section 7.11 contributions (previously known as Section 94 under the Environmental Planning and Assessment Act 1979). This offset relates to the whole of the site and will be resolved at the time of payment of the Section 7.11 contributions for the five proposed development applications.
20. The concept application has been modified a further eight times under the provisions of Section 4.55 of the Environmental Planning and Assessment Act 1979. Relevantly, modification application D/2016/1450/G approved a number of changes to the concept building envelope and conditions of consent relating to Building A.
21. Development applications have been lodged for the five buildings on the site. Buildings B, C, D and E have all been approved, subject to conditions.
22. The subject detailed design for building A and the basement and associated entry structures for building A is generally consistent with the concept approval. An assessment against the proposed detailed development and the concept development consent and conditions is included in the **Issues** section below

## Proposal

23. The detailed development application seeks consent for the construction of a mixed use development, ranging in height between two and six storeys and consisting of:
  - (a) Basement levels one, two and three:
    - Parking for 36 cars.
    - Parking for nine motorcycles.
    - Parking for 44 bicycles.
    - End of trip facilities.
    - Retail storage rooms.
    - Apartment storage cages.

- Plant and services rooms.
- (b) Ground floor:
- Two retail tenancies comprising a total area of approximately 342sqm fronting Archibald Avenue and Lachlan Place, including a retail amenity area.
  - Car parking entry from Lachlan Place with basement ramp, loading dock and waste storage areas for the residential and retail uses.
  - Residential lobby, concierge, manager's office, mail room and store.
  - Landscaped communal open space and deep soil area.
  - Substation fronting Tung Hop Street.
- (c) Level one:
- Two one-bedroom apartments and one two-bedroom apartment.
- (d) Level two:
- Two studio apartments, three one-bedroom apartments and seven two-bedroom apartments.
- (e) Level three:
- One studio apartment, six one-bedroom apartments and five two-bedroom apartments.
  - Three areas of landscaped rooftop private open space.
- (f) Level four and level five:
- One studio apartment, one one-bedroom apartment, four two-storey two-bedroom apartments and five two-storey three-bedroom apartments.
  - Landscaped rooftop communal open space at Level four.
- (g) Roof:
- Nine areas of landscaped rooftop private open space.
24. Drawings of the proposed development are provided below.



**Figure 14:** Proposed photomontage looking north-west from the corner of Lachlan Place and Archibald Avenue.



**Figure 15:** Proposed photomontage looking north-west from the corner of Lachlan Place and Archibald Avenue.

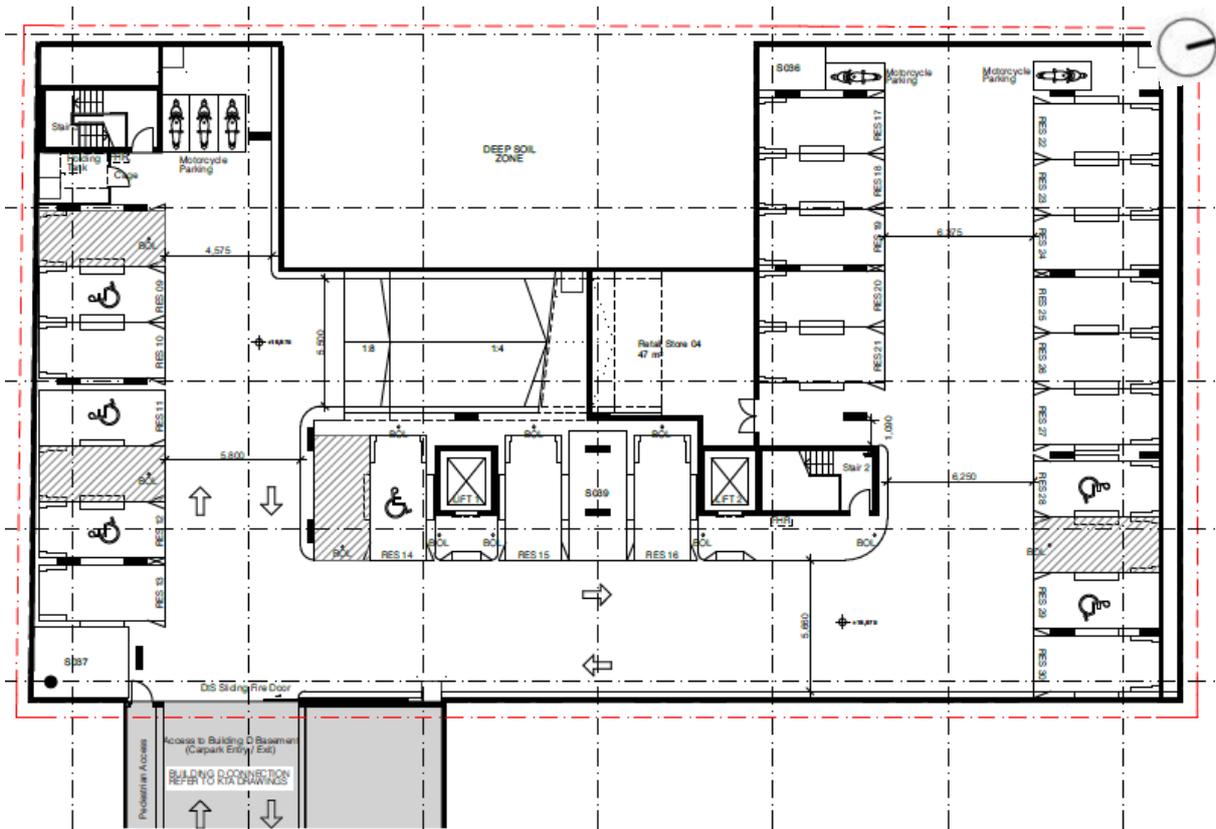


Figure 16: Proposed basement level three.

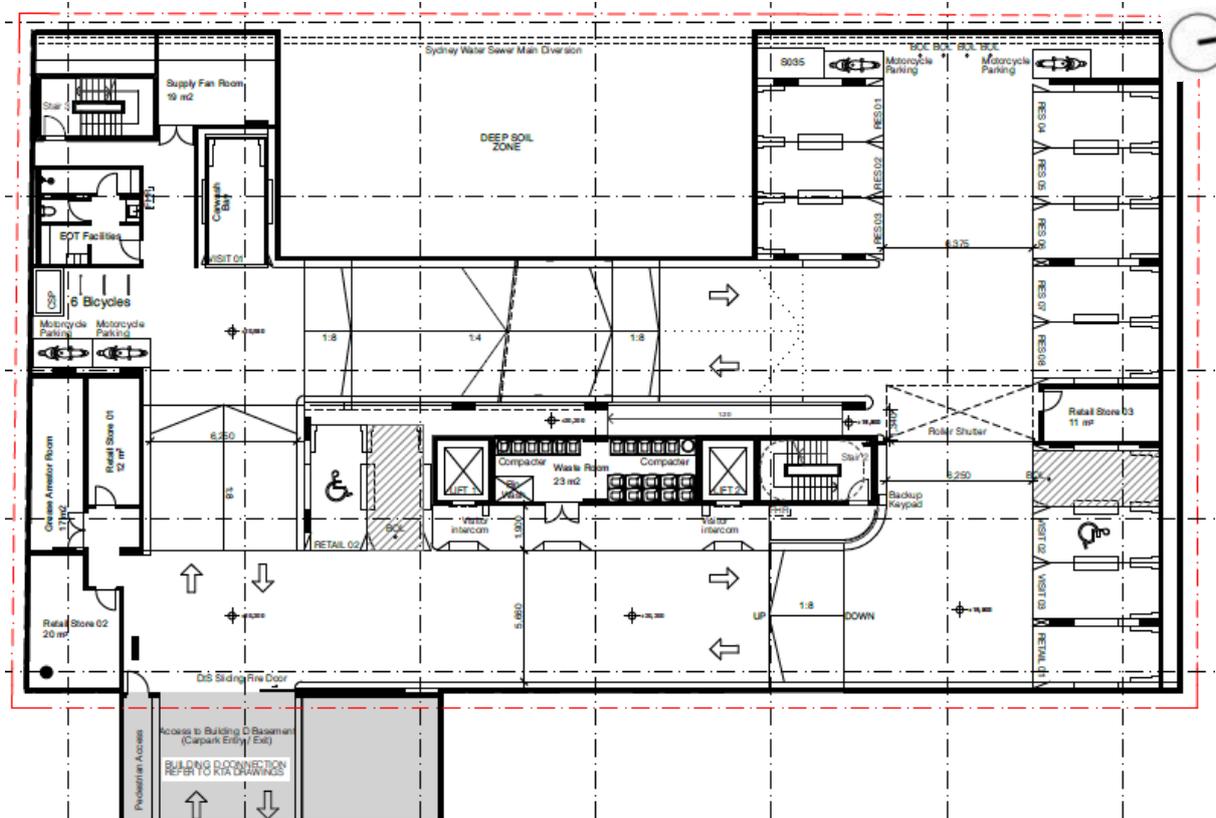


Figure 17: Proposed basement level two.

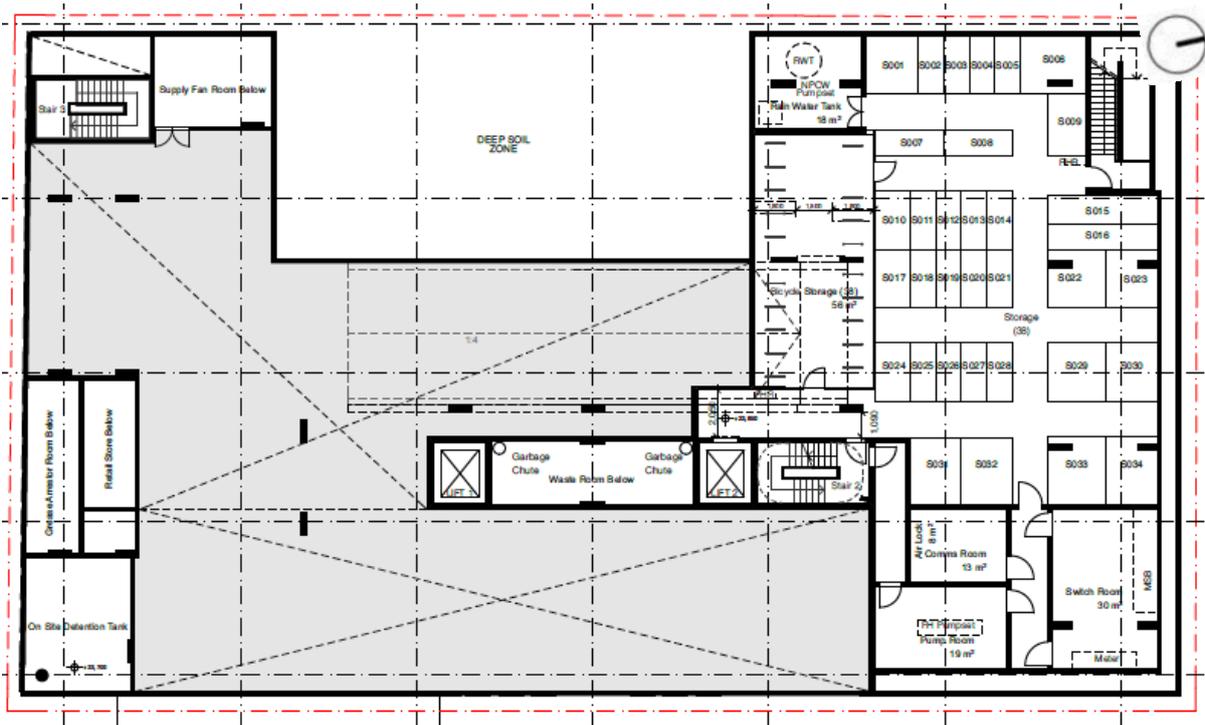


Figure 18: Proposed basement level one.

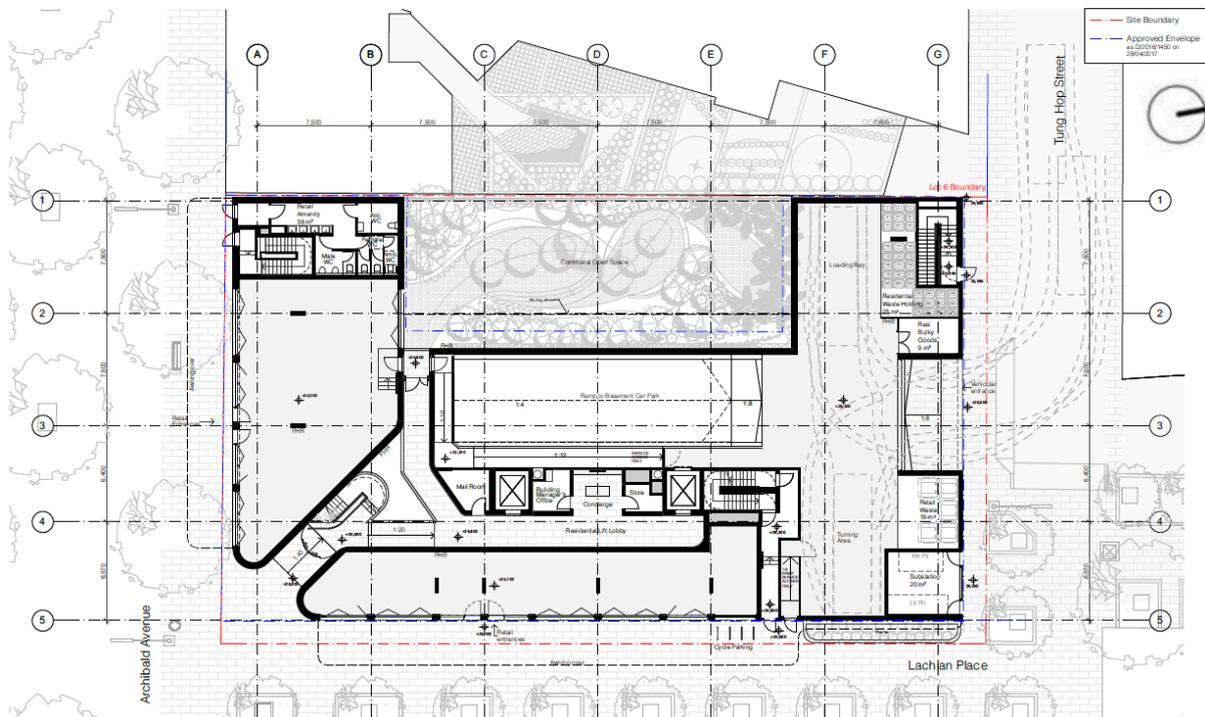


Figure 19: Proposed ground floor.

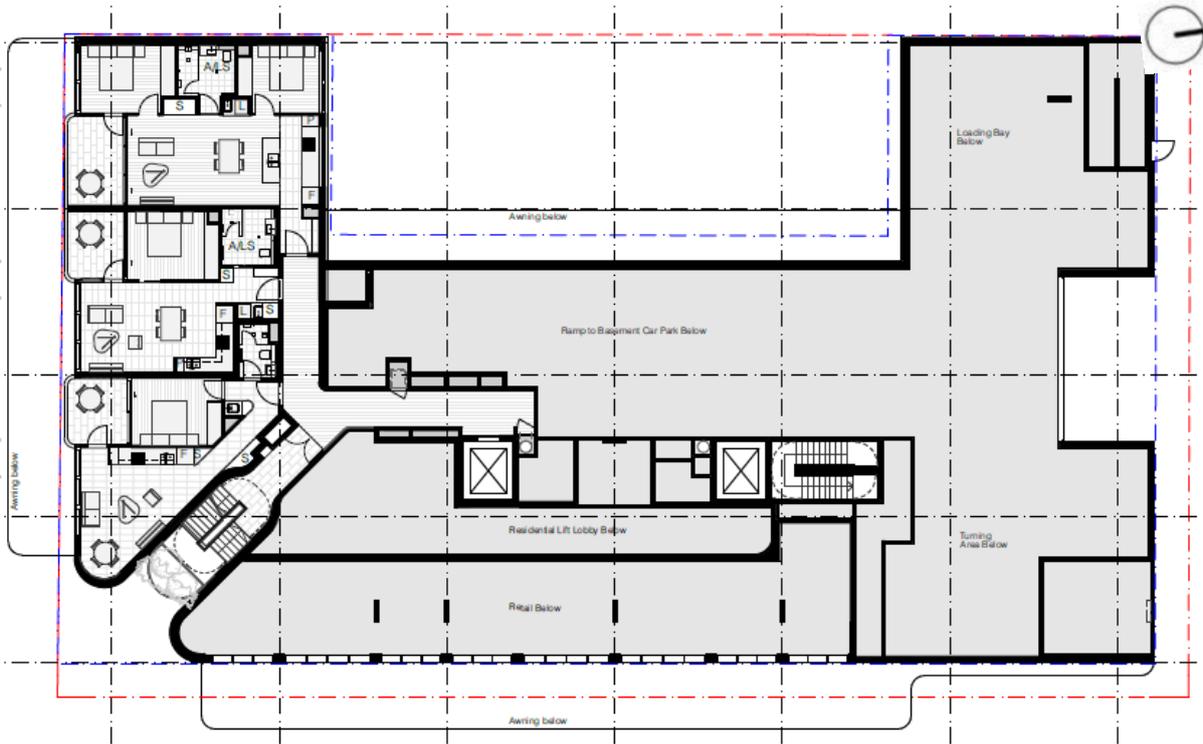


Figure 20: Proposed level one.

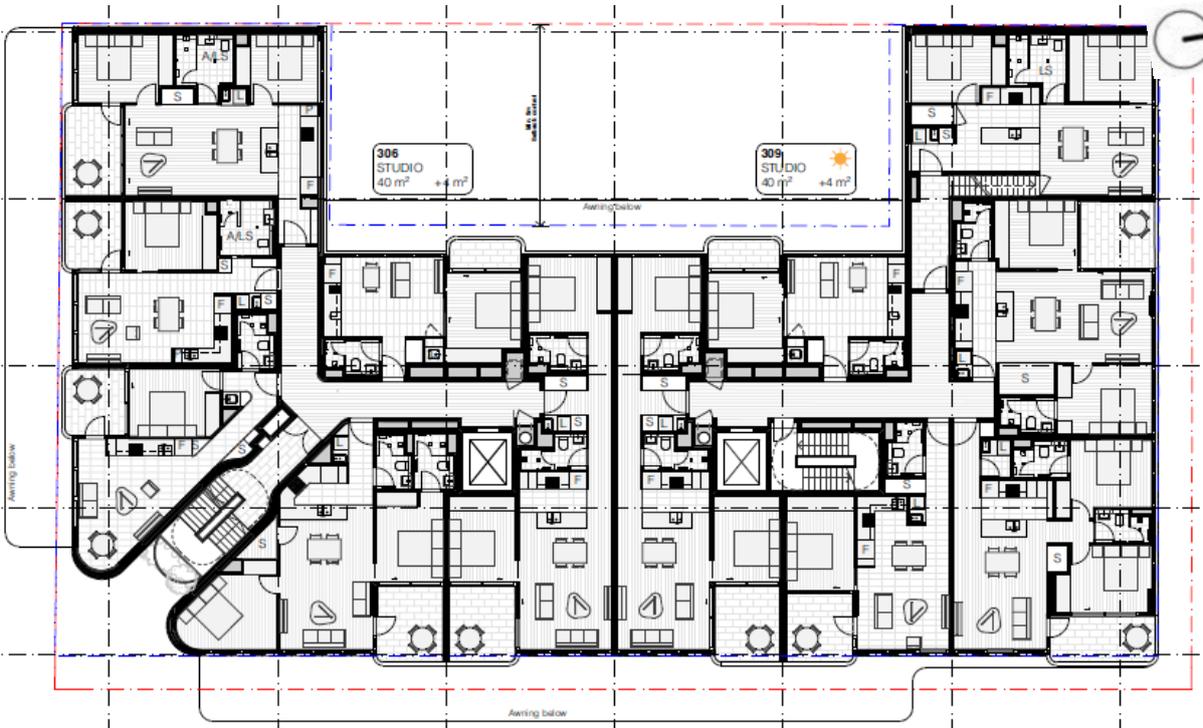


Figure 21: Proposed level two.

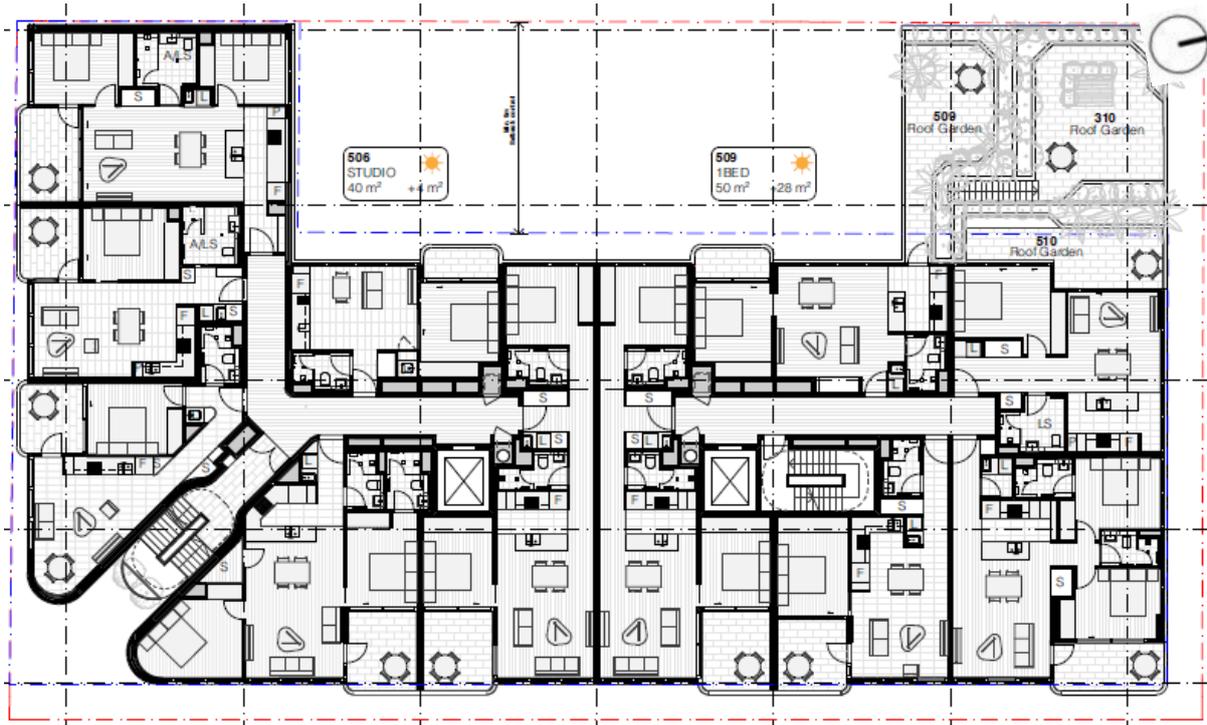


Figure 22: Proposed level three.

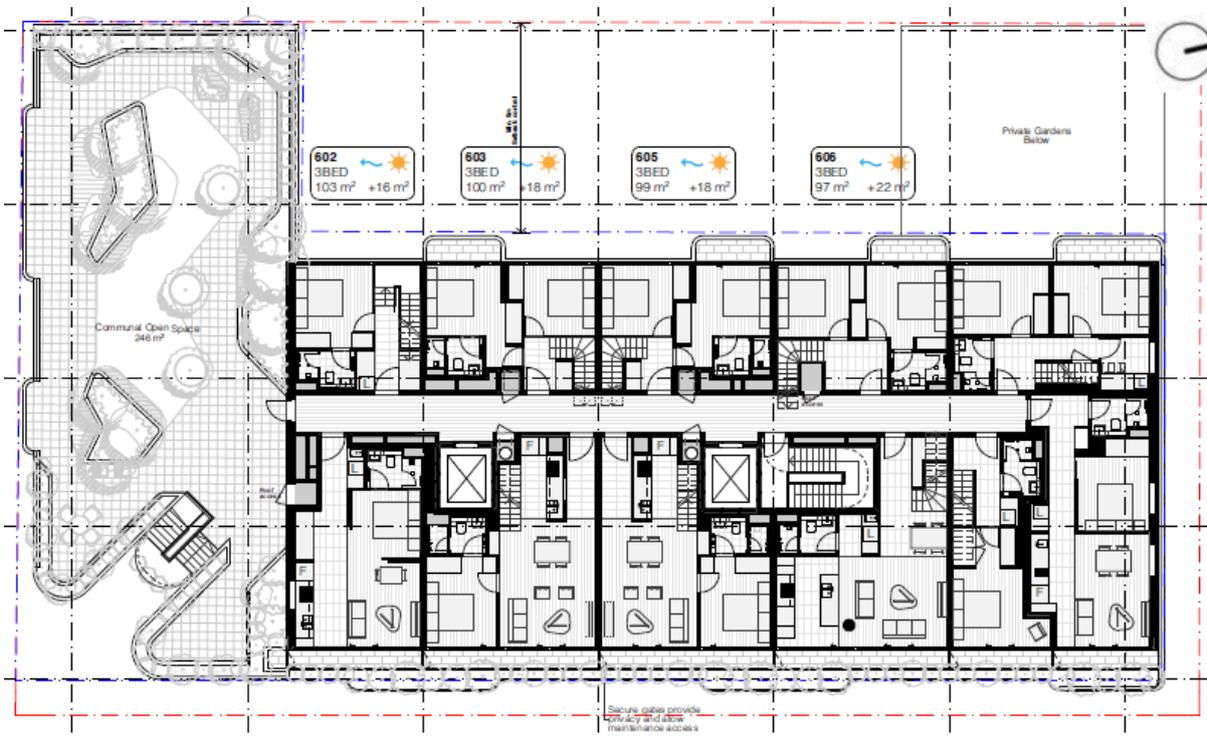


Figure 23: Proposed level four.



Figure 24: Proposed level five.

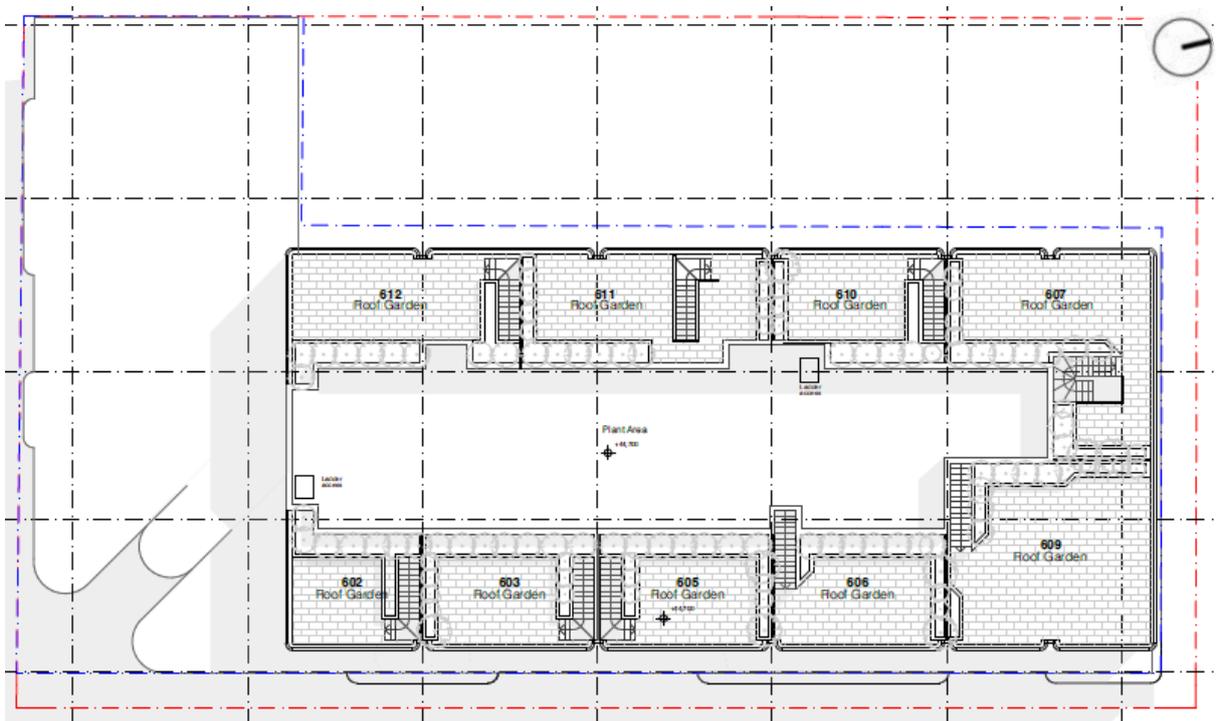


Figure 25: Proposed roof level.



Figure 26: Proposed north elevation.



Figure 27: Proposed west elevation.



Figure 28: Proposed south elevation.



Figure 29: Proposed east elevation.

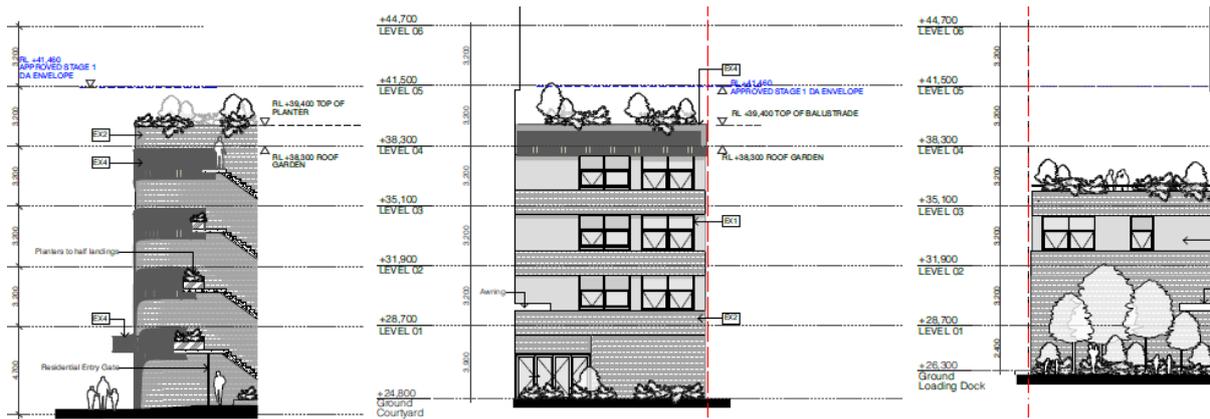


Figure 30: Proposed front entry and courtyard elevations.

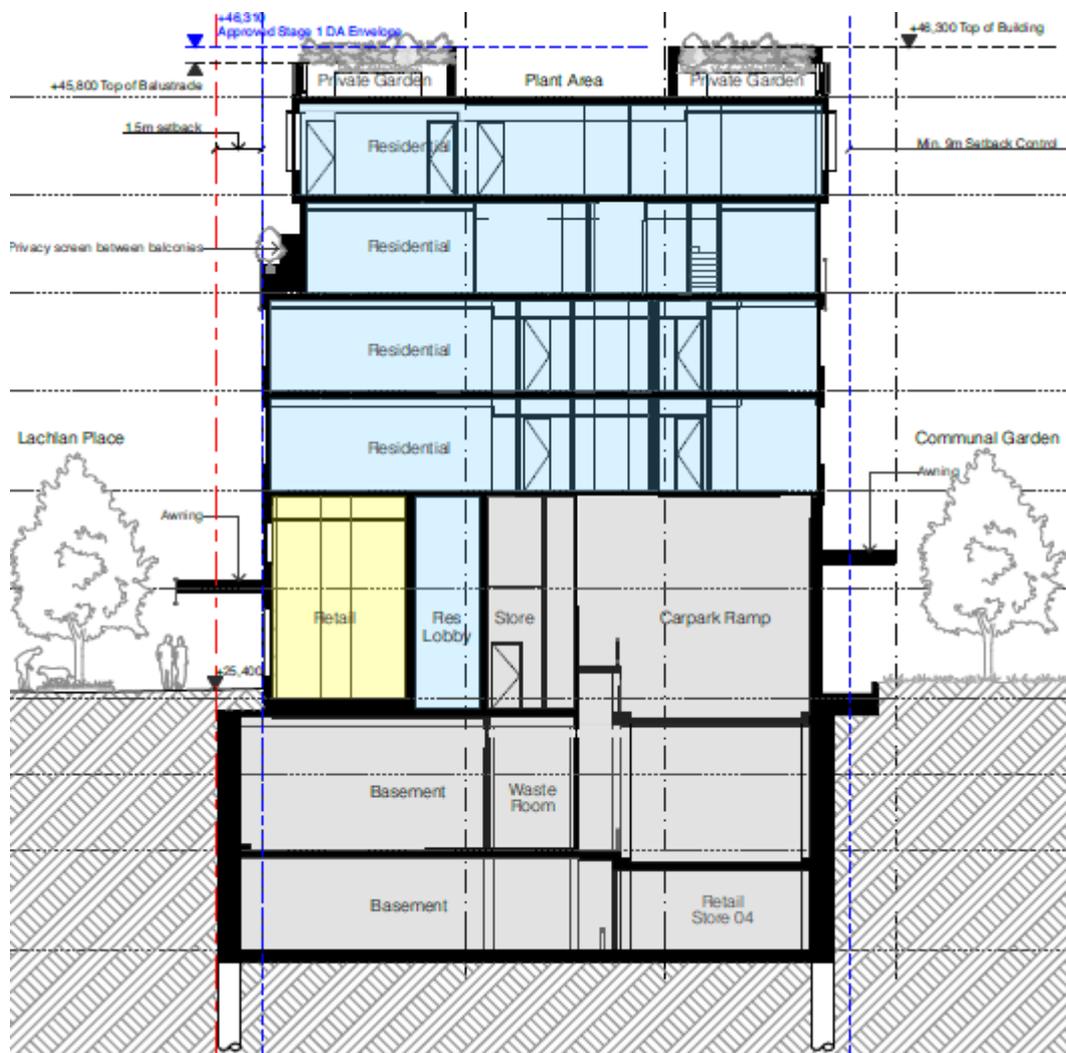
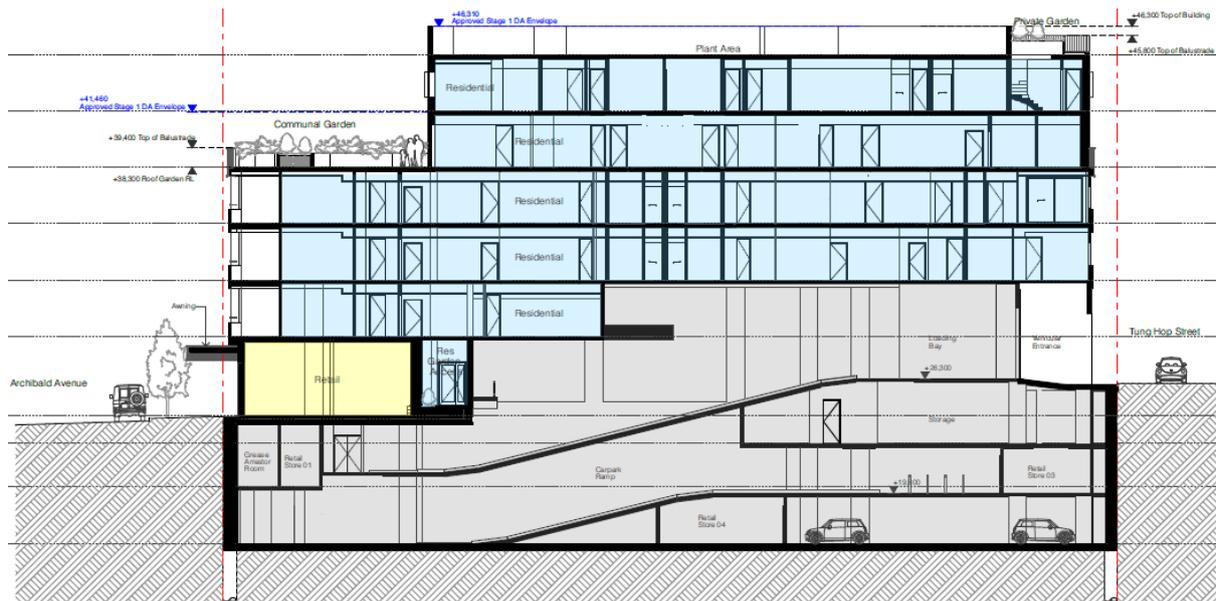


Figure 31: Proposed east - west section.



**Figure 32:** Proposed north - south section.

### History Relevant to the Development Application

25. Five requests for additional information and further clarification were sent to the applicant on 11 September 2018, 22 October 2018, 24 January 2019, 3 April 2019 and 10 April 2019. These requests were to address the following:
- Cross ventilation.
  - Solar access.
  - Communal open space.
  - Height.
  - Public domain interface.
  - Materiality and appearance of the facade.
  - Total Floor Area (TFA) calculations.
  - Noise impact assessment.
26. Where the information or required changes were not made, these are discussed in the issues section below and are able to be addressed by conditions on the notice of determination.

### Economic, Social and Environmental Impacts

27. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:
- Environmental Planning Instruments and Development Control Plans.

**Water Management Act 2000**

28. The development proposed is integrated development under the Water Management Act 2000.
29. As such, the application was referred to Water NSW on 16 July 2018 who provided General Terms of Approval on 28 August 2018. These are included at Schedule 3 of the recommended conditions, at Attachment A.

**Sydney Water Act 1994 No 88**

30. In accordance with Clause 78 of the Sydney Water Act 1994 No 88, the application was referred to Sydney Water on 18 July 2018. This is because, pursuant to clause 78(a) and (c), the development may increase the demand for water supplied by the corporation or interfere with Sydney Water sewer main.
31. No response has been received from Sydney Water at the time of preparation of this report. Appropriate conditions have been included in the recommended conditions at Attachment A.

**State Environmental Planning Policy No 55—Remediation of Land (SEPP 55)**

32. 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.
33. A Remediation Action Plan (RAP) and letter of interim advice was submitted and approved as part of the concept development. The City's Health Unit is satisfied that subject to conditions, the site can be made suitable for the proposed use.

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

34. SEPP 65 provides that in determining an application for a residential flat development, the consent authority take into consideration a number of matters relating to design quality, including nine design quality principles.
35. The development has been designed by Silvester Fuller who are registered architects in New South Wales.
36. A design verification statement has also been supplied for building A which has been prepared by Silvester Fuller in accordance with SEPP 65.
37. The development, subject to the recommended conditions included in this report at Attachment A, demonstrates design quality. This is discussed further under the headings below.

(a) **Principles 1, 2 and 9:** Context, Built Form and Scale and Aesthetics

The proposal is suitable given the surrounding context. It is located in the Lachlan precinct which is an urban renewal area changing from an industrial land uses to mixed use developments. It proposes retail uses on the ground floor along Archibald Avenue and Lachlan Place and residential uses above.

The bulk and scale of the development is consistent with the concept consent and with the planning controls for the site. The design of the building, subject to conditions, represents a good design outcome for the context.

(b) **Principles 3 and 6:** Density and Amenity

The proposal results in a density consistent with that envisaged by the planning controls. The proposed density, as measured by the FSR development standard, is consistent with the requirements of the Sydney LEP 2012 and concept development consent.

A reasonable level of amenity is achieved by the proposal. While there is some variation to the design criteria of the Apartment Design Guide, on balance, the apartments are well designed which will contribute to positive living environments and resident well-being.

(c) **Principle 4:** Sustainability

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

(d) **Principle 5:** Landscape

Landscaping is proposed on the ground floor communal open space area and on the roof top communal open space and private open spaces.

The details of this landscaping are subject to condition. The landscaping will contribute to good residential amenity and the aesthetic quality of the development.

(e) **Principle 7:** Safety

The development will result in adequate passive surveillance. The letter boxes will be positioned in a secure location, subject to condition.

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

There is a mix of apartment sizes and two areas of communal open space. This provides for diversity and opportunities for social interaction.

38. The development is considered generally acceptable when assessed against the above stated principles and SEPP 65 generally, which are replicated in large part within Council's planning controls.

**Apartment Design Guide**

<b>2E Building Depth</b>	<b>Compliance</b>	<b>Comment</b>
12 to 18 metres (glass to glass)	Yes	The building has a maximum depth of 18 metres.

2F Building Separation	Compliance	Comment
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> <li>• 12 metres between habitable rooms / balconies</li> <li>• 9 metres between habitable and non-habitable rooms</li> <li>• 6 metres between non-habitable rooms</li> </ul> <p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> <li>• 18 metres between habitable rooms / balconies</li> <li>• 12 metres between habitable and non-habitable rooms</li> <li>• 9 metres between non-habitable rooms</li> </ul>	Yes	<p>The proposed building's siting is considered acceptable as it provides the minimum separation distances between the building and the boundaries of the site.</p> <p>The development provides adequate separation distances between neighbouring buildings.</p> <p>A separation distance in excess of nine metres is provided from habitable windows and balconies to the adjoining shared boundary of the site to the west.</p> <p>The proposed development has a minimum separation distance of approximately eighteen metres from balconies and habitable rooms of the adjoining development to the west.</p> <p>The building is a C shape and has habitable openings which are twelve metres away from building D to the east on the opposite side of Lachlan Place and twenty-four metres from building B to the south on the opposite side of Archibald Avenue.</p> <p>The proposed development sites approximately eleven metres away from the 'Alpha G' to the north on the opposite side of Tung Hop Street.</p>

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site area.	Yes	A minimum of 376sqm of communal open space is required. The proposal provides 503sqm (33%) of communal open space at the ground floor (257sqm) and rooftop at level four (246sqm). A number of planter beds, bench seats and barbeque area are proposed, which results in a useable area of approximately 19% of the site area. This is considered acceptable as these elements make the communal open space more usable and provide additional amenity.
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two hours between 9am and 3pm on 21 June (midwinter).	Yes	The shadow diagrams submitted with the application show that the south western portion of the roof top communal open space will receive sunlight from 10.00am through to past 3pm on 21 June. A portion of the ground floor communal open space will receive sunlight from 11.30am to 1.30pm on 21 June.  As such, more than two hours of direct sunlight to more than 50% of the principal useable areas of communal open space is achieved by the proposed development.

3E Deep Soil Zones	Compliance	Comment
<p>Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of six metres</p>	<p>Yes, subject to conditions</p>	<p>A minimum of 105sqm is required by the ADG to be provided as deep soil zones. The proposal provides a consolidated deep soil zone measuring approximately 210sqm, with a minimum dimension exceeding ten metres.</p> <p>This is subject to a deferred commencement condition requiring the deletion of the awning over the eastern edge of the ground floor communal open space.</p> <p>Of the area provided as deep soil, there is a proportion which comprises impervious surfaces.</p> <p>As such, a condition is recommended which requires that all paving to be permeable. This will increase permeability and assist with the ease of drainage to deep soil planting.</p>

3F Visual Privacy	Compliance	Comment
<p>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> <li>• 6 metres between habitable rooms / balconies</li> <li>• 3 metres between non-habitable rooms</li> </ul> <p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> <li>• 9 metres between habitable rooms / balconies</li> <li>• 4.5 metres between non-habitable rooms</li> </ul> <p>Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.</p>	<p>Acceptable, subject to conditions</p>	<p>The proposed development will result in adequate visual privacy for the subject site and neighbouring developments.</p> <p>The proposal generally maintains adequate distances between habitable openings. A range of visual privacy measures have been recommended to be required by condition to address the potential for impacts where:</p> <ul style="list-style-type: none"> <li>• Balconies and habitable rooms are provided with less than the minimum separation distance.</li> <li>• Openings to habitable rooms are in proximity to communal spaces.</li> <li>• Inadequate screening is provided between areas of private open space</li> </ul> <p>Refer to the further discussion and assessment provided below under the heading <b>Issues</b>.</p>

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

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

3J Bicycle and Car Parking	Compliance	Comment
<p>Car parking and bicycle parking to be provided in accordance with Council's requirements</p>	Yes, subject to conditions	<p>Car and bicycle spaces have been provided in accordance with Council's requirements.</p> <p>Appropriate conditions are recommended to ensure visitor bicycle parking is provided in suitable locations.</p>

4A Solar and Daylight Access	Compliance	Comment
<p>70% of apartments to receive a minimum of two hours of direct sunlight in midwinter to living rooms and private open spaces.</p> <p>Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.</p>	Assessed as acceptable	<p>The proposal provides 57% (21 of 37) apartments with at least two hours of direct sunlight and 16% (6 of 37) apartments receiving no direct sunlight at midwinter</p> <p>Despite this, it is considered that the design has adequately optimised the number of apartments which receive sunlight to habitable rooms and private open space.</p> <p>Refer to the further discussion and assessment provided below under the heading <b>Issues</b>.</p>

<b>4B Natural Ventilation</b>	<b>Compliance</b>	<b>Comment</b>
All habitable rooms are naturally ventilated.	Yes, subject to conditions	All habitable rooms are capable of providing for natural ventilation, however some apartments rely on sliding doors to habitable rooms, including bedrooms and living rooms.  A deferred commencement condition is recommended to ensure operable fan lights are provided above all such sliding doors.
Minimum 60% of apartments in the first nine storeys of the building are naturally cross ventilated.	Yes	The proposal provides 60% (22 of 37) apartments as being naturally cross ventilated.
Overall depth of a cross-over or cross-through apartment does not exceed 18 metres.	Yes	The maximum depth of all cross through apartments does not exceed 18 metres.

<b>4C Ceiling Heights</b>	<b>Compliance</b>	<b>Comment</b>
Habitable rooms: 2.7 metres	Yes	All habitable rooms achieve a minimum floor to ceiling height of 2.7 metres.
Non-habitable rooms: 2.4 metres	Yes	All non-habitable rooms exceed a minimum floor to ceiling height of 2.4 metres.
If located in mixed use areas – 3.3 metres for ground and first floor to promote future flexibility of use.	Assessed as acceptable	The proposal has a ceiling height exceeding 3.3 metres to the ground floor and a floor to ceiling height of 2.7 metres above, which achieves acceptable residential amenity.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum apartment sizes:</p> <ul style="list-style-type: none"> <li>• Studio: 35sqm</li> <li>• One bed: 50sqm</li> <li>• Two bed: 70sqm</li> <li>• Three bed: 90sqm</li> </ul> <p>Additional bathrooms beyond one increase the minimum internal area by 5sqm each.</p>	Yes, subject to conditions	<p>All apartments meet the minimum apartment sizes, with the exception of apartments 306, 309 and 506 which are labelled as studio apartments but appear to be under-sized one bedroom apartments.</p> <p>A deferred commencement condition is recommended to delete the bedroom sliding doors and nib walls to these apartments to ensure that they comprise appropriately sized studio apartments.</p>
<p>Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.</p>	Yes, subject to conditions	<p>All habitable rooms contain windows, with the exception of studio apartment 601 which provides an internal bedroom with no window.</p> <p>A deferred commencement condition is recommended to delete the bedroom sliding doors and nib walls to this apartments to ensure each habitable room has a window in an external wall.</p>
<p>8 metre maximum depth for open plan layouts.</p>	Yes	<p>All habitable rooms have a depth of no more than 8 metres, other than for cross through apartments.</p>
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> <li>• Master bedroom: 10sqm</li> <li>• All other bedrooms: 9sqm</li> </ul> <p>Minimum dimension of any bedroom is 3 metres (excluding wardrobes).</p>	Yes	<p>All bedrooms achieve the minimum area and dimensions.</p>

4D Apartment Size and Layout	Compliance	Comment
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6 metres</li> <li>• Two-bedroom or more: 4 metres</li> </ul>	Yes	All living/dining rooms have a minimum width of 3.6 metres for one bedroom apartments and studios and 4 metres for two or three bedroom apartments.
4 metre minimum width for cross over and cross through apartments.	Assessed as acceptable	<p>The majority of cross through apartments exceed a minimum dimension of 4 metres. At some ends of these apartments however, the width narrows to a single bedroom of approximately 3 metres. Despite this, the affected apartments exceed the minimum overall apartment size, have natural cross ventilation and achieve the minimum required solar access.</p> <p>These apartments are therefore considered to have good amenity and provide a functional layout. The non-compliance is supported in this instance.</p>

4E Private Open Space and Balconies	Compliance	Comment
<p>Studio apartments are to have a minimum balcony area of 4sqm with a minimum depth of 1 metre.</p> <p>One-bedroom apartments are to have a minimum balcony area of 8sqm with a minimum depth of 2 metres.</p> <p>Two-bedroom apartments are to have a minimum balcony area of 10sqm with a minimum depth of 2 metres.</p> <p>Three-bedroom apartments are to have a minimum balcony area of 12sqm with a minimum depth of 2.4 metres.</p>	Yes	<p>All apartments contain balconies / private open space which meet the minimum size and dimension requirements.</p> <p>It is noted that a number of apartments provide for secondary balconies to bedrooms. These secondary balconies were not included in the assessment of Objective 4E or the associated design criteria and guidance.</p>

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight.	Yes	Two lift cores are proposed with the maximum number of apartments off a single core on a single level is six.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	The proposal includes an apartment at level four which has a kitchen window that connects to the roof top communal open space. Subject to privacy and landscape treatments, this interface is considered acceptable.
Daylight and natural ventilation are provided to all common circulation spaces.	Assessed as acceptable	The circulation space adjacent to the northern core at levels two and three do not have access to natural light and ventilation. All other common circulation spaces have access to light and air. Given the difficulty in amending the design to incorporate light and air to these levels, on balance, this outcome is considered acceptable.

4G Storage	Compliance	Comment
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> <li>• Studio: 4 cubic metres</li> <li>• One-bedroom: 6 cubic metres</li> <li>• Two-bedroom: 8 cubic metres</li> <li>• Three-bedroom: 10 cubic metres</li> </ul> <p>(Minimum 50% storage area located within apartment)</p>	Yes, subject to condition	<p>It is not clear based on the submitted plans whether the proposed storage areas provided meet the minimum requirements.</p> <p>Despite this, it is clear from the drawings that there is space allocated to storage in the basement and apartments.</p> <p>As such, a condition has been recommended to ensure that the minimum storage area is provided for each apartment.</p>

<b>4H Acoustic privacy</b>	<b>Compliance</b>	<b>Comment</b>
Noise transfer is minimised through the siting and layout of buildings	Yes	The proposal has generally been designed to minimise noise impacts and achieve acoustic privacy for future occupants.

<b>4J Noise and Pollution</b>	<b>Compliance</b>	<b>Comment</b>
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	The proposed development is not adversely impacted by a busy road or any other significant external sources of noise or pollution.

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

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

#### *Clause 45*

40. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP as the development is located close to an existing electricity substation and overhead power lines.
41. The application was referred to Ausgrid on 18 July 2018. No response was received and it is therefore assumed that no objections are raised to the proposal.
42. The proposal includes a substation located at the intersection of Lachlan Place and Tung Hop Street.

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

43. A BASIX Certificate has been submitted with the development application.
44. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.
45. Condition 11 of the concept development consent requires a BASIX energy and water scores of at least five points above the minimum compliance level.
46. The BASIX certificate submitted with the application shows a score of 46 for water which exceeds the target pass of 40. The energy score is 30 which exceeds the target of 25. The BASIX certificate therefore complies with Condition 11 of the concept development consent.

**Sydney Local Environmental Plan 2012 (Sydney LEP 2012)**

47. The site is located within the B4 mixed use zone. The site is zoned B4 Mixed Use under Sydney LEP 2012. The proposed development is defined as a mixed use development comprising 'residential accommodation' and 'retail premises', both of which are permissible with consent.
48. The relevant matters to be considered under the Sydney LEP 2012 for the proposed development are outlined below.

**Compliance Tables**

Development Control	Compliance	Comment
4.3 Height of Buildings	No	<p>There are two maximum building heights applicable to the subject site under Clause 4.3 of the Sydney LEP 2012 as follows:</p> <ul style="list-style-type: none"> <li>• RL 41.46 AHD</li> <li>• RL 46.31 AHD</li> </ul> <p>The proposal seeks a minor variation to the building height control for part of the site. This is due to a minor lateral extension of 650mm of the floor plates on Levels 4 and 5 into the part of the site with the lower building height control of RL 41.46 AHD.</p> <p>The applicant has submitted a written request seeking an exception to the development standard in accordance with Clause 4.6(3) of the Sydney LEP 2012.</p> <p>Refer to the further discussion and assessment provided below under the heading <b>Issues</b>.</p>

Development Control	Compliance	Comment
<p>4.4 Floor Space Ratio (FSR)</p> <p>6.14 Community infrastructure floor space at Green Square</p>	Yes	<p>In accordance with Clause 4.4 of the Sydney LEP 2012, a maximum base FSR of 1.5:1 is permitted for the whole site. An additional 0.5:1 community infrastructure FSR is permitted pursuant to Clause 6.14 of the Sydney LEP 2012.</p> <p>This additional 0.5:1 FSR is available in this instance as a Voluntary Planning Agreement (VPA) was executed as part of the concept development consent for public domain improvement works and community infrastructure in Green Square in the form of the transfer of 6,656sqm of land and developer works including all road and infrastructure works, asphalt top coat and kerb side tree planting. As such, the total permitted FSR across the entire site is 2:1.</p> <p>Condition 8 of the concept development consent apportioned the permitted Gross Floor Area (GFA) for the whole site and allocated GFA to the individual buildings.</p> <p>For Building A, the maximum permitted GFA is 3,410sqm. The proposal provides 3,386sqm of GFA and is compliant with the maximum permitted FSR for the overall site and the concept development consent.</p>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the height of building development standard prescribed under Clause 4.3 of the Sydney LEP 2012.</p> <p>Refer to the further discussion and assessment provided below under the heading <b>Issues</b>.</p>

Part 6 Local Provisions	Compliance	Comment
6.21 Design excellence	Yes, subject to conditions	<p>The development, subject to design amendments and conditions, demonstrates design excellence.</p> <p>The proposed built form is consistent with the controls in the Sydney LEP 2012 and the Sydney DCP 2012. The massing and modulation of the building is consistent with the controls and will result in an urban form and use which is consistent with the Lachlan locality. The proposal exceeds the minimum BASIX targets for water and energy.</p> <p>The proposal is suitability sited and designed and relates to the adjoining development to the west, so as to reduce visual and acoustic privacy impacts. The building will not unreasonably overshadow neighbouring developments and results in an acceptable level of solar access.</p> <p>The proposal has a consolidated basement with building D with a single access point, which results in a better urban design outcome for building D and the local street network. The proposed circulation, vehicular and service access is acceptable and, subject to condition, will service both building A and D.</p> <p>The proposal integrates landscaping into the facade, and subject to further conditions, will contribute to the integration of landscaping into the overall design of the building.</p>

Part 6 Local Provisions	Compliance	Comment
6.27 Lachlan Precinct, Waterloo	Yes	<p>Clause 6.27(1) provides that clauses 6.21(5)(a)(ii) (design competition required for buildings greater than 25 metres in height outside Central Sydney) and 7.20(2)(b) (concept DA required for site over 5,000sqm or greater than 25 metres) do not apply to buildings that are less than 30 metres.</p> <p>The proposal will not result in a building greater than 30 metres and the height of building A does not trigger the requirements for a design competition.</p> <p>The provisions of this clause permit additional floor space where a development proposes a wholly commercial premises land use.</p> <p>As the proposal is for a mixed use development accommodating residential and retail land uses, it is not eligible for any further floor space under this clause.</p>

Part 7 Local Provisions - General	Compliance	Comment
7.5 Car parking - residential flat buildings  7.7 Retail premises	Yes	<p>The proposed development includes 36 car parking spaces. Specifically, these include:</p> <ul style="list-style-type: none"> <li>• 30 residential car parking spaces.</li> <li>• Three residential visitor car parking spaces.</li> <li>• Three retail car parking spaces.</li> </ul> <p>These comply with the maximum car parking rates for residential flat buildings and retail premises.</p>
7.13 Contribution for the purpose of affordable housing	Yes	<p>The proposed development is subject to an affordable housing contribution.</p> <p>Refer to the further discussion and assessment provided below under the heading <b>Affordable Housing Contributions</b>.</p>

Part 7 Local Provisions - General	Compliance	Comment
7.14 Acid Sulphate Soils	Not applicable	<p>The site is identified as containing class five Acid Sulphate Soils.</p> <p>The site is not within 500 metres of any other soil classes and as such, an acid sulphate soils management plan is not required to be submitted.</p>
7.15 Flood planning	Yes	<p>The site is identified by Council as being flood prone.</p> <p>The proposed development is consistent with the Interim Flood Management Policy and the flood planning level requirements.</p> <p>Council's flood engineer has advised that the proposed floor levels and basement are acceptable.</p>
7.16 Airspace operations	Not applicable	The proposal will not penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport.
7.20 Development requiring preparation of a development control plan (DCP)	Yes	<p>The collective site has been the subject of a concept development consent.</p> <p>Pursuant to Section 4.23 of the Environmental Planning and Assessment Act 1979, the approval of a concept development consent satisfies the obligation of the Sydney LEP 2012 to prepare a DCP under this clause.</p>
7.23 Large retail development near Green Square Town Centre	Yes	The proposed retail tenancies do not exceed 1,000sqm in size and are therefore compliant with the control.

### Sydney Development Control Plan 2012 (Sydney DCP 2012)

49. The relevant matters to be considered under Sydney DCP 2012 for the proposed development are outlined below.

## Compliance Tables

**2.5.7 Locality Statements – Lachlan**

The subject site is located in the Lachlan locality, which is an area in transition from industrial and warehouse uses to mixed use developments. The new street work and subdivision, approved under the concept development consent will enable a permeable and accessible pattern of streets and a neighbourhood with a varied typology of mixed use development. The proposal, with ground floor commercial and upper level residential uses, is in keeping with emerging character of the Lachlan locality.

<b>3. General Provisions</b>	<b>Compliance</b>	<b>Comment</b>
3.1 Public Domain Elements	Yes	The proposal is designed to actively address the streetscape. The development design will result in a building that will enhance the quality of the precinct and will make a positive contribution to the public domain.
3.1.5 Public Art	Yes, subject to conditions	A concept public art strategy has been submitted for the whole site.  An appropriate condition is recommended requiring the submission of a detailed public art strategy for building A.
3.2.3 Active frontages	Yes	The proposal has an active frontage requirement to Archibald Avenue.  The development proposes extensive glazing and masonry elements which will enable the proposed retail use to contribute positively to the public domain.

3. General Provisions	Compliance	Comment
3.2.5 Footpath Awnings	Yes, subject to conditions	<p>The site is identified as requiring the provision of footpath awnings along Archibald Avenue. A continuous footpath awning is provided along this frontage as required.</p> <p>An awning is also provided to Lachlan Place. An awning at this location is not required by the control, however, is supported subject to a deferred commencement condition to ensure it complies with the provisions of Section 3.2.5 of the Sydney DCP 2012.</p> <p>Refer to the further discussion and assessment provided below under the heading <b>Issues</b>.</p>
3.2.7 Reflectivity	Yes	<p>A condition of consent has been recommended requiring that the reflectivity from the building materials must not exceed 20% in accordance with the provisions of Section 3.2.7 of the Sydney DCP 2012.</p>
3.4 Hierarchy of Centres, City South	Yes	<p>The site is located outside the Green Square Town Centre major retail area.</p> <p>The proposed retail premises comprise a total area of 342sqm. The development is 'minor retail development' under Section 3.4 of the Sydney DCP 2012. Minor retail development is permissible outside retail centres provided it does not have a negative impact on the viability of the planned centres.</p> <p>The predominant proposed use of the site is residential. The size of the proposed retail premises is not considered to undermine the economic strategy of the Green Square Town Centre major retail centre or result in an adverse impact on its viability.</p>
3.5 Urban Ecology	Yes	<p>The proposed development does not involve the removal of any trees and will not adversely impact on the local urban ecology.</p>

3. General Provisions	Compliance	Comment
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements, including exceeding the BASIX water and energy targets by five points each.
3.7 Water and Flood Management	Yes	<p>The proposal adequately demonstrates that stormwater and drainage will be managed and that water sensitive urban design has been addressed as is required by Section 3.7 of the Sydney DCP 2012.</p> <p>The site is identified as being on flood prone land and it has been demonstrated that flooding can be adequately managed.</p>
3.8 Subdivision, Strata Subdivision and Consolidation	Yes, subject to conditions	<p>Conditions are recommended to be imposed requiring separate approval for strata or stratum subdivision of the building. The tunnel between proposed building A and building D will sit under the future Lachlan Place. This tunnel will have to be contained within one of the lots containing the adjoining buildings (building A or D). A condition relating to this is recommended.</p> <p>Easements will also be required over the respective parts of the building A basement and the building D basement that will be utilised by the residents/owners of the opposite building (being building A and D respectively). These are recommended to be included as conditions of consent.</p>

3.11 Transport and Parking	Yes, subject to conditions	<p>Adequate car parking, accessible parking, bicycle parking and motorcycle parking, car share spaces and end of trip facilities have been provided in accordance with the Sydney LEP 2012 and Sydney DCP 2012. Subject to conditions, the parking facilities are capable of achieving compliance with the relevant Australian standards.</p> <p>44 bike parking spaces are provided, which exceeds the minimum requirement of 39 spaces for the proposed uses.</p> <p>Four retail visitor bike spaces are provided which meets the minimum requirement at the ground level to Lachlan Place. Deferred commencement conditions are recommended so that residential visitor bike spaces are provided in proximity of the residential lobby entrance and retail visitor bike spaces are relocated so they do not interfere with service access.</p> <p>A Green Travel Plan has been assessed as being generally satisfactory by Council's Transport Planner. A final Green Travel Plan is required to be submitted to Council for approval prior to issue of an Occupation Certificate.</p> <p>A loading dock serving both building A and building D has been proposed at ground level within the building and a waste management plan and loading dock management plan have been submitted with the application.</p> <p>The area is suitably designed to allow Council's waste collection vehicle (9.25 metre length) to enter and exit the site building a forward direction.</p> <p>The plans have been reviewed by the City's Waste Management and Transport Planning Unit and are generally acceptable, subject to conditions requiring a revised Waste Management Plan and compliance with the Loading Dock Management Plan.</p>
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3. General Provisions	Compliance	Comment
		Overall, it is considered that the proposed development, subject to conditions, will not result in unreasonable traffic congestion, will promote sustainable transport modes and generally complies with the objectives and provisions contained in Section 3.11 of the Sydney DCP 2012.
3.12 Accessible Design	Yes, subject to conditions	<p>Six adaptable apartments have been proposed. This equates to 15% of dwellings, which complies with the requirements of the Section 3.12 of the Sydney DCP 2012.</p> <p>Appropriate conditions have been recommended for the proposed development to provide appropriate access and facilities for persons with disabilities in accordance with Section 3.12 of the Sydney DCP 2012 and the Building Code of Australia.</p>
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and has been generally designed in accordance with the 'Crime Prevention Through Environmental Design' principles

3. General Provisions	Compliance	Comment
3.14 Waste	Yes, subject to conditions	<p>All residential and retail waste for building A and building D will need to be collected from the loading dock of building A.</p> <p>As discussed above, a loading dock serving building A and building D is proposed at ground level and waste management and loading dock management plans have been submitted. The area is suitably designed to allow Council's waste collection vehicle (9.25 metre length) to enter and exit the site in a forward direction.</p> <p>The plans have been reviewed by the City's Waste Management and Transport Planning Unit and are deemed to be generally acceptable. Conditions are recommended for imposition requiring the submission of a revised Waste Management Plan and compliance with the Loading Dock Management Plan.</p>
3.16 Signage and Advertising	Yes, subject to conditions	<p>The proposed development does not include any signage.</p> <p>A condition is recommended to be imposed on the consent requiring a separate application for a signage strategy to be submitted for the development. This will serve to ensure the design quality of the development is not diminished by the potential for future ad-hoc signage.</p>

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.1 Building height	Assessed as acceptable	<p>There are three different height in storey controls for the site under Section 4.2.1 of the Sydney DCP 2012 being:</p> <ul style="list-style-type: none"> <li>• Two storeys to the north-western corner of the site.</li> <li>• Four storeys along the southern side of the site.</li> <li>• Five storeys along the eastern side of the site.</li> </ul> <p>The proposal is generally complies with these controls, with the exception of the lift lobby at level 1 and the 650mm lateral extension of levels 4 and 5 described above in relation to Clause 4.3 of the Sydney LEP 2012.</p> <p>Refer to the further discussion and assessment provided below under the heading <b>Issues</b>.</p>
4.2.1.2 Floor to ceiling heights and floor to floor heights	Assessed as acceptable	<p>The proposed development proposes a floor to floor height that achieves or exceeds 4.5 metres to the ground floor retail components and a floor to floor height of 3.2 metres for the residential floors above. The minimum residential floor to ceiling height proposed is 2.7 metres which complies with the minimum requirement.</p>
4.2.2 Building setbacks	Yes	<p>The proposed setbacks are acceptable and further discussion and assessment is provided below in relation to Section 5.4.3.4 of the Sydney DCP 2012.</p>
4.2.3 Amenity	Yes	<p>The proposed development will result in an acceptable level of amenity, as described and detailed above under the heading <b>Apartment Design Guide</b>.</p>

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.3.1 Solar access	Assessed as acceptable	Refer to the further discussion and assessment provided below under the heading <b>Issues</b> in relation to solar access.
4.2.3.3 Internal common areas	Assessed as acceptable	<p>As described and detailed above in the ADG compliance table, the circulation space adjacent to the northern core at levels two and three do not have access to natural light and ventilation. All other common circulation spaces have access to light and air.</p> <p>Given the difficulty in amending the design to incorporate light and air to these levels, on balance, this outcome is considered acceptable.</p>
4.2.3.5 Landscaping	Yes, subject to conditions	<p>The landscaping proposed to the ground floor courtyard, roof top communal area and the planters on private balconies is acceptable in principle, however requires further refinement and design detail.</p> <p>Conditions are recommended to ensure revised and more detailed landscaping plans are provided to demonstrate that the planting scheme and the deep soil provision is adequate, not overhung by the awning to the central courtyard and is capable of practical application.</p>

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.3.6 Deep soil	Yes, subject to conditions	<p>A minimum of 150sqm of the site is required to be provided as deep soil, with a minimum dimension of 10 metres.</p> <p>The proposal provides a consolidated deep soil zone measuring approximately 210sqm with a minimum dimension exceeding 10 metres, subject to a deferred commencement condition requiring the deletion of the awning over the eastern edge of the ground floor communal open space.</p> <p>Of the area provided as deep soil, there is a proportion which comprises impervious surfaces.</p> <p>As such, a condition is recommended which requires that all pavements be permeable pavement system. This will increase permeability and assist with the ease of drainage to deep soil planting.</p>
4.2.3.7 Private open space and balconies	Yes	Refer to the discussion and assessment provided above under the heading <b>Apartment Design Guide</b> .
4.2.3.8 Common open space	Yes	Refer to the discussion and assessment provided above under the heading <b>Apartment Design Guide</b> .
4.2.3.9 Ventilation	Yes	Refer to the discussion and assessment provided above under the heading <b>Apartment Design Guide</b> .
4.2.3.10 Outlook	Yes	All apartments are provided with a satisfactory degree of outlook.

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.3.11 Acoustic privacy	Yes	<p>The acoustic assessment submitted demonstrates that the internal noise criteria can be achieved with windows open for windows along any facade of the proposed development.</p> <p>Appropriate conditions have been recommended to ensure that the construction of the building achieves this outcome.</p>
4.2.3.12 Flexible housing and dwelling mix	Yes	<p>The development proposes 37 residential apartments.</p> <p>Of these, 4 (10.8%) are studios, 11 (29.7%) are one-bedroom apartments, 17 (45.9%) are two-bedroom apartments and 5 (13.5%) are three-bedroom apartments.</p> <p>The proposed apartment mix provides sufficient diversity to cater for the needs of the resident population and satisfies the relevant objectives and provisions of Section 4.2.3.12 of the Sydney DCP 2012.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The street frontage length along Lachlan Place is approximately 44 metres. This frontage contains a retail tenancy, the main residential entry lobby and sufficient facade detailing so as to break up the elevation in an acceptable manner.</p>
4.2.5.2 Courtyard buildings and perimeter street block buildings	Yes	<p>The building is designed as a perimeter block type building with a central courtyard, which will serve as part of the building's communal open space area at the ground floor level. The courtyard is private and will have a visual connection through to Archibald Avenue through retail tenancy glazing.</p>

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.5.3 Development on active frontages	Yes, subject to conditions	<p>The design of the apartments above the active frontage to Archibald Avenue do incorporate solid masonry elements but do not provide for fully retractable privacy screens at the street frontage alignment.</p> <p>This is considered acceptable however, subject to an appropriate condition recommended to ensure that the proposed residential apartments achieve the required internal noise criteria in Section 4.2.3.11(7) and 5.4.3.7(1) of the Sydney DCP 2012.</p>
4.2.6 Waste minimisation	Yes, subject to conditions	Refer to the discussion and assessment provided above in relation to Section 3.14 of the Sydney DCP 2012.
4.2.7 Heating and Cooling Infrastructure	Yes, subject to conditions	<p>Services are centrally located on the roof and screened by an acoustic enclosure.</p> <p>Appropriate conditions have been recommended to ensure noise from rooftop plant is appropriately managed.</p>
4.2.8 Letterboxes	Yes, subject to conditions	<p>A mail room has been provided adjacent to the main residential entry lobby.</p> <p>Subject to an appropriate condition, any letterboxes will be located in a secure location within this lobby area.</p>
4.2.9 Non residential development in the B4 Mixed Use zone	Yes, subject to conditions	Due to the proximity of the proposed retail tenancies to the residential uses above, noise, overlooking, privacy and traffic impacts have been specifically considered and addressed by way of the conditions recommended in <b>Attachment A</b> to this report.

5.2 Specific Areas - Green Square	Compliance	Comment
5.2.7 Stormwater management and waterways	Yes	Flooding is addressed with regard to Clause 7.15 of the Sydney LEP 2012 under the heading <b>Sydney Local Environmental Plan 2012 (Sydney LEP 2012)</b> above.
5.2.9 Building design	Yes	<p>The proposed building is aligned to the street to define and frame the street edge, activate the site frontages and provide clear delineation between the public and private domain.</p> <p>The proposed building is generally contained within the approved concept development consent building envelope and will not significantly affect views to the City skyline from surrounding residences.</p> <p>The proposed development includes the provision of plantings and landscaping on the balconies at level 4 and the rooftop gardens, which will address the street to maximise residential amenity.</p> <p>The building facade utilises a number of different finishes to provide variety and articulation.</p> <p>Multiple entries are provided along street frontages to maximise passive surveillance.</p> <p>The suitability of the design of the building and its relationship to the public domain are discussed throughout this report and subject to conditions, is considered acceptable.</p>

5.2 Specific Areas - Green Square	Compliance	Comment
5.2.10 Setbacks 5.4.3.4 Building setbacks	Yes	<p>The proposed development is set back 1.5 metres from Tung Hop Street and Lachlan Place, as required by Section 5.2.10 and 5.4.3.4 of the Sydney DCP 2012.</p> <p>The Archibald Avenue frontage is nominated as an active frontage and the building is aligned to the street accordingly.</p> <p>It is noted that there are no upper level setbacks which apply to the site.</p>
5.2.11 Carparks under the public domain	Yes	<p>A tunnel is proposed under the public domain to connect building A and D.</p> <p>The tunnel is proposed to sit approximately 1.6 metres below the public domain.</p> <p>Conditions are recommended in relation to the stratum ownership arrangements for the tunnel.</p>

5.4 Specific Areas - Green Square Lachlan	Compliance	Comment
5.4.1 Lachlan Urban Strategy 5.4.2 Local infrastructure and public domain	Yes	<p>The concept development consent D/2016/1450, granted by the Central Sydney Planning Committee on 28 April 2017, approved all of the local infrastructure and public domain works, including the new street network associated with the development.</p> <p>The proposed ground floor retail use to Archibald Avenue is consistent with Figure 5.75 of the Sydney DCP 2012.</p> <p>The access point for the building is to Tung Hop Street in accordance with preferred access point shown Figure 5.88 Access Circulation for the precinct.</p>

5.4 Specific Areas - Green Square Lachlan	Compliance	Comment
5.4.3.2 Height of buildings	Yes	<p>This provision specifies that buildings on this site can vary between four storeys fronting Archibald Avenue, five storeys fronting Lachlan Place and two storeys fronting Tung Hop Street.</p> <p>The proposed building height of the development generally present to the public domain and adjacent development on the adjoining sites in accordance with this development control, however the development has a six storey height at the interface between the southern and eastern components of the building.</p> <p>Refer to the further discussion and assessment provided below under the heading <b>Issues</b>.</p>

5.4 Specific Areas - Green Square Lachlan	Compliance	Comment
5.4.3.3 Building form and design	Yes	<p>The development within the street block is well articulated and has variations in size, height and architectural expression.</p> <p>The building articulates the corners with particular emphasis on the main residential access point at the corner of Archibald Avenue and Lachlan Place and the awnings which help enhance the public domain.</p> <p>The apartment facades maximise glazing and recessed balconies to enhance views and provide sufficient solar access.</p> <p>The proposed materiality of the development, including the proposed perforated panels, masonry elements and profiled cladding attached to the building facade wrap around the building providing visual interest.</p> <p>The landscape planters at the rooftop edge and on private balconies at level 4 will create a visual greening and connection to the streetscape.</p> <p>The design provides for a building that will enhance the new streetscape and is supported from an urban design perspective.</p>

<p>5.4.3.5 Building typologies and use</p>	<p>Assessed as acceptable</p>	<p>A retail tenancy is proposed with a glazing line to the public domain along Archibald Avenue as per Section 5.4.3.5 of the Sydney DCP 2012. A second retail tenancy is provided to Lachlan Place, which is not required by the above provision.</p> <p>The proposed retail tenancy to Archibald Avenue meets the minimum 10 metre depth requirement in Section 5.4.3.5(4) for more than 50% of its length at its western end. The depth of the tenancy reduces to a minimum of 2.5 metres at its eastern end and does not comply with the control.</p> <p>The depth of the second retail tenancy fronting Lachlan Place has a depth that ranges between 2.5 and 6 metres, which is less than the 10 metres recommended in the DCP.</p> <p>The proposed variations are considered to be acceptable given the configuration of the building and location of the residential entry at the corner of Archibald Avenue and Lachlan Place.</p> <p>The length and overall size of each tenancy is considered sufficient to accommodate any required amenities, storage space, general back of house activities and other spatial requirements to support the proposed non-residential retail premises uses at the ground floor level of the development.</p> <p>Deferred commencement design amendment conditions have been recommended to ensure that the retail amenities are directly accessible from the adjacent retail premises and that the bifold doors to the residential ground floor communal open space are deleted to reduce the potential for the commercialisation of this space.</p> <p>A continuous awning is provided between the building to the west along Archibald Avenue and building A.</p>
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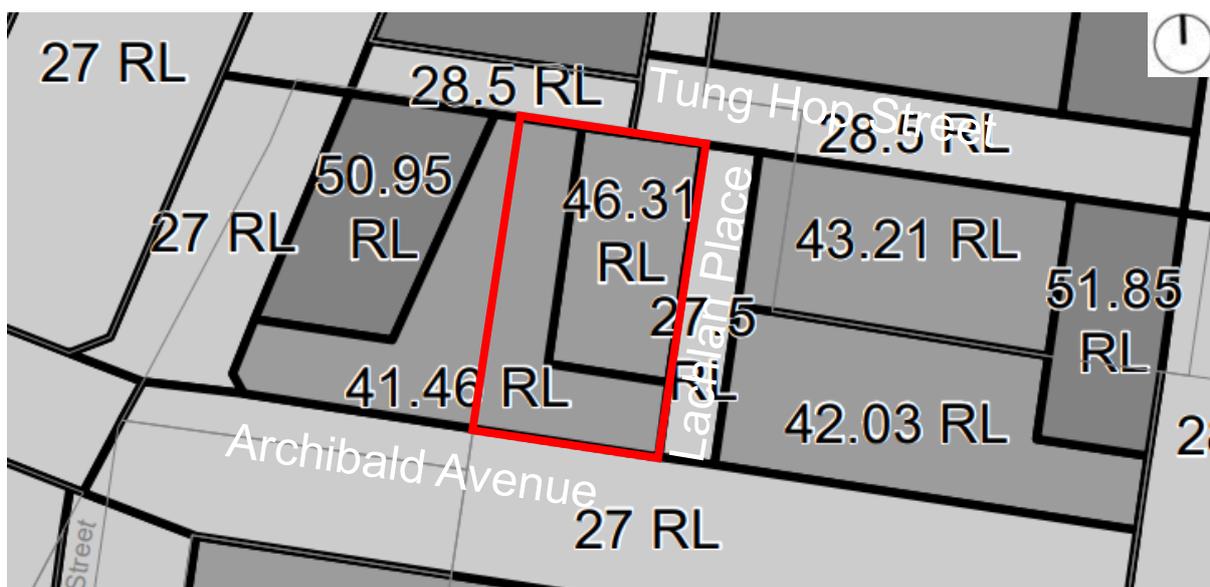
5.4 Specific Areas - Green Square Lachlan	Compliance	Comment
5.4.3.7 Acoustic and visual privacy	Yes, subject to conditions	<p>The design of the apartments above the active frontage to Archibald Avenue do incorporate solid masonry elements but do not provide for fully retractable privacy screens at the street frontage alignment or wintergardens in accordance with Section 5.4.3.7 of the Sydney DCP 2012.</p> <p>This is considered acceptable however, subject to an appropriate condition recommended to ensure that the proposed residential apartments achieve the required internal noise criteria in Section 5.4.3.7(1) of the Sydney DCP 2012.</p>
5.4.3.8 Development levels	Yes	<p>Retail uses are provided at ground floor level along the Archibald Avenue activity strip.</p> <p>An on-site detention tank is provided underground designed to capture the 1 in 100 year flood as per the requirements of the Sydney DCP 2012.</p> <p>Finished floor levels of ground floor retail uses are set no higher than the 1 in 100 year flood as per the requirement of the Sydney DCP 2012.</p>
5.4.3.9 Parking and access	Yes	<p>The driveway crossing and access is provided on Tung Hop Street away from the Archibald Avenue activity strip as required by the Sydney DCP 2012.</p> <p>The proposed development incorporates one vehicular access point, designed with regard to stormwater and flooding considerations and with parking provided underground within the extent of the building floor plate above.</p>
5.4.3.10 Staging and implementation	No	<p>The proposal includes the staging of construction of the development.</p> <p>Refer to the further discussion and assessment provided below under the heading <b>Issues</b>.</p>

Schedules	Compliance	Comment
Schedule 4 - Projections over or into public roads	Yes	<p>The facade elements including balconies and planters which project beyond the footpath alignment no more than 450mm.</p> <p>The awning, which sits at the bottom of the facade elements will achieve a height of 3.2 metres above the footpath and more than 800mm from the face of the kerb, subject to the recommended deferred commencement conditions discussed below under the heading <b>Issues</b>. The awning material will be subject to condition regarding flammability.</p>

## Issues

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

50. The site is subject to two separate maximum height of buildings controls in Reduced Levels (RLs) to the Australian Height Datum (AHD) under Clause 4.3 of the Sydney LEP 2012 as follows:
- RL 41.46 AHD.
  - RL 46.31 AHD.
51. An extract of the Sydney LEP 2012 height of buildings map sheet HOB\_017 is provided in the figure below, with the subject site outlined in red:



**Figure 33:** Extract from the Sydney LEP 2012 Height of Building Map Sheet HOB\_017.

52. The building is designed as a part two, part four story building, with a taller five and six storey component fronting Lachlan Place. The five and six storey component of the building has a proposed maximum height of RL 46.3 AHD. While this is 0.01 metres below the maximum height of RL 46.31 AHD prescribed by the Sydney LEP 2012, this taller component of the building extends laterally to the south into the zone of the lower height control of RL 41.46 AHD. The floor plan of level 4 and east elevation are shown in the figures below which highlight the area of non-compliance in red:

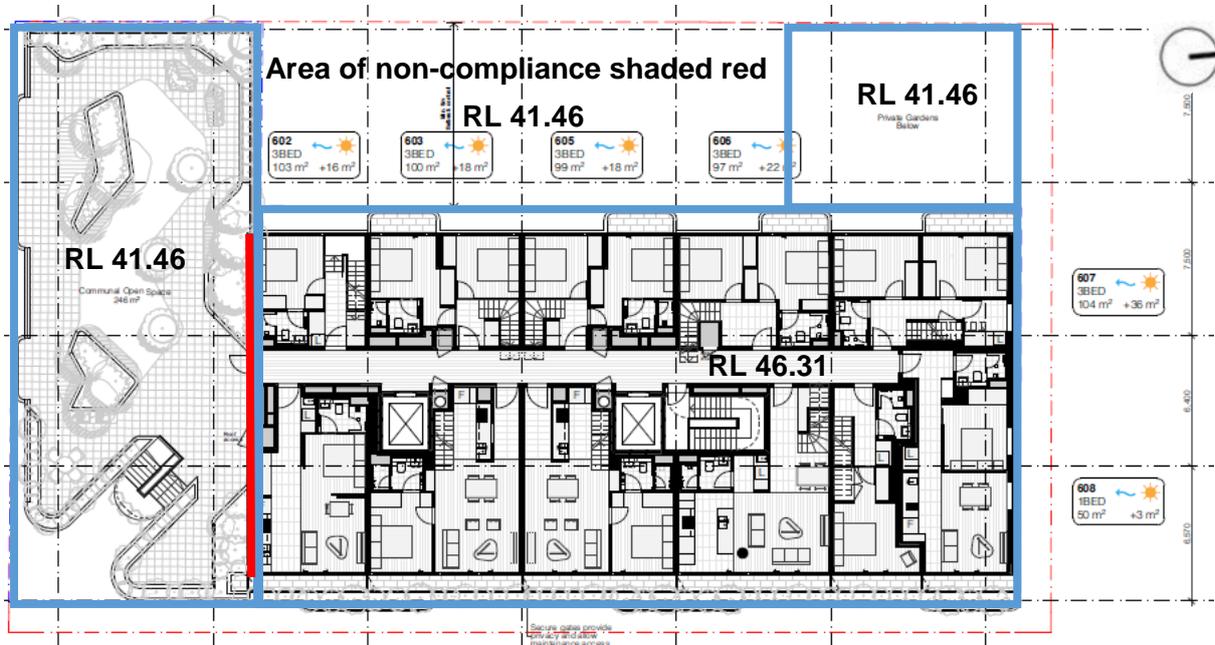


Figure 34: Extract of Level 4 floor plan highlighting areas of non-compliance in red.

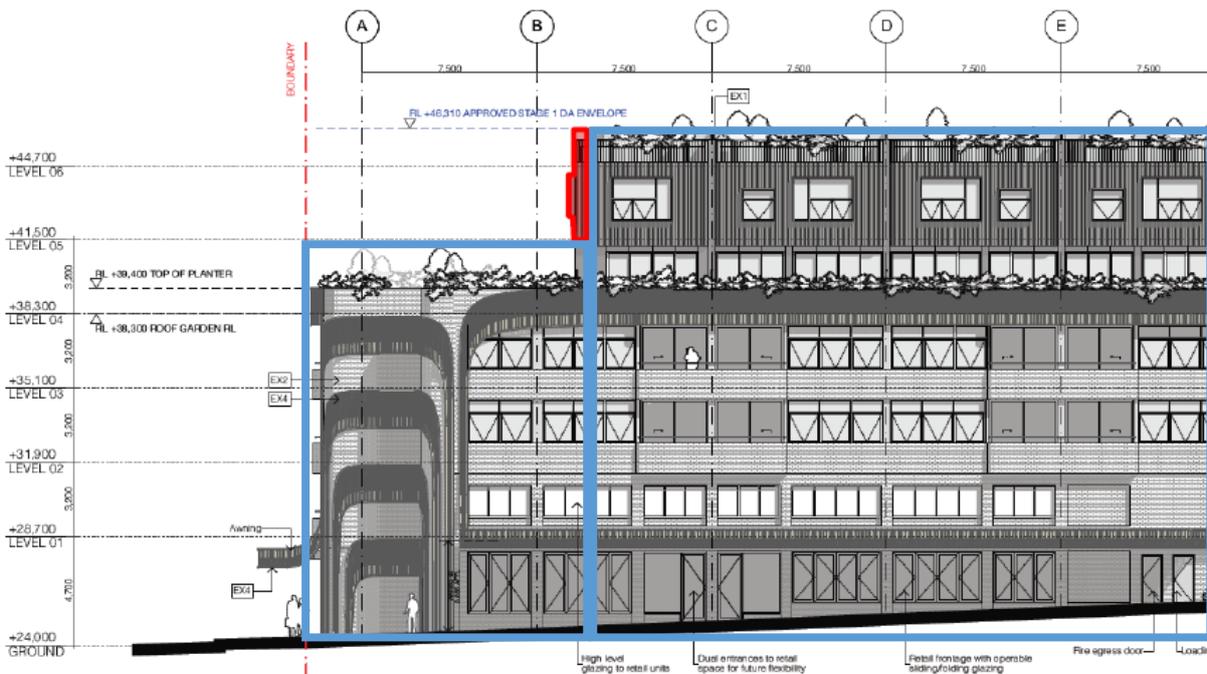


Figure 35: Extract of east elevation highlighting areas of non-compliance in red.

53. To the south (towards Archibald Avenue), the floor plate, architectural detailing and southern wall of the taller part of the building extends within RL 41.46 AHD zone by approximately 0.65 metres in depth. This component of the building breaches the maximum RL 41.64 AHD height of buildings development standard by 4.84 metres or 11.7%.
54. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the height development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
  - (b) That there are sufficient environmental planning grounds to justify contravening the standard.
55. A copy of the applicant's written request is provided at Attachment D.

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

56. The applicant seeks to justify the contravention of the height of building development standard on the following basis:

- (a) Compliance with the maximum height of building development standard is unreasonable or unnecessary in this case, because the proposed development achieves the objectives of the height of building development standard set out within Clause 4.3 of the Sydney LEP 2012 as follows:

*To ensure the height of development is appropriate to the condition of the site and its context*

- The proposal provides a building of the same overall height and in the same location as envisaged by the Sydney LEP 2012 and the Sydney DCP 2012 (Lachlan Precinct), excepting a technical variation sought to the Sydney DCP height in storeys control not strictly related to the height variation sought.

*To ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas*

- No heritage items, conservation areas or special character areas are located in the vicinity of the site and therefore none are impacted by the proposal.

*To promote the sharing of views*

- The proposed development does not impact any significant views, particularly views towards the Sydney CBD and has been designed to achieve compliance with minimum separation distances to promote the sharing of views.

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

- The minor additional massing does not impact the height transition from Green Square Town Centre to adjacent areas, while the stepped form towards Archibald Avenue still provides an appropriate height transition to directly surrounding areas.
- The proposal restricts the taller form to the northern portion of the site as envisaged in the Sydney LEP 2012 and the Sydney DCP 2012, responding to and defining the street network of the Lachlan Precinct. The location and minor extent of the variation means any additional massing will be virtually imperceptible from the surrounding public domain and will ensure its amenity.

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

- (b) There are sufficient environmental planning grounds to justify contravening the height of building development standard in this case. These include but are not limited to the following:

- The building massing envisaged by the Sydney LEP 2012 and approved as part of the concept development consent reads as a taller volume along Lachlan Place, with a four-storey street frontage height along Archibald Avenue to the south. This massing is intended to help define the street network, by providing a consistent street frontage height to Archibald Avenue and an appropriate height transition to the surrounding development.
- The detailed design proposal continues to achieve this street definition and height transition. The additional massing along the southern portion of the building is limited to the upper levels of the building and is minor in extent. A setback from the Archibald Avenue frontage of greater than 11 metres is still achieved despite the variation, meaning the consistent street wall height along Archibald Avenue is maintained. Further, the proposed level heights align with the adjacent development to the west of the site, along Archibald Avenue, contributing to a cohesive urban form.
- Given the above, the proposed variation to height continues to provide an appropriate definition of the street network in the Lachlan Precinct and is deemed to have an acceptable visual impact. As such, there are environmental planning grounds relating to visual impact and height transition that justify contravention of the development standard.

- The building's additional mass that is proposed to sit outside of the Sydney LEP 2012 maximum building height envelope, has been limited to a marginal portion of the southern section of the site for Levels 4 and above only. The location of this additional mass will result in a negligible additional overshadowing of both surrounding buildings and the public domain.
- The shadow diagrams at Attachment C compare the extent of overshadowing caused by the proposal with the concept building envelope. The additional overshadowing caused by the additional massing within the detailed design is nearly imperceptible, located within the southern section of the site and is offset by reductions in overshadowing due to the recessing and articulation of the other aspects of the building facade. As such, the lack of overshadowing impacts on surrounding buildings and the public domain caused by the variation provides environmental planning grounds that justify contravention of the development standard.

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

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

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

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

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

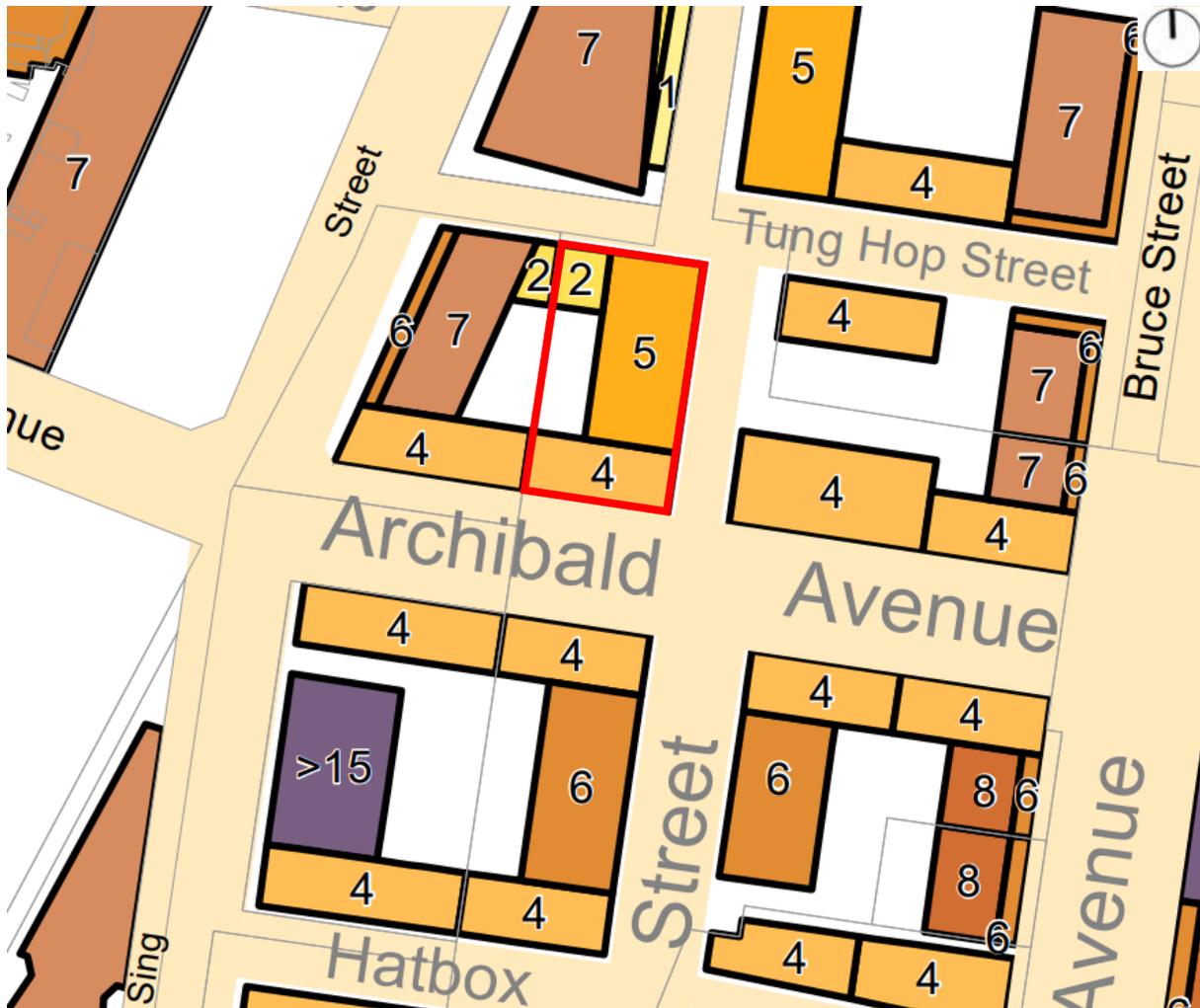
61. The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

62. Council officers agree with the justification provided in the written request. It demonstrates that the building components which breach the height standard result in an appropriate definition to the surrounding street network and minimal visual impact from the additional massing viewed from the public domain.
63. The applicant's justification that the components of the building subject to the non-compliance do not result in adverse environmental planning impacts by way of urban design, view loss or overshadowing are supported.
64. Given the above, Council officers are satisfied that the applicant has adequately demonstrated that there are sufficient environmental planning grounds to vary the development standard.

*Is the development in the public interest?*

65. The proposed development is considered to be in the public interest as it is consistent with the objectives of the height of building development standard and objectives of the B4 Mixed Use zone.
66. The objectives of Clause 4.3 of the Sydney LEP 2012 are:
  - (a) To ensure the height of development is appropriate to the condition of the site and its context.
  - (b) To ensure appropriate height transitions between new development and heritage items and buildings in heritage consideration areas or special character areas.
  - (c) To promote the sharing of views.
  - (d) To ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas.
  - (e) In respect of Green Square:
    - To ensure the amenity of the public domain by restricting taller buildings to only part of a site.
    - To ensure the built form contributes to the physical definition of the street network and public spaces.
67. The proposed development is considered to be consistent with the objectives of Clause 4.3 of the Sydney LEP 2012 for the following reasons:
  - (a) The proposed height of the building including the areas of non-compliance is commensurate with the built form, scale and height of buildings in the Lachlan Precinct, particularly the adjoining development to the north and west and the recently approved Buildings B, D and E.
  - (b) The proposed components of the building subject to the breach still provide for a development which has a taller building on part of the site with appropriate transition to the two and four storey components. The component of the building subject to the height of building breach does not compromise a clear transition between the different components of the building.

- (c) Under the Sydney DCP 2012, the height in storeys provisions for the site and immediate surrounding area in the Lachlan Precinct generally require two to four storeys with a higher component of between five to eight storeys as shown in the figure below. The proposed development complies with the strategic intent of these provisions.



**Figure 36:** Extract from Sheet 017 of the Sydney DCP 2012 Height in storeys map.

- (d) Given the above, the proposal is also considered to meet the objectives for Green Square in that the amenity of the public domain will be maintained as the taller part of the building is still restricted to one part of the site. In addition, the proposed development maintains the existing future and built form character of the immediate surrounding area by maintaining the two and four storey component of the building.
- (e) The proposed parts of the building subject to the breach will not result in loss of any significant views. In this regard, it is noted that the taller part of the building is located slightly below the Sydney LEP 2012 maximum height of RL 41.64 AHD which is considered to promote view sharing.
- (f) The site is not located within the vicinity of a heritage item, heritage conservation area of special character.

68. The objectives of the B4 Mixed Use zone are:
- (a) To provide a mixture of compatible land uses.
  - (b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
  - (c) To ensure uses support the viability of centres.
69. The proposed development is considered to be consistent with the objectives of the B4 Mixed Use zone for the following reasons:
- (a) The proposed development includes retail uses at ground level fronting Archibald Avenue and Lachlan Place and residential uses above. The uses are permissible the zone are compatible and complementary to the surrounding area.
  - (b) The site is well located and benefits from existing cycle infrastructure, rail and light rail infrastructure and is supported by provision of bicycle parking and end-of-trip facilities.
  - (c) The proposal has been designed in accordance with the controls for the Lachlan Precinct in the Sydney DCP 2012 and will contribute to its viability.
  - (d) In particular, Section 5.4.1 of the Sydney DCP 2012 provides various objectives for development within the Green Square – Lachlan Precinct centre. The proposal is consistent with the relevant overarching objectives in support of the centre as:
    - The proposed land uses are consistent with those envisaged for the centre.
    - The proposed building, inclusive of the proposed height variation, will facilitate a building form that responds to the surrounding street network, in particular defining Archibald Avenue with a four-storey street frontage.
    - The built form results in an acceptable outcome in relation to solar access and overshadowing.
    - The proposed development, inclusive of the variation to building height, is considered to be of a high standard of architectural quality, effectively enriching the Green Square – Lachlan Precinct and contributing to the quality of the area.
70. The components of the building subject to the non-compliance do not result in adverse environmental planning impacts by way of urban design, streetscape impacts, view loss or overshadowing on surrounding properties. The proposal achieves the minimum required separation distances required by the ADG.
71. It is considered that the longer taller part of the building which results in the non-compliance allows for a better planning outcome for the site. The longer floor plate accommodates two lift cores, a high number of naturally cross ventilated apartments, and generally compliant and functional apartment layouts.

72. The proposal takes into consideration acoustic and visual privacy amenity and presents an acceptable outcome with regard to the applicable solar access provisions, which is noted as being difficult to achieve due to the site's north-south orientation. This therefore results in a satisfactory level of residential amenity for future occupants.
73. The proposed development is considered to be of appropriate bulk, scale and mass in the context of the surrounding area. The proposed components of the breach do not detract from the overall massing of the building and the building is considered to achieve a high standard of architecture and urban design.
74. In light of the above, the proposed development is considered to be in the public interest.

#### *Conclusion*

75. For the reasons provided above the requested variation to the height of buildings development standard is supported. The applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the Sydney LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the standard and the zone.

#### **Compliance with the Concept Development Consent (as amended)**

76. The building as proposed is consistent with the approved building envelope and requirements specified in the concept development consent.
77. A concurrent Section 4.55(1A) modification application D/2016/1450/G was lodged on 21 January 2019 for minor amendments to the height and siting of the building envelope for Building A and to correct an error relating to the height of the building envelope for Building B. The modification application was determined under delegation of the CSPC on 16 May 2019.
78. The proposed development is consistent with the modified concept consent.
79. A comparison of the relevant concept consent conditions and the proposal are in the table below.

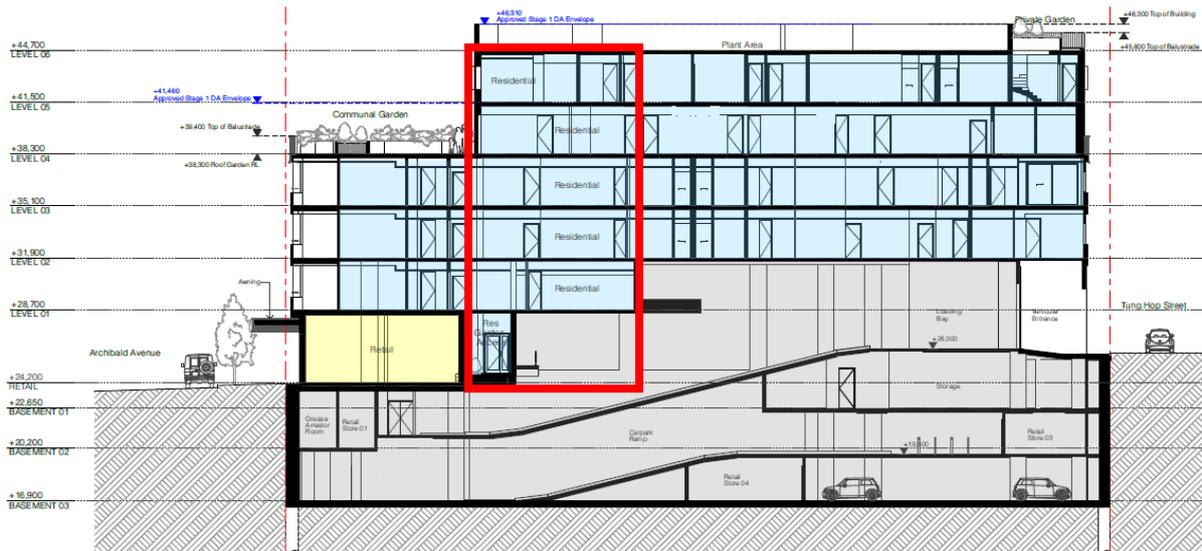
<b>Condition Number</b>	<b>Compliance</b>	<b>Comment</b>
Condition 8 - Allocation of floor space	Yes	3386sqm of GFA is proposed to Building A. This floor area is consistent with the condition.
Condition 9 - Building height	Assessed as acceptable	The proposed building height is split into two heights; the top of the parapet height and top of building component (the Sydney LEP 2012 height limit).  The proposal is consistent with both the top of parapet height and the top of building component.

Condition Number	Compliance	Comment
Condition 10 - Detailed design of Buildings	Assessed as acceptable	<p>The area of ground floor communal open space is located adjacent to the communal open space of the adjoining property to the west as required. Further landscape treatments are subject to condition.</p> <p>There are a minimum of two lift cores shown for building A and the frontage along Archibald Avenue is activated with a retail premises tenancy.</p> <p>The electricity substation is integrated into the service character of the ground floor level northern facade of the building and the building design is acceptable with regard to flooding and deep soil considerations.</p>
Condition 11 - Ecologically sustainable development	Yes	The submitted BASIX certificate shows that the development exceeds the minimum compliance targets by five points for both water and energy.
Condition 35 - Communal open space	Subject to condition	The size and location of the proposed communal open space areas is considered acceptable. Further discussion and assessment regarding the landscaping of these areas is provided below under the heading <b>Issues</b> and is subject to condition.
Condition 48 - Parking design	Subject to condition	The proposed parking arrangements, subject to conditions, are considered acceptable.
Condition 52 - Service vehicle size limit	Yes	Swept paths have been submitted for the vehicular entry.
Condition 53 - Car share spaces	Yes	A car share space is required by conditions to be imposed.
Condition 54 - Green travel plan	Subject to condition	A Green Travel Plan has been submitted as part of this application, however requires further refinement. A condition is included in this respect.

Condition Number	Compliance	Comment
Condition 56 - Bicycle parking and end of trip facilities	Subject to condition	Bike parking and end of trip facilities have been included as part of this application. Further conditions are recommended in this respect.
Condition 57 - Vehicle access in stage 1 development consent	Assessed as acceptable	A consolidated basement between building A and building D is proposed as part of this application. The vehicular entry point for building A is as per Figure 5.88 of the Sydney DCP 2012.
Condition 58 - Temporary access arrangements	Subject to condition	A condition is recommended in respect to temporary access arrangements.
Condition 60 - Reflectivity	Yes	A reflectivity report was submitted with this application and a condition has been imposed to ensure compliance with its recommendations.
Condition 61 - Public Art	Subject to condition	Appropriate conditions are recommended in relation to public art for this application.
Condition 63 - Signage strategy	Subject to condition	A condition is recommended requiring submission of a signage strategy.

### Storey Height

80. The development, as proposed, does not strictly comply with the building height in storeys.
81. The site is subject to three separate height in storey controls. Figure 36 above illustrates the height in storeys for the subject site required by the Sydney DCP 2012.
82. The proposed development generally conforms to these requirements, including:
  - (a) Four storeys fronting Archibald Avenue.
  - (b) Five storeys fronting Lachlan Place (subject to an appropriate design modification requiring the deletion of the windows to the void above the retail premises fronting Lachlan Place and raising the awning level as discussed under the heading **Awning Height** below).
  - (c) Two storeys to Tung Hop Street.
83. Despite this, the development technically provide for six storeys for part of the site and this component extends into the area designated for a four storey height by 650mm, as indicated in the section drawing extract in the figure below, boxed in red and discussed above in relation to Clause 4.3 and 4.6 of the Sydney LEP 2012.



**Figure 37:** Extract from North-South Section drawing with non-compliance boxed in red.

84. The objectives of the height in storey provision include:
- To ensure that building form and scale are varied.
  - To minimise and modulate perceived bulk from the street.
85. This non-compliance is considered acceptable with regard to these objectives, given that its extent is limited to the area occupied by internal circulation space to provide access between the southern and eastern components of the building and the minor 650mm encroachment into the four storey height control area.
86. The proposed building storey height is generally consistent with the approved envelope under the concept development consent, has no adverse impact on the street and does not cause any unacceptable environmental to adjoining sites. There is adequate separation distances between the proposed building and the adjacent and nearby buildings.

### Awning Height

87. The proposed awning does not fully comply with the requirements of Section 3.2.4(4) of Sydney DCP 2012 in that it does not provide at least 3.2 metres clearance above the footpath to the south eastern section fronting Archibald Avenue and to the north-eastern section fronting Lachlan Place. This is shown in the figures below.

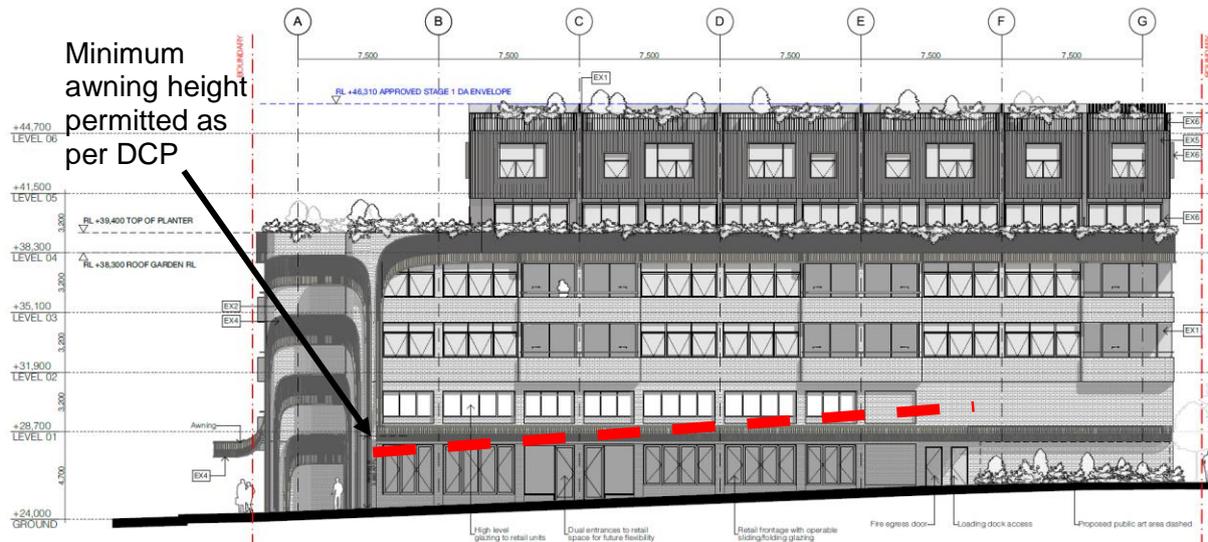


Figure 38: Proposed east elevation extract showing non-compliance with awning height

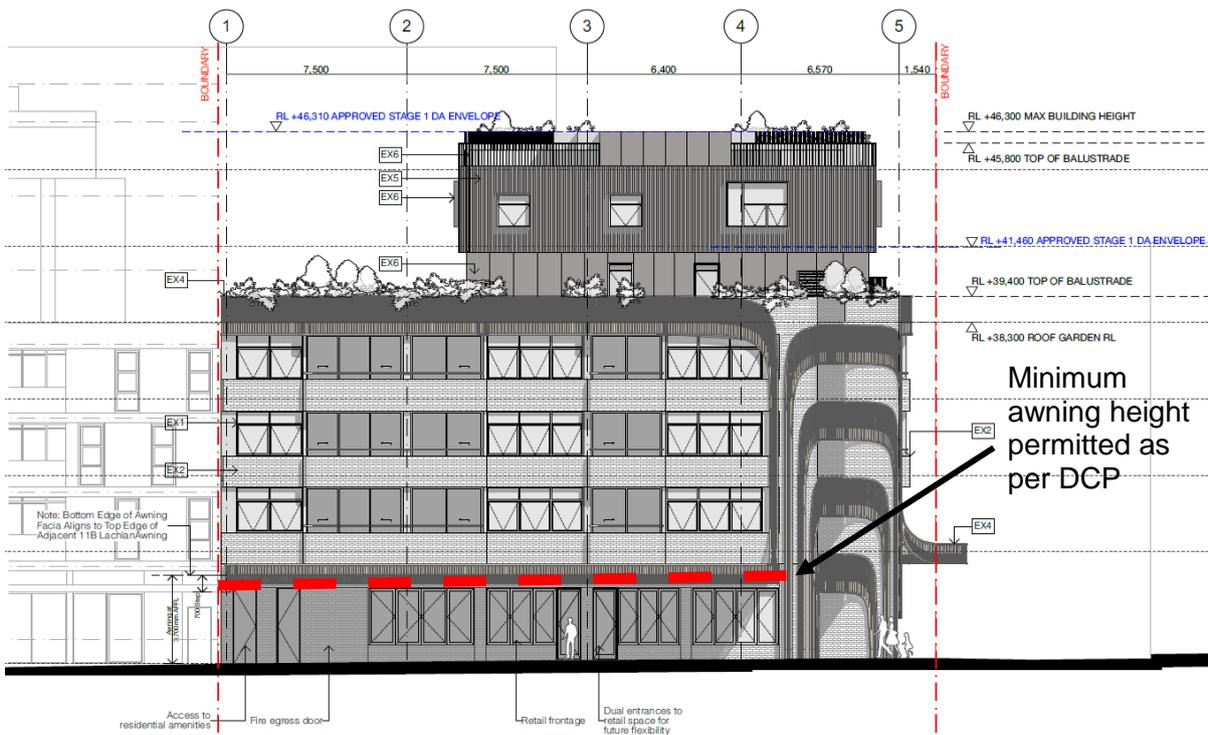


Figure 39: Proposed south elevation extract showing non-compliance with awning height

- 88. At the lowest point to Archibald Avenue, the awning will be approximately 3.125 metres above the height of the footpath. At the lowest point to Lachlan Place, the awning will be approximately 2.312 metres above the height of the footpath. The height of these awnings also exceeds the maximum 4.2 metres in some locations.
- 89. The non-compliance is not supported in this instance, as the clearance above the public domain is provides insufficient pedestrian amenity and the awning has not been stepped appropriately with the gradient of the surrounding streets, in accordance with Section 3.2.4(13) of the Sydney DCP 2012.

90. Accordingly, appropriate deferred commencement conditions requiring design modifications to ensure compliance have been recommended to be imposed.

### Design Advisory Panel Comments

91. The proposed development was presented to the Design Advisory Panel (DAP) on 6 September 2018.
92. DAP provided comments in relation to the following:
- (a) The overall building expression lacks finesse, and the decorative 'gold' cladding is inappropriate to the context.
  - (b) The extravagant gesture on the corner of Archibald Avenue and Lachlan Place is questionable as it effectively leads to a narrow entry, blank walls and stairs, and the overlooking balconies lack privacy.
  - (c) The height of the awning does not match at the corner of Archibald Avenue and Lachlan Place. The awning needs to be lower on Lachlan Place to provide better weather protection for pedestrians.
  - (d) The breach of building height and bulk is not justified and not supported
  - (e) The proposal should be reconsidered to address:
    - Complying and useable communal open space provision to include better access and amenity and the provision of deep soil planting;
    - A thorough review of ADG compliance, with regard to amenity of the apartments, in particular, cross ventilation and privacy.
93. Following comments received from DAP, the design was amended on 10 December 2018 and then again on 14 March 2019 and 1 April 2019 as follows:
- (a) The extent of the decorative 'gold' cladding has been reduced, the colour amended to have a duller matte appearance and portions replaced with bronze toned perforated panels. There has been the addition of masonry elements in Simmental silver bricks to the lower levels and dark profiled Colorbond cladding to the upper levels.
  - (b) The resolution of the building corner to Archibald Avenue and Lachlan Place has been refined and does not pose any significant access or privacy concerns.
  - (c) The design and height of the awning has been refined and, subject to the recommended design modification conditions at Attachment A, will achieve compliance with the relevant provisions of the Sydney DCP 2012 relating to awning height.
  - (d) The building height and bulk has been reduced through the deletion of three apartments and generally consistent with the maximum height and FSR development standards and approved concept building envelopes.
  - (e) The design and configuration of the communal open space areas and deep soil area at the ground floor and roof top levels has been revised and a more detailed analysis of the relationship between the communal open space and the neighbouring site to the west was provided.

- (f) A comprehensive re-evaluation of the proposal with regard to achievement of the relevant objectives of the ADG was submitted with the amended applications, resulting in improved performance of the development in this regard, as discussed above under the heading **State Environmental Planning Policy No 65—Design Quality of Residential Flat Development (SEPP 65)**.

### Solar Access

94. The proposed development will result in 57% (21 of 37) apartments receiving above the minimum two hours between 9am and 3pm on 21 June and 16.2% (6 of 37) apartments receiving no direct sun on 21 June.
95. Notwithstanding the variation, the level of solar access the development receives is considered acceptable for the following reasons:
- (a) The layout of street network and the proposed envelope means that the building itself is at an oblique angle to the sun. The Lachlan Precinct, including the proposed layout of the streets is as per Section 5.4 of Sydney Development Control Plan 2012. These controls established the planning framework for the precinct and the concept DA and subject development is largely compliant with the proposed layout.
  - (b) As part of the concept DA, the solar access requirements were averaged across all five buildings across the site. Of the 37 proposed apartments, 17 apartments (46%) rely on an east orientation to achieve the minimum two hours between 9am and 3pm on 21 June. The submitted sun eye's diagram show that these apartments will receive solar access from 9am to approximately 10.55am. While this is short of the minimum two hours required by the ADG, the level of non-compliance is considered minor for these apartments.
  - (c) The reason for this non-compliance is because of the oblique angle of the sun relative to the development. However, as stated above the layout of the street network and precinct is as per the Sydney DCP 2012.
  - (d) The submitted sun eyes views show that the northern and western faces of the development receive good solar access. The internal planning also shows that the development maximises the northern orientation insofar as possible, without failing to address Archibald Avenue (south facing), Lachlan Place (west facing) and Tung Hop Street (north facing).
  - (e) Consideration was given to changing the internal planning of the development so that the east facing apartments orientate towards the west and face into the courtyard. However, this will result in internalised visual and acoustic privacy implications as a number of apartments orientate north. Further to this, apartments do need to address the streets and if the east facing apartments were reorientated, the street presentation to Lachlan Place would result in a poor design outcome.
96. For the above reasons, the proposed non-compliance is considered acceptable as the development, on balance, optimises the number of apartments receiving sunlight as per the Objective 4A-1 of the ADG.

### Visual and Acoustic Privacy

97. Although the proposed development will provides generally acceptable visual privacy, the following matters are of concern with regard to visual and acoustic privacy:

- (a) Apartments 305, 310 and 505, facing the western ground level communal open space are not provided with adequate screening to mitigate overlooking into apartments 306, 309, 506 and 509.
  - (b) Apartment 601 at level 04 has a window to a habitable room facing the roof top communal open space at level 4.
  - (c) Apartments 611 and 612 provide habitable rooms adjacent to waste chutes.
  - (d) Inadequate screening is provided between the private roof gardens at level 3 and the roof level.
98. A range of visual privacy measures have been recommended to be provided by way of deferred commencement design modification conditions to address the potential for impacts in this regard, including provision of:
- (a) Window hoods to apartments 305, 310 and 505 facing the western ground level communal open space.
  - (b) Privacy screening to the window of apartment 601 facing the adjacent roof top communal open space at level 4.
  - (c) Noise insulation or appropriate design solutions to the habitable rooms of apartments 611 and 612 adjacent to waste chutes.
  - (d) Privacy screens, increased planter widths and a roof over the staircase to the roof gardens to apartments 310, 509 and 510 at level 3.
  - (e) Increased planter widths and tree plantings at the roof level.

### Staging of consent

99. The proposed development seeks to add the following staging to the conditions of development consent.

Stage	Works
1	Retention wall
2	Bulk earthworks/detailed earthworks
3	Civil works
4	All below ground works
5	Ground floor level up to level 5

100. No further detail was provided in relation to the proposed works covered in each stage. This is particularly relevant for proposed stages one to four.

101. Given that there is inadequate information to stage at this point and that it is open to the applicant to make a properly supported modification application in the future if they desire, the proposed staging is not recommended for approval under this detailed development application.

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

102. The proposed development is capable of complying with the Building Code of Australia.
103. 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**

104. The proposal is of a nature in keeping with the overall function of the site. The premises are in the Lachlan Precinct, which is an area changing to mixed use development.

#### **Internal Referrals**

105. The application was referred to the City's Urban Designer, Environmental Health Officer, Transport Planner, Landscape Officer, Surveyor, Waste Officer and Building Approvals Unit.
106. Relevant comments are included above and relevant conditions included in the recommended conditions of consent in Attachment A.

#### **External Referrals**

107. The application was referred to Water NSW, Sydney Water, Ausgrid, Roads and Maritime Services and Transport for NSW. Relevant comments are included in the above discussion.
108. The application constitutes integrated development and as such the application was notified and advertised for 30 days between 19 July 2018 and 19 August 2018 in accordance with the provisions of Environmental Planning and Assessment Regulation 2000.
109. As a result of this notification, two submissions were received in opposition to the proposed development. The content of the submissions is summarised and addressed below.
- (a) Building A is particularly unattractive. The perspective drawings supplied with the DA documents provide evidence. The entry facade of the building has a poor visual impact. It is out of character with existing development and is overbearing.

**Response** - The design of the building, including the entry facade, has undergone significant revision and, subject to the recommended deferred commencement design modification conditions in Annexure A, is considered to be acceptable with regard to considerations relating to design excellence.

- (b) The development will result in an adverse contribution to traffic generation.

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

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

**Response** - The City has plans for improved cycling routes and the introduction of a light rail corridor along Gadigal Avenue connecting Green Square and the City to accommodate the additional demand from development. Furthermore, the development is subject to Section 7.11 contributions, which includes provision for local traffic and transport infrastructure. Finally, the provision of public transport is primarily the responsibility of the NSW State government.

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

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

## Public Interest

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

## Section 7.11 Contributions

111. The development is subject to Section 7.11 contributions under the provisions of the City of Sydney Development Contributions Plan 2015. The contributions are calculated based on the proposed number of residential apartments and the Gross Floor Area of the retail premises
112. The Section 7.11 contributions payable may be offset in accordance with the terms of the Planning Agreement. This will be resolved at the time of payment.
113. A credit has been given against the existing warehouse uses on the site, which are categorised as general industrial uses as per the contributions plan. The contributions credit for Building A has been calculated as a percentage of the existing GFA for all existing buildings across the entire concept DA site and has been apportioned based on the site area for Building A. This is consistent with the application of credits for the detailed DA's for Buildings B, C, D and E.

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

(a) Open Space	\$408,692.57
(b) Community Facilities	\$82,754.48
(c) Traffic and Transport	\$71,468.11
(d) Stormwater Drainage	\$28,268.10
Total	\$591,183.26

115. A request has been made to stage the timing of the payment of Section 7.11 contributions. Given that this development is for one building, which ranges between two and six storeys in height, it is not considered appropriate to stage the payment of these contributions.

### **Affordable Housing Contributions**

116. Pursuant to Clause 7.13 of Sydney LEP 2012 and the Green Square affordable housing program, the development is subject to affordable housing contributions (to be indexed at the time of payment) of \$1,165,275.20 (\$1,124,957.80 for the residential component and \$40,317.40 for the commercial component). This figure is calculated from a total floor area of 5,327.81sqm (4,810.39sqm residential and 517.42sqm commercial).

117. A request has been made to stage the timing of the payment of affordable housing contributions. Given that this development is for one building which is part four and part six storeys, it is not considered reasonable or necessary to stage the payment of these contributions.

### **Relevant Legislation**

118. Environmental Planning and Assessment Act 1979, Water Management Act 2000 and Sydney Water Act 1994 No 88.

### **Conclusion**

119. The proposal seeks consent for construction of a part four and five storey mixed development containing two commercial (retail) tenancies, 37 residential apartments, three levels of basement parking and associated services. This building is referred to as building A. The application is Integrated Development requiring the approval of Water NSW pursuant to the Water Management Act 2000. General Terms of Approval have been issued by Water NSW.

120. The site is subject to two separate height of building provisions under the Sydney Local Environmental Plan 2012. The proposal breaches on of the height of building development standards by 4.85 metres (11.7%). However the area of the building subject to the breach relate to minor lateral extensions of the taller five storey part of the building in to the lower height zone.
121. A written request has been submitted under Clause 4.6 of SLEP 2012. The written request has adequately demonstrated that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the standard.
122. The proposal is consistent with the objectives of the land use zone and height of building development standard. The proposed variation to the development standard has merit and is supported in this instance.
123. The proposal has been amended during the course of the assessment to address the materiality and appearance of the facade, apartment amenity including solar access and cross ventilation, loading, waste, flooding and the layout of the retail tenancies.
124. The site is subject to a concept development application and this detailed development application is generally consistent with the approved building envelopes and conditions of consent. The development also complies with the permitted FSR development standard.
125. Subject to the implementation of conditions, including deferred commencement design modification conditions, it is considered that the proposed development is generally compliant with the relevant planning controls for the site contained in SEPP 65, the ADG, SLEP 2012 and SDGP, particularly the Lachlan Precinct controls. In the instance where the design criteria are not achieved, for example solar access, there is considered to be reasonable justification to support the variation of the controls.
126. A high level of amenity will be provided for future occupants and the proposal will provide a positive contribution to the public domain through active retail ground floor uses. The proposed design and external materials and finishes are generally of a high standard and consistent with the character of the precinct and the recently approved detailed development applications for Building B, C, D and E. The proposal satisfies the design excellence criteria contained in Clause 6.21 of SLEP 2012.
127. The development is recommended to be approved, subject to the recommended conditions in Attachment A.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

David Reynolds, Senior Planner