

**Item 4.**

**Development Application: 2-38 Baptist Street and 397-399 Cleveland Street, Redfern - D/2018/1128**

**File No.:** D/2018/1128

**Summary**

|                            |  |
|----------------------------|--|
| <b>Date of Submission:</b> | The application was lodged 20 September 2018.<br><br>Amended plans were submitted on 17 May and 23 September 2019.   |
| <b>Applicant:</b>          | Surry Hills Project Pty Ltd / TOGA   |
| <b>Architect/Designer:</b> | SJB Architects and Studio Prineas  |
| <b>Developer:</b>          | TOGA   |
| <b>Owner:</b>              | Surry Hills Project Pty Ltd  |
| <b>Cost of Works:</b>      | \$147,877,000  |
| <b>Zoning:</b>             | The site is zoned B2 - Local Centre under the Sydney Local Environmental Plan 2012. The proposed uses comprise residential accommodation, retail and commercial; and a recreation area (public park), which are permissible within the zone with consent.  |
| <b>Proposal Summary:</b>   | Proposal<br><br>Consent is sought for the redevelopment of the existing Surry Hills Shopping Village.<br><br>The proposal includes the retention and adaptive reuse of the heritage listed former Bank of NSW building (397-399 Cleveland Street) for retail purposes and the demolition of all other existing structures on-site. It is proposed to remediate the site and construct a mixed use development comprising: <ul style="list-style-type: none"><li>• The construction of 6 x residential flat buildings containing 154 apartments, and 1 x commercial building containing retail and office uses;</li></ul> |

- Excavation and construction of 3 basement car parking levels for 345 car spaces accessed via Marriott Street and Baptist Street;
- Basement, lower ground and level 1 would include commercial (retail and supermarket) uses accessed from Marriott, Baptist and Cleveland Streets. The proposed hours of operation of the supermarket are between 6.00am and 12 midnight Mondays to Sundays inclusive.

Land dedication (public park, footpath widening, shared zone and public through-site link) is to occur by way of a previously executed Voluntary Planning Agreement.

The development requires dewatering and is Integrated Development, requiring approval from Water NSW under the Water Management Act 2000. General terms of approval have been issued by Water NSW and form part of the recommended conditions of consent.

The development has been the subject of a competitive design process, with the winning scheme a collaboration between SJB Architects and Studio Prineas. The proposal is generally consistent with the winning scheme and has adequately addressed the recommendations of the competitive design selection panel. The proposal seeks to utilise the design excellence provisions pursuant to Clause 6.21 of the Sydney Local Environmental Plan 2012, where up to a further 10% height is possible.

#### Development Standards

The development complies with the overall Height of Buildings development standards for the site, and the height for the through-site link.

The proposal exceeds the street wall Height of Buildings development standard, where a height of 9.9 metres (9 metres + 10%) is permitted around the perimeter of the site with a depth of 4 metres. The street wall height non-compliances are essentially misalignments in the site specific building envelopes ranging from 2% to 139% across 4 of the 6 proposed buildings. This is due to the articulation of the facade, with some elements above the street wall height, and other elements pulled back.

A written request to vary the Height of Buildings development standard in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 has been submitted.

The proposal exceeds the Floor Space Ratio (FSR) development standard under the Sydney Local Environmental Plan 2012 by 8.6%. An FSR of 2.007:1 (24,573.7sqm) is permitted, with the provision of 'end of journey facilities'. The exceedance is primarily a consequence of the change of use of the residential building to Cleveland Street to commercial, creating deeper floor plates.

A written request to vary the Floor Space Ratio development standard in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 has been submitted.

The requests to vary the Height of Buildings and Floor Space Ratio development standards are supported. The proposed development meets the objectives of the B2 - Local Centre zone and the development standards, and there are sufficient environmental planning grounds to justify the proposed variances. In particular, the varied street wall heights provide a high degree of articulation that reduces the perceived bulk and scale of the development. The change of use of Building G (the new Cleveland Street building) from residential to commercial enables the efficient and appropriate use of the land facing the state classified Cleveland Street. The overall form of the development distributes bulk across the site without adverse impact on the public domain and amenity of the surrounding area.

#### Amendments

During the assessment the scheme was amended and additional information was submitted, to address the concerns of the City's Design Advisory Panel and Council officers. These concerns primarily related to:

- Land contamination;
- Compliance with development standards and controls;
- Design of communal open space for occupants (including the provision of rooftop open space) and increase in deep soil;
- The architectural aesthetic of the overall development compared to the competition winning scheme;
- Lift cores protruding beyond DCP building envelope;

- Removal of cantilevered levels above the former Bank of NSW, and reinstatement and restoration of the heritage listed building's original elevation to Cleveland Street.

These issues have generally been addressed and/or justified by the applicant in the amended plans. Subject to the adoption of the recommended conditions of consent, the proposal is considered to achieve an acceptable degree of compliance with the relevant planning controls, and provides an adequate level of residential amenity.

#### Notification

The original proposal was notified for a period of 30 days between 4 October and 4 November 2018. As a result of the notification there were 23 individual submissions received, and 3 types of pro-forma submissions from 51 residents. Submitters raised concerns with:

- Height, bulk and scale of the proposal;
- Heritage impact on the former Bank Building of NSW;
- Removal of street trees;
- Appropriateness of vehicular ingress and egress point on Marriott Street;
- Construction and delivery vehicles utilising Baptist Street over surrounding streets, and the resultant noise impacts;
- The removal of the 3 tonne vehicle weight limit in Baptist Street;
- The need for dilapidation reports to be carried out along Marriott Street; and
- The hours of operation of the proposed supermarket.

On 17 May 2019, amendments to the scheme were submitted, which were re-notified for a period of 28 days (between 4 June and 3 July 2019). There were 7 individual submissions and 1 pro-forma response from 27 residents raising concerns with construction traffic impacts to Young, Cooper and Marriott Streets; and the use of the Marriott Street vehicular entry for both residential and commercial users of the site.

An updated Construction Traffic Management Plan (CTMP) has been submitted in response to concerns raised by residents about the proposed construction vehicle routes to the development site. Additionally, Roads and Maritime Services (RMS) support the removal of the 'No left turn' (buses excepted) at the Cleveland Street and Baptist Street intersection to improve access to the subject site, and minimise construction vehicle impacts to surrounding properties.

All submissions have been considered within the report.

Overall, the proposal responds satisfactorily to surrounding development and its context, and achieves a standard of architectural design that is considered to demonstrate design excellence.

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

**Development Controls:**

- (i) Sydney Airport Referral Act 1996
- (ii) Water Management Act 2000
- (iii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (iv) State Environmental Planning Policy (Infrastructure) 2007
- (v) State Environmental Planning Policy No. 55 - Remediation of Land
- (vi) State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development
- (vii) Apartment Design Guide 2015
- (viii) Sydney Local Environmental Plan 2012
- (ix) Sydney Development Control Plan 2012
- (x) City of Sydney Development Contributions Plan 2015

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Architectural Drawings (B1 and B2)
- C. Clause 4.6 Variation Request - Height of Buildings
- D. Clause 4.6 Variation Request - Floor Space Ratio
- E. Competitive Design Alternatives Report - 14 June 2018

## Recommendation

It is resolved that:

- (A) the variation requested to 'Height of Buildings' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;
- (B) the variation requested to 'Floor Space Ratio' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (C) consent be granted to Development Application No. D/2018/1128 subject to the conditions set out in Attachment A to the subject report.

## Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The requested variation to the maximum Height of Buildings development standard is upheld because the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Sydney LEP 2012, and the proposed development would be in the public interest because it is consistent with the objectives of the Height of Buildings development standard and the B2 - Local Centre zone.
- (B) The requested variation to the maximum Floor Space Ratio development standard is upheld because the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Sydney LEP 2012, and the proposed development would be in the public interest because it is consistent with the objectives of the Floor Space Ratio development standard and the B2 - Local Centre zone.
- (C) The development subject to conditions, is considered to exhibit design excellence through its positive contribution to the streetscape and public domain. The development is generally consistent with the winning scheme of a competitive design process and achieves a high standard of architectural design, materials and detailing. The development achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore achieves design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.
- (D) The proposal has been assessed against the aims and objectives of the relevant planning controls including SEPP 65, the Sydney LEP 2012 and the Sydney DCP 2012. Where non-compliances exist, they have been demonstrated in this report to be acceptable in the circumstances of the case, or can be resolved by the recommended conditions of consent.

- (E) The proposed development is considered to be appropriate within its setting and will provide for residential, retail and commercial development to serve the needs of community, and support the vitality of the local centre.
  
- (F) Subject to the recommendations contained within this report, and the imposition of the proposed conditions, the proposal demonstrates a design that responds to the constraints of the site, and contributes to the existing and desired future character of the area.

## Background

### The Site and Surrounding Development

1. The site is irregular in shape, with an area of approximately 12,244sqm. It has a northern frontage of approximately 70 metres to Cleveland Street; a 163 metre eastern frontage to Baptist Street; a 22 metre southern frontage to Baptist Lane; and a 160 metre western frontage to Marriott Street. The site slopes from north to south with a fall of about 5 metres or nearly 2 storeys from boundary to boundary.
2. Existing development on the site consists of the local heritage listed former Bank of NSW building (Sydney LEP 2012 I1305) on the corner of Cleveland and Baptist Streets, containing retail and commercial uses. Adjoining the heritage item is a single storey building containing a supermarket and various specialty retail shops known as Surry Hills Shopping Village. The southern portion of the site is used as an outdoor at-grade retail car park with 145 car parking spaces and servicing areas. Loading dock access is provided from Marriott Street, and general vehicular access is provided from Baptist Street and Cooper Street.
3. An aerial map, and photographs of the subject site are provided below.



**Figure 1:** Aerial image of subject site and surrounding area



**Figure 2:** Former Bank of NSW Building viewed from Cleveland Street



**Figure 3:** Cleveland Street frontage of subject site



Figure 4: Baptist Street frontage of subject site



Figure 5: Car park associated with the subject site - Marriott Street elevation



**Figure 6:** Rear of buildings within the site - looking north



**Figure 7:** Rear of buildings within the site - Marriott street elevation

4. Surrounding land uses are residential and commercial in nature. The NSW Police Force horse stables are located directly opposite the site to the east (Baptist Street), and is a local heritage item under the Sydney LEP 2012 (I1278).
5. To the south of the site are 2 storey terraces fronting Baptist and Boronia Streets. Adjoining the site to the south-west is a small open space reserve area containing a playground, with a pedestrian connection between Cooper and Boronia Streets.

6. Directly opposite the site, on the western side of Marriott Street are single storey residential terraces. Cleveland Street contains a mixture of retail, business and residential uses over buildings at a height of 2 to 3 storeys.
7. The subject site is not located within a heritage conservation area, however is bounded by the Baptist Street Heritage Conservation Area (C53) at all street frontages.
8. Photos of the surrounds are provided below:



**Figure 8:** Public Park to the south of the subject site.



**Figure 9:** Baptist Street (west) terraces adjoining the site to the south



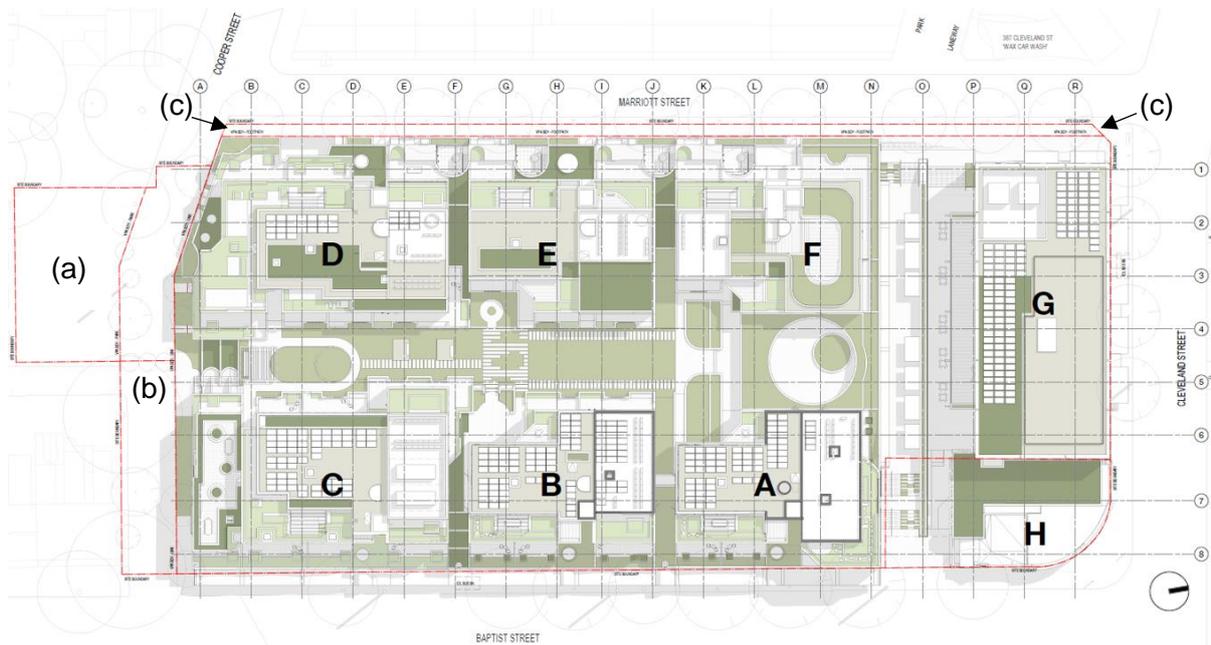
**Figure 10:** Rear of Boronia Street terraces adjoining the subject site



**Figure 11:** Marriott Street terraces (directly opposite the site) looking north-west

**Proposal**

9. The proposal, as amended, is for the redevelopment of the site. This includes:
  - (a) The adaptive reuse of the heritage listed former Bank of NSW building with an addition for retail purpose;
  - (b) The demolition of all other structures on-site;
  - (c) Site remediation; and
  - (d) Excavation and construction of a mixed use development with 8 buildings in total (Buildings A to H) These buildings will include, 154 residential units, 7,475sqm of retail, 4,634sqm of commercial and 3 basement levels containing 324 car spaces.
  
10. As part of the executed Voluntary Planning Agreement (VPA) between the City and the Developer, the following areas are to be transferred to Council, and have been included in the subject development application:
  - (a) An area of 500sqm at the south-west boundary of the site for a public park;
  - (b) An area of 610sqm for a 9m wide laneway at the southern boundary of the site;
  - (c) An area of 279sqm for a footpath along Marriott Street.
  
11. A site plan of the proposed development is provided below.



**Figure 12:** Site plan of the proposed development, with transferred land indicated as (a), (b) and (c).

12. The sloping of the site (north-south and west-east) results in the south-east corner of Baptist Street, the new laneway at the southern boundary of the site, and residential terraces DT.01, ET.01, ET.02 and FT.01 being shown at grade on the basement 1 plan.

13. The residential lobbies of Buildings A and B to Baptist Street and Building F to Marriott Street are located at grade, and shown on plan as lower ground.
14. The through-site link at the Baptist Street elevation, access to the former Bank of NSW (both via the through-site link and Cleveland Street), and access to Building G from Cleveland Street are located at ground floor (referenced as level 1 in the drawing set).
15. A breakdown of the development is provided as follows:
  - (a) Basement 3 (lowest level)
    - (i) Residential and commercial car parking, storage areas, garbage rooms and plant areas;
    - (ii) End of journey facilities (change rooms, bike store);
  - (b) Basement 2
    - (i) Retail car parking, plant areas, retail end of journey facilities;
    - (ii) Trolley storage (for the supermarket);
  - (c) Basement 1
    - (i) Loading dock (with turntable, waste area) at street level, accessed from Baptist Street;
    - (ii) Car park entry ramp (to Basement 2) accessed from Baptist Street;
    - (iii) Residential lobby of Building C at street level, accessed from Baptist Street;
    - (iv) Car park entry ramp (to Basement 2) accessed from Marriott Street;
    - (v) Commercial waste areas, plant areas and substation, retail back of house (below street level);
    - (vi) Retail tenancy R1A (743sqm, food and drink premises), with sanitary facilities. Tenancy located below street level;
    - (vii) Supermarket tenancy (3,633sqm) with attached liquor store (202sqm). Tenancy partially located below street level;
    - (viii) Ground floor of residential terraces DT.01, ET.01, ET.02 and FT.01 accessed from Marriott Street;
    - (ix) Ground floor of residential terraces DT.02 and DT.03 accessed from the new laneway (at south-west corner of the site);
    - (x) Residential lobbies of Buildings E and D at street level, accessed from Marriott Street;

- (d) Lower ground
  - (i) Retail tenancies R4 (460sqm food and drink) and R5 (286sqm food and drink), and residential lobbies to Buildings A and B to Baptist Street;
  - (ii) Residential lobby of Building F to Marriott Street;
- (e) Ground Floor (Level 1 in drawing set)
  - (i) Retail tenancies R2A (330sqm) and R3A (276sqm food and drink), and retail tenancies R4A (460sqm food and drink), R5A (323sqm food and drink) and R9A (345sqm food and drink) with access via Cleveland Street;
  - (ii) Public through-site link (accessed at street level from Baptist Street) with public area;
  - (iii) Communal open space for residents, and residential apartments of A to F;
- (f) Building A (Baptist Street) - 7 storeys, 26 apartments
  - (i) 10 x 1 bedroom;
  - (ii) 10 x 2 bedroom;
  - (iii) 6 x 3 bedroom;
- (g) Building B (Baptist Street) - 7 storeys, 29 apartments
  - (i) 11 x 1 bedroom;
  - (ii) 16 x 2 bedroom;
  - (iii) 2 x 3 bedroom;
- (h) Building C (Baptist Street) - 7 storeys, 38 apartments
  - (i) 16 x 1 bedroom;
  - (ii) 15 x 2 bedroom;
  - (iii) 7 x 3 bedroom;
  - (iv) 94.6sqm of communal floor space on level 4;
- (i) Building D (Corner of Marriott Street and new laneway) - 6 storeys, 26 apartments
  - (i) 6 x 1 bedroom;
  - (ii) 15 x 2 bedroom;
  - (iii) 2 x 3 bedroom;
  - (iv) 3 x terraces (3 bedroom);

- (j) Building E (Marriott Street) - 6 storeys, 19 apartments
  - (i) 6 x 1 bedroom;
  - (ii) 9 x 2 bedroom;
  - (iii) 2 x 3 bedroom;
  - (iv) 2 x terraces (3 bedroom);
- (k) Building F (Marriott Street) - 6 Storeys, 16 apartments
  - (i) 5 x 1 bedroom;
  - (ii) 6 x 2 bedroom;
  - (iii) 4 x 3 bedroom;
  - (iv) 1 x terrace (3 bedroom);
  - (v) 225.3sqm of communal open space on level 5;
- (l) Building G (Corner of Marriott Street and Cleveland Street), 6 storeys
  - (i) 2 x retail tenancies at level 1 and commercial office areas on levels 2 to 6;
  - (ii) Plant area on level 6 and rooftop;
  - (iii) Photovoltaic cells at rooftop;
- (m) Building H (former Bank of NSW building on the corner of Baptist Street and Cleveland Street), 2 storeys
  - (i) Demolition of existing extension, and replacement with new extension that matches the height of the existing building;
  - (ii) 1 x retail tenancy at level 1;
  - (iii) 4 x retail tenancies at level 2; and
  - (iv) Green roof.

16. Photomontages and extracts of selected architectural drawings of the proposed development are provided below.



**Figure 13:** Photomontage of the former Bank of NSW Building, Building A and Building G viewed from the corner of Cleveland Street and Baptist Street



**Figure 14:** Photomontage of proposed retail and residential apartment buildings to Baptist Street



Figure 15: Photomontage of proposed terraces and residential apartments to Marriott Street

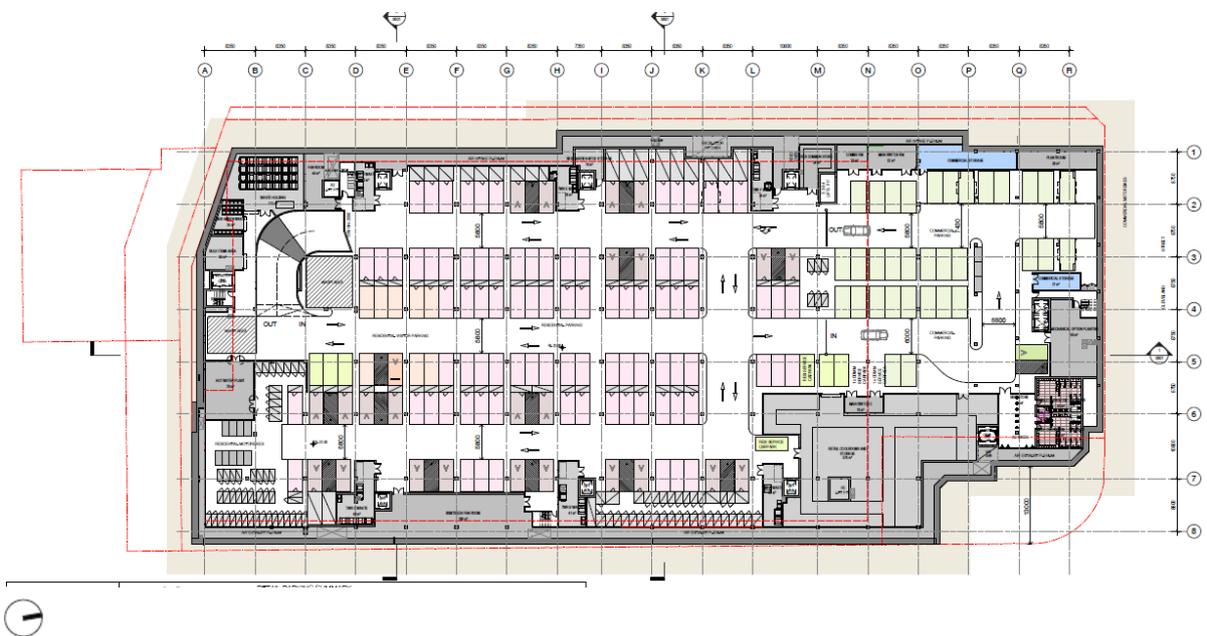


Figure 16: Proposed basement level 03 plan

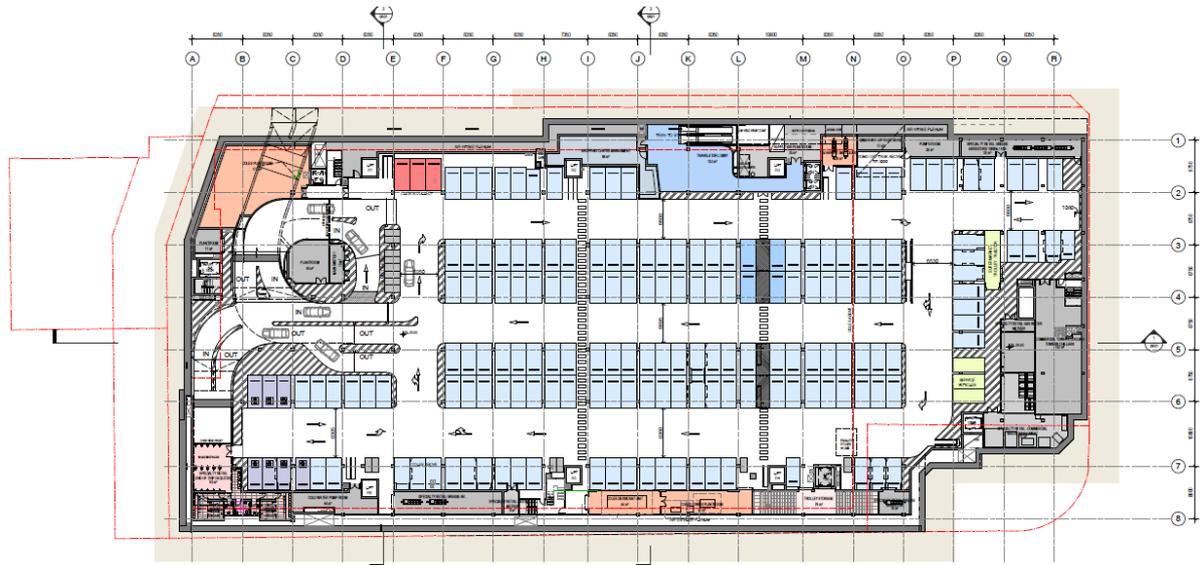


Figure 17: Proposed basement level 02 plan

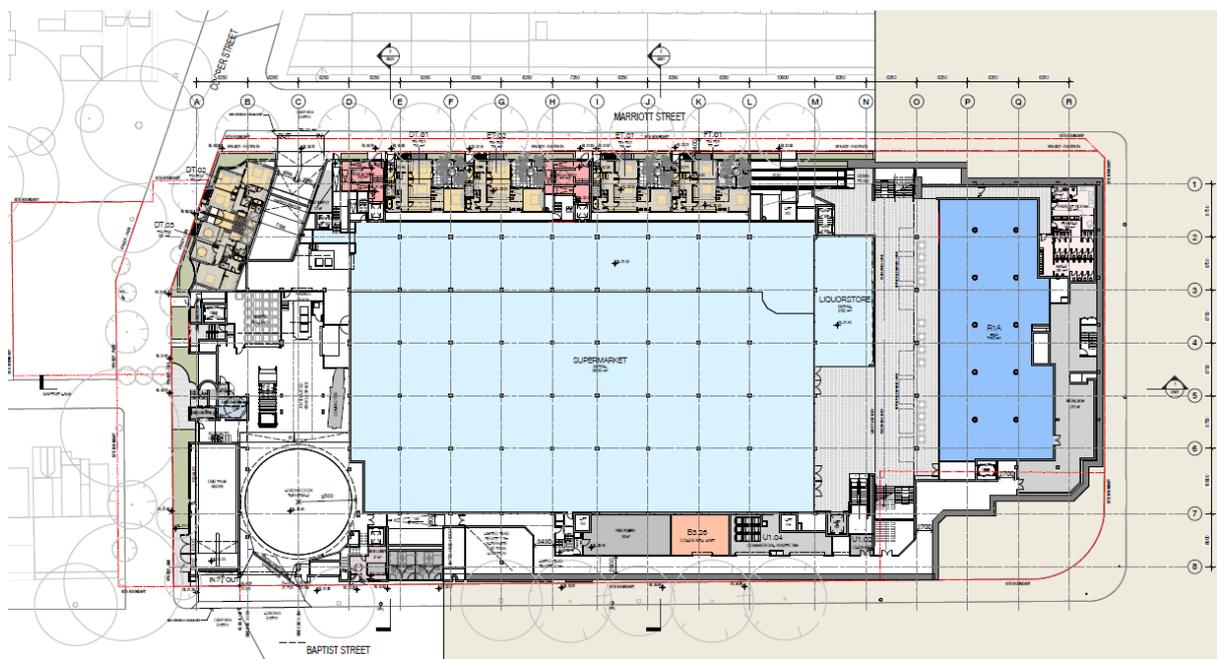


Figure 18: Proposed basement level 01 plan

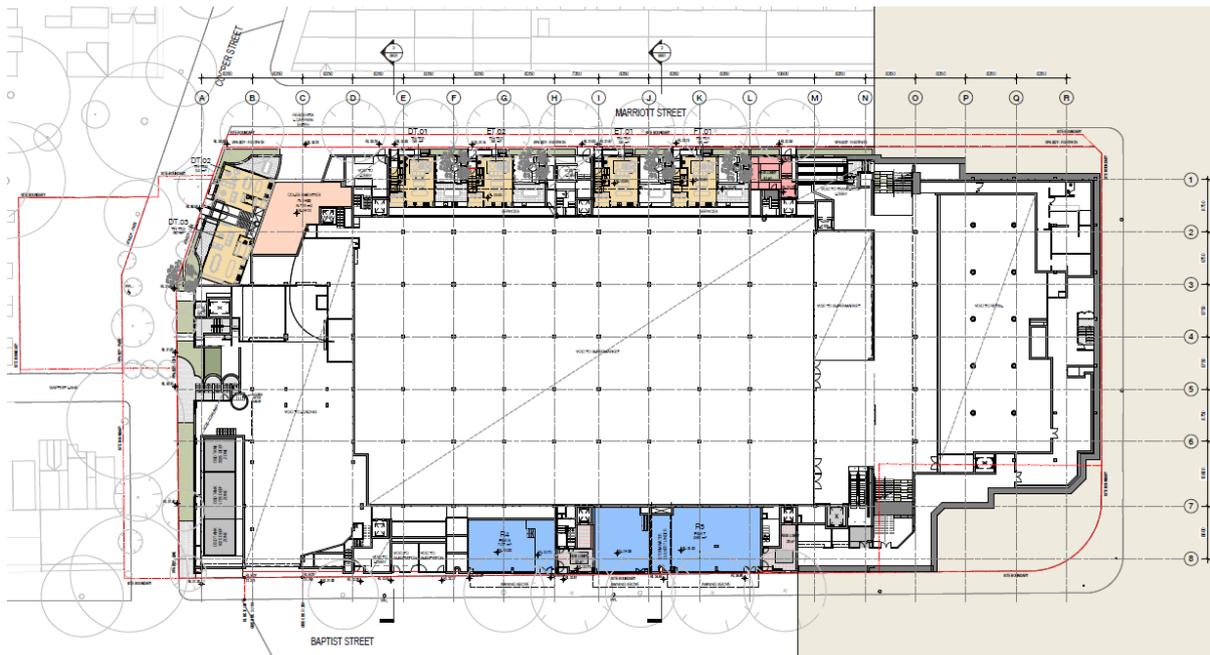


Figure 19: Proposed lower ground floor plan

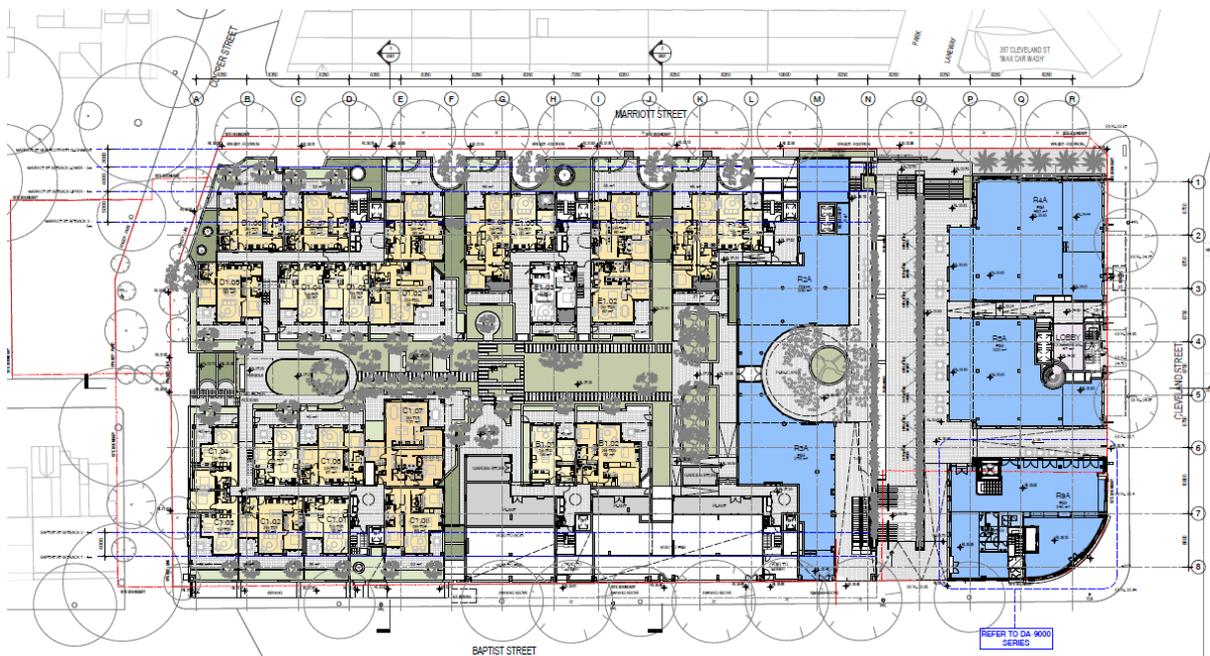


Figure 20: Proposed level 1 plan

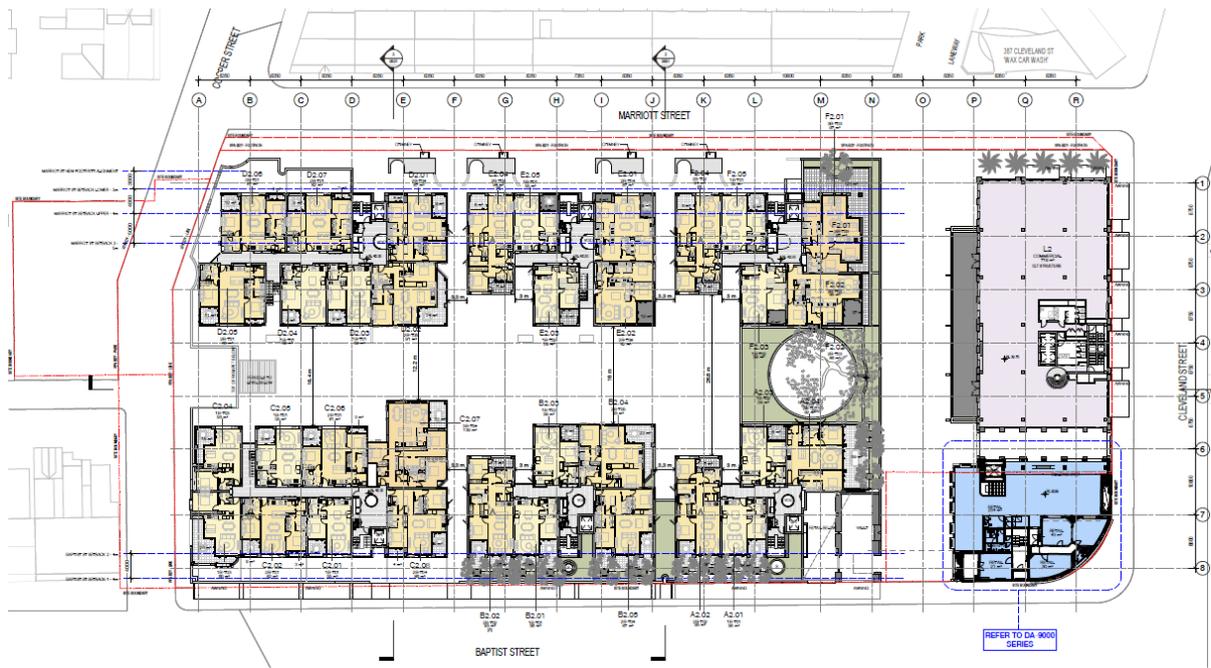


Figure 21: Proposed level 2 plan



Figure 22: Proposed level 3 plan



Figure 23: Proposed level 4 plan

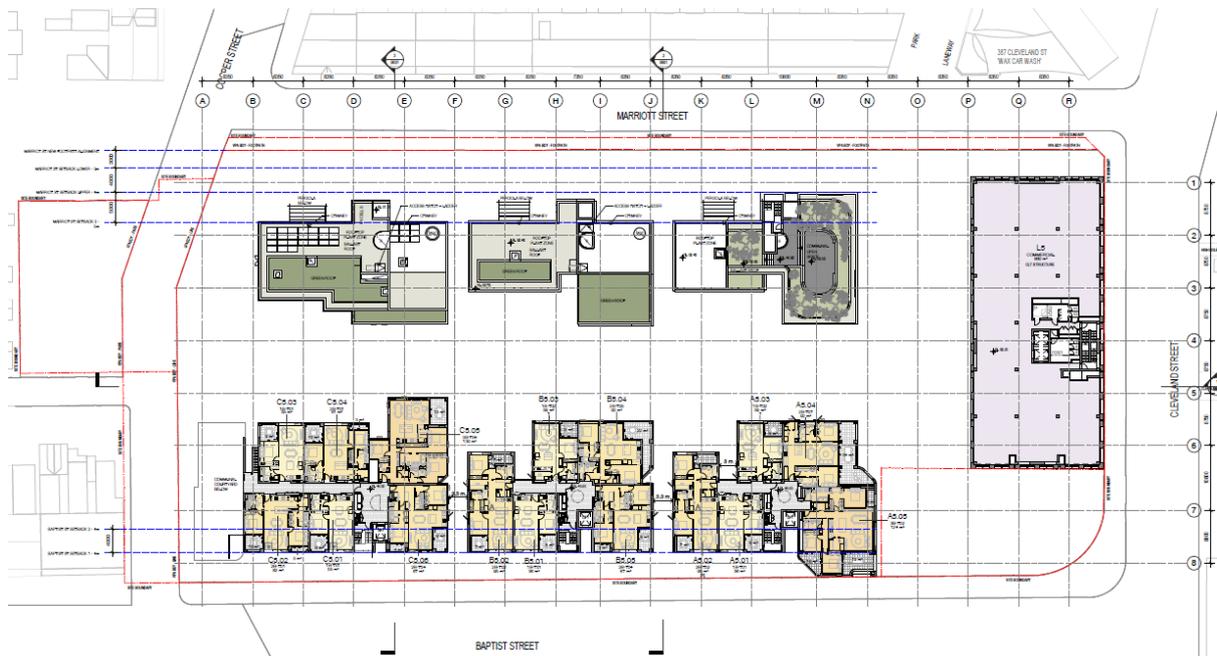


Figure 24: Proposed level 5 plan



Figure 25: Proposed level 6 plan



Figure 26: Proposed level 7 plan

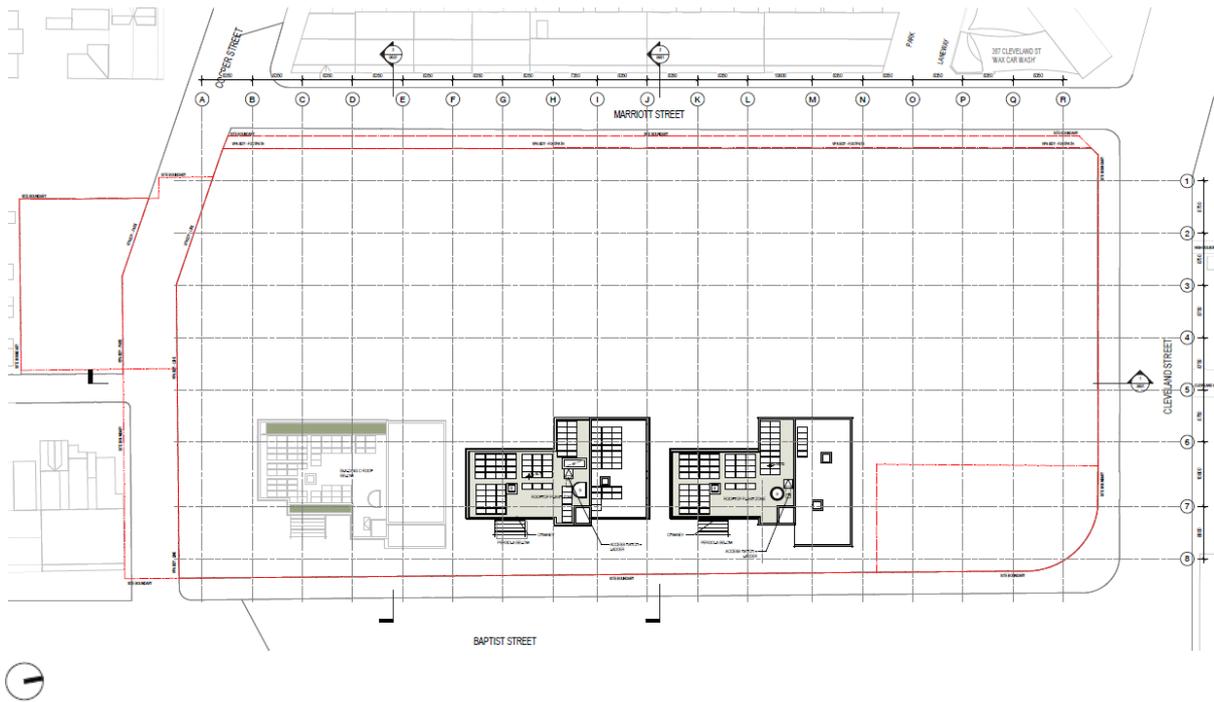


Figure 27: Proposed level 8 plan



Figure 28: Proposed roof plan



Figure 29: Proposed Cleveland and Cooper Street elevations



Figure 30: Proposed Marriott and Baptist Street elevations

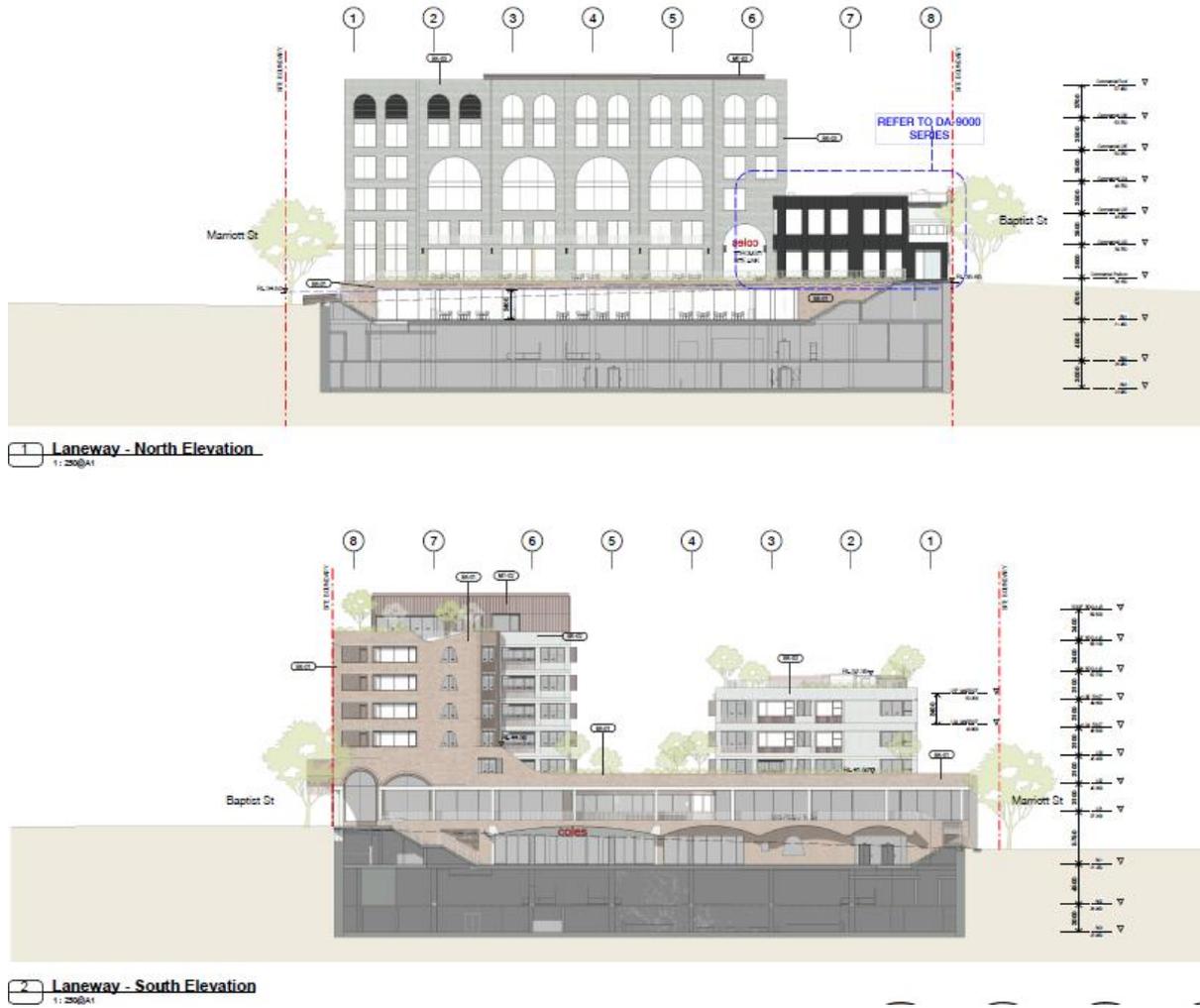


Figure 31: Proposed through-site link elevations (north and south)

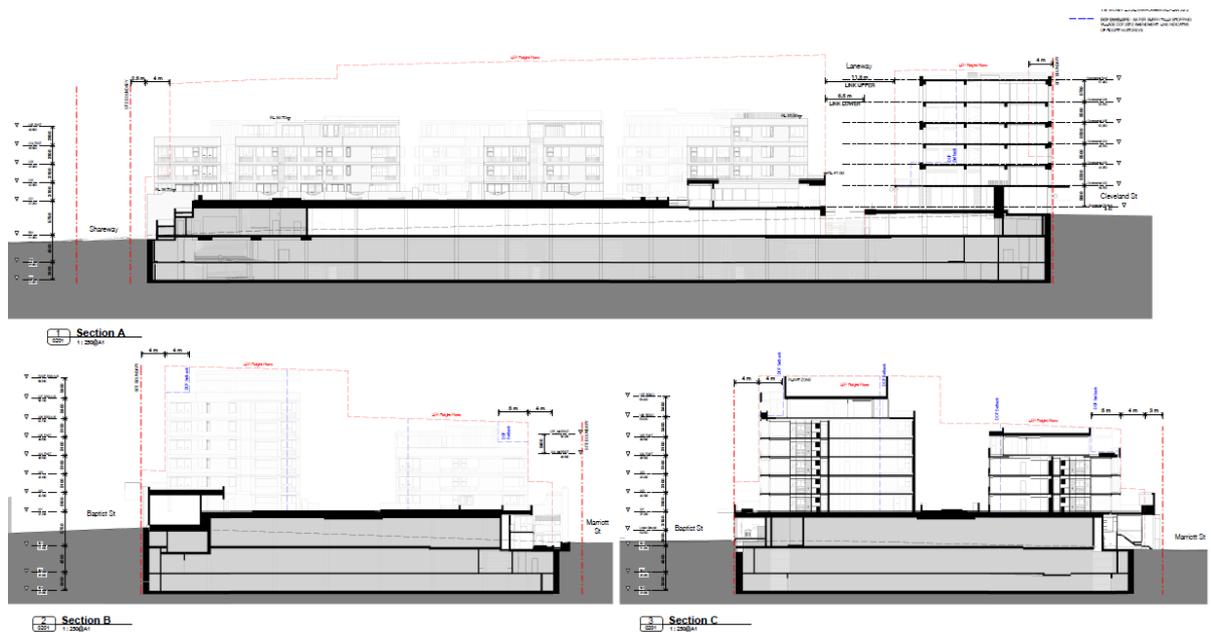


Figure 32: Proposed sections through the development

## History Relevant to the Development Application

### Planning Proposal

17. In 2008, the City's Sustainable Sydney 2030 Vision proposed investigating the mixed use renewal of the Surry Hills Shopping Village to support the Crown Street Village hub's role as a focus for the local economy and community.
18. In January 2016, a planning justification report was submitted (by the proponent and landowner) requesting a change to the Sydney LEP 2012 and the Sydney DCP 2012 in relation to the site.
19. The request was to enable the redevelopment of the Surry Hills Shopping Village site for mixed use with approximately 8,000-9,000sqm of retail and commercial floor space and approximately 170 residential apartments. The proposal also included an increase of the maximum building height across the site, with the exception of the former Bank of NSW building.
20. The post exhibition Planning Proposal report recommended a number of changes to the Sydney LEP 2012 as follows:
  - (a) Amend the Height of Buildings Map;
  - (b) Amend the Heritage Map to remove the site from the Baptist Street Heritage Conservation Area; and
  - (c) Introduce two site-specific clauses so that:
    - (i) Additional floor space cannot be awarded through the design excellence provisions of the Sydney LEP 2012; and
    - (ii) Additional building height awarded through design excellence is linked to the achievement of a BASIX energy and water score that exceeds the State-mandated minimum target by 5 points.
21. A site-specific draft DCP was also prepared containing provisions relating to the location of land uses, active street frontages, building configuration, street wall heights, upper level setbacks, through-site link, vehicular access and sustainable design measures.
22. The Central Sydney Planning Committee resolved to approve the changes to the City's planning controls on 30 November 2017, as recommended in the post exhibition Planning Proposal report.
23. The site specific controls, with amendments to the Sydney LEP 2012 and Sydney DCP 2012, came into effect on 24 August 2018.
24. A detailed assessment of compliance against the site specific controls is provided within this report.

### Competitive Design Alternatives Process

25. Following the Planning Proposal, the applicant commissioned a competitive design alternatives process for the site. Four architectural firms (each partnered with emerging architects) were invited to submit a design proposal in September 2017. The four selected architectural firms were:
  - (a) Bates Smart / Chenchow Little / Luchetti Krelle;
  - (b) DKO / Archer Office / Hames Sharley / Tribe / Aspect Studio;
  - (c) SJB / Architect Prineas / Aspect Studio; and
  - (d) Woods Bagot / Alexander & Co / Christopher Owen Landscape Design.
26. Presentations were given to the Selection Panel on 14 May 2018. The Selection Panel resolved that the scheme prepared by SJB, Architect Prineas and Aspect Studio was preferred, and was capable of achieving design excellence.
27. A copy of the competitive design alternatives report, including the selection panel recommendations, is provided at attachment E. A selection of the winning scheme's images presented during the competitive design process is provided below:



**Figure 33:** Photomontage at competition stage, and prior to amendments being made, viewed from the corner of Cleveland Street and Baptist Street



**Figure 34:** Photomontage at competition stage, and prior to amendments being made, looking north to laneway and Marriott Street

### Planning Agreement

28. The Planning Proposal was subject to a planning agreement. The planning agreement was executed on 20 December 2017 and includes the following public benefits:
- The transfer of an area of approximately 500sqm at the southern end of the subject site, from a private car park to be public parkland prior to the issue of the final occupation certificate of the development;
  - The transfer of an area of approximately 610sqm for a 9m wide laneway partially adjacent to the public park at the southern end of the subject site prior to the issue of the first occupation certificate of the development;
  - An area of approximately 279sqm for a footpath running along Marriott Street on the western side of the subject site, located 3m from the back of the existing kerb prior to the issue of the first occupation certificate of the development;
  - The construction and embellishment of those areas of land to be transferred to the City;
  - The provision of a community bus service commencing on the closure of the existing supermarket within the site, and operating until the opening to the public of the new supermarket at the site. The bus service is to run from the site to the supermarket at 1 Crystal Street Waterloo; and

29. The installation of a 1000KVA substation kiosk within the public park to service the surrounding area only, and not the development itself. The Developer is committed to achieve the following sustainability measures for the subject development application, as required by the VPA:
- (a) An energy BASIX score of at least 5 points above the target required for a BASIX Certificate (residential);
  - (b) A water BASIX Score at least 5 points above the target required for a BASIX Certificate (residential); and
  - (c) Achievement of a certified design rating of at least 4 stars under the Green Star Interiors Green Building Council of Australia rating tool for the retail supermarket fit-out.

### Design Amendments

30. During the assessment, Council officers requested design amendments and further information to address concerns raised by the Design Advisory Panel and internal units within Council. This included improved performance compared with the Apartment Design Guide (relating to building separation, communal open space and deep soil in particular), height and FSR non-compliances, compliance with the site specific controls of the Sydney DCP 2012 (with regard to landscape setbacks, height in storeys), and the materiality of the development. These issues are discussed in greater detail within this report. Modifications by the applicant include, but are not limited to:
- (a) External lift cores being setback to reduce bulk and scale as viewed from the street frontage;
  - (b) Central massing of Buildings C and E reduced to increase separation distances, privacy, and improve design of communal open space;
  - (c) Modification of architectural elements of the facade to reference the design competition winning scheme;
  - (d) Reduction in the number of apartments from 157 to 154;
  - (e) Increased landscaping, and rationalisation of courtyards to the Marriott Street terraces;
  - (f) Removal of cantilevered portion of the commercial building (Building G) over the former Bank of NSW building;
  - (g) Reinstatement and restoration of the original elevation of the former Bank of NSW building; and
  - (h) Introduction of a second through-site link from Cleveland Street.
31. The applicant submitted amended drawings on 20 May 2019, which were re-advertised for a period of 28 days. Further amended drawings were received on 20 September 2019, involving minor changes to communal open space requirements and deep soil provision, materials and removal of the signage strategy originally proposed as part of the application.

### Community Consultation

32. In addition to public notification requirements, a community meeting relating to the proposed development application was held on 16 February 2019 at the site. The meeting was attended by City staff, and residents of the local area.
33. Residents raised concerns with regard to the following:
  - (a) Impact of construction traffic on already congested streets;
  - (b) The suggestion that the subsoil on which the houses in the surrounding area are built upon is not stable and causing houses to sink. The proposed construction works may worsen the instability, and dilapidation reports are requested for all houses along Baptist Street;
  - (c) Concerns that the 3 tonne limit on Baptist Street will be abandoned, leading to more heavy vehicles using the street and impacting on amenity; and
  - (d) General questions about the application process with regard to next steps, and whether residents will get the opportunity to verbally express their objection/s to the proposal.
34. The above concerns are replicated in submissions received during both notification periods, and are addressed in this report under the section titled 'Notification, Advertising and Delegation'.

### Sydney Airport Referral Act 1996

35. Section 182 of the Commonwealth Airports Act 1996 specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.
36. Schedules 2 and 5 of the Civil Aviation (Building Control) Regulations 1988 identify the subject site is subject to a prohibition of the construction of buildings more than 150 feet in height (45.72m) above existing ground height.
37. Section 183 of the Commonwealth Airports Act 1996 specifies that controlled activities may not be carried out in relation to prescribed airspace unless an approval has been granted. The relevant approval body is the Civil Aviation Safety Authority (CASA).
38. All proposed buildings are below the 45.72m height limit, and approval from CASA is not required in this instance.

### Water Management Act 2000

39. The proposed basement excavation will have an impact on the ground water levels within the site, with first ground water occurrence expected at depths between 2.7m and 3.9m below ground level and dewatering is required. In accordance with Section 4.47 of the Environmental Planning and Assessment Act 1979, the application was forwarded to Water NSW as Integrated Development.

40. Water NSW provided their General Terms of Approval on 6 November 2018. Subsequently, amended plans and submissions received were forwarded to Water NSW on 6 August 2019. No response was received during the 21 day period. The original General Terms of Approval, still apply, and have been included in Schedule 3 of the Notice of Determination.

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

41. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

- (a) Environmental Planning Instruments and DCPs.

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

42. 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.
43. The site contains a plume of Chlorinated Hydrocarbons from the chemicals used in a previous dry cleaning business at the site. Additionally, a sub slab survey was carried out that has identified elevated levels of Tetrachloroethylene beneath the slab.
44. Two Remediation Action Plans (RAP) relating to the subject site and the land to be dedicated to Council, accompanied by letters of interim advice have been submitted with the development application.
45. The RAPs propose to excavate and dispose contaminants off-site. The plume of impacted groundwater may be treated in-situ if excavation of fill/soil and construction dewatering do not remove all contaminants. The extent of the plume is limited to the north-eastern portion of the site, separated from the VPA dedicated land.
46. The interim advice confirms that the above approach is appropriate, and that no environmental management plan will be required for any of the land to be transferred to the City.
47. The City's Health Unit has reviewed the information provided, and has recommended standard conditions to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation. Additionally, the City's Public Domain Unit has requested a condition be imposed for the transferred land ensuring that no long-term environmental management plan is required.
48. 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**

49. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including 9 design quality principles, and the objectives of the Apartment Design Guide (ADG).

50. The applicant has submitted a design verification statement and SEPP 65 design report with the application, in accordance with Clause 50(1A) and Schedule 1, Part 2, Clause 5 of the Environmental Planning and Assessment Regulation 2000, addressing the design quality principles and the ADG.
51. An assessment of the proposal against the design quality principles and the relevant objectives of the ADG is provided as follows:

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

The site is located within the B2 - Local Centre zone which permits mixed commercial, retail and residential developments, and is in close proximity to Redfern Railway Station and bus routes along Cleveland Street. The site is approximately 2km from the Sydney CBD.

The development, by way of its form and scale is consistent with the City's strategic vision to support the Crown Street Village hub's role as a focus for the local economy and community. The site specific planning controls envisage mixed use buildings for the Surry Hills Shopping Village that activate the streetscape, providing supermarket and retail uses with high quality residential accommodation of which the development generally conforms.

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

The proposal does not comply with the Sydney LEP 2012 maximum street wall height in some instances (Buildings A, C, F and G), and does not comply with the maximum FSR of 2:1 for the site. The majority of the FSR non-compliance (in the order of 1,900sqm) is the result of replacing the residential flat building to Cleveland Street with a commercial building. The proposal complies with the overall height limits for the site.

An assessment has been carried out, and the additional height and FSR are considered acceptable. The street wall height non-compliance generally relates to building modulation and articulation; and the FSR variation is the result of the improved planning outcome achieved by replacing the intended residential flat building with a wholly commercial building (thus eliminating amenity impacts to occupants). The proposal has been designed so that it does not create any significant adverse impacts to the surrounding locality. Refer to the height and FSR discussion under the heading Issues.

(c) **Principle 3: Density**

The proposal does not comply with the maximum FSR development standard, however this is primarily due to Building G (facing Cleveland Street) becoming a commercial building with deeper floorplates, rather than residential as envisioned by the site specific controls.

Notwithstanding, the development provides a suitable number and variety of apartment types, with appropriate amenity for occupants.

The proposed density is considered to be appropriate given the local context, particularly its proximity to established infrastructure, public transport, community and recreational facilities. The development does not result in any unacceptable amenity impacts to neighbouring properties or future residents.

(d) **Principle 4: Sustainability**

The proposal is compliant with the requirements of BASIX in terms of thermal comfort, and far exceeds the water and energy targets as required by the site specific controls and the planning agreement for the development. A condition is recommended to ensure that the development complies with the commitments contained in the BASIX documentation.

(e) **Principle 5: Landscape**

The proposal incorporates landscaped areas within the new laneway, the public park and within the landscaped setback to Marriott Street for the general public; and areas at level 1, and level 4 for residential use.

Deep soil areas are equal to 301.3sqm or 2.6% of the site which is acceptable in this instance given the site constraints (particularly the need for an adequate sized supermarket to service the local community). Amended plans have been submitted on 20 September 2019 providing an additional deep soil area to the corner of Marriott Street and Cleveland Street, and a green roof over the new extension to the heritage item. With dedicated areas included in the calculation, deep soil increases to 1,156.9sqm or 9.44% of the entire site, well in exceedance of the 7% requirement of the ADG.

Overall, the proposal seeks to provide generous green roofs to offset the lack of deep soil, as well as tree planting on slab at level 1 and within the private open space of residential apartments to contribute to tree canopy targets. The proposed landscape component of the scheme is extensive, and additional details are required to ensure its success. Information is to be submitted relating to soil profiles, irrigation and access for maintenance. Detailed landscape conditions have therefore been recommended for imposition.

(f) **Principle 6: Amenity**

The proposal provides a reasonable level of amenity for the residential occupants of the development and neighbouring properties. Compliance with the amenity controls are detailed in the below ADG assessment table.

(g) **Principle 7: Safety**

The safety and security of the public domain and the site itself is enhanced by increased activity within the site and casual surveillance of the surrounding streets from the residential apartments.

The residential entries are clearly defined and located to both Baptist and Marriott Streets to maximise security and safety for residents.

The proposal is considered to be designed in accordance with the principles of Crime Prevention through Environmental Design (CPTED) and is consistent with this design quality principle.

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

The proposal has the following unit mix:

- (i) 54 x 1 bedroom (35%);
- (ii) 71 x 2 bedroom (46%); and
- (iii) 29 x 3 bedroom (19%).

The unit mix is consistent with that envisaged by the Sydney DCP 2012 and is acceptable.

(i) **Principle 9:** Aesthetics

The residential buildings utilises a combination of bagged and painted brick podium facades with metal cladding at upper levels in rich earthy tones to complement the surrounding heritage conservation area. The commercial building to Cleveland Street will be constructed in cross laminated timber (CLT) clad in grey textured brick, responding to the context of Cleveland Street and the former Bank of NSW Building. The proposed materials are acceptable, and the overall design will positively contribute to the aesthetic qualities of the streetscape.

The amended design is considered to maintain the integrity of the competition winning scheme, which was considered by the selection panel to be the scheme most capable of demonstrating design excellence.

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

## Apartment Design Guide

| 2E Building Depth       | Compliance         | Comment  |
|-------------------------|--------------------|--|
| 12-18m (glass to glass) | Partial compliance | <p>The majority of the development complies with the maximum building depth of 18m, with the exception of apartments 07 and 08 in Building C at every level, which measures at 20m.</p> <p>Despite the non-compliance, the building provides an acceptable level of residential amenity to these apartments, and Building C in particular is of a scale that is appropriate to the site. Accordingly the aims of the building depth provisions of the ADG have been met.</p> |

| 2F Building Separation   | Compliance         | Comment   |
|--|--------------------|---|
| <p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> <li>• 12m between habitable rooms / balconies</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul>     | Partial compliance | <p>The building height is taken from the podium (level 1) when assessing separation between the buildings, as this is the level where apartments face each other within the site. The minimum separation required between the Marriott Street and Baptist Street buildings is 12 metres.</p> <p>Generally, building separation complies when measured parallel between habitable rooms and balconies. However, it is the angled relationships between openings that do not comply. There are oblique sightlines between habitable rooms and balconies of apartments of between 6 and 8 metres.</p> <p>Refer to Issues section for further discussion.</p> |
| <p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> <li>• 18m between habitable rooms / balconies</li> <li>• 12m between habitable and non-habitable rooms</li> <li>• 9m between non-habitable rooms</li> </ul> |                    |   |
| <p>At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.</p>   | No, but acceptable | <p>The subject site is zoned B2 - Local Centre, and directly adjoins an R1 - General Residential zone to the south (Baptist Street), which contains low scale residential terraces. A 3m setback to the Baptist Street terraces is therefore required.</p> <p>The building has been designed to respond to the building envelope contained within the site specific controls of Section 6.2.8 of the Sydney DCP 2012, which does not require such a setback. The development however, is separated from the Baptist Street terraces by a 9m wide pedestrian laneway, and a 2.5m landscape setback as required by the DCP.</p>                             |

| 2F Building Separation | Compliance | Comment   |
|------------------------|------------|---|
|                        |            | <p>The DCP setbacks ensure that the subject development provides adequate separation to the adjoining low scale development of Baptist Street, and thereby limits adverse amenity impacts to surrounding properties. Concerns have been raised by objectors about privacy to the Baptist street terraces to the south, and this is addressed under Objective 3F Visual Privacy.</p> |

| 3D Communal and Public Open Space                                       | Compliance                | Comment   |
|---|---------------------------|---|
| <p>Communal open space has a minimum area equal to 25% of the site.</p> | <p>No, but acceptable</p> | <p>The proposal has been amended to provide a consolidated area of communal open space at level 1 (1,277.5sqm), and communal areas at levels 4 and 5 (156.5sqm and 302.6sqm respectively).</p> <p>This results in an area of 1,736.6sqm or 16%, based on a reduced site area of 10,855sqm (minus areas to be dedicated for public use).</p> <p>The proposed areas for communal open space are considered to adequately provide for active and passive recreation as well as opportunities for social interaction of residents. The developer has committed to dedicating an area of approximately 500sqm for a public park at the southern end of the site, and 88% of the apartments within the development provide private open space above the minimums suggested in the ADG.</p> <p>Consequently in this instance, a variation of communal open space is supported.</p> |

| 3D Communal and Public Open Space  | Compliance | Comment  |
|--|------------|--|
| Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter). | Yes        | 51.4% of the communal open space at level 1 receives at least 2 hours of direct sunlight during the winter solstice. |

| 3E Deep Soil Zones   | Compliance         | Comment   |
|--|--------------------|---|
| Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m | No, but acceptable | <p>The application proposes 301.3sqm of deep soil within the site, being 2.6%.</p> <p>The non-compliance is considered acceptable in this instance given the site constraints (particularly relating to contamination and the need for a replacement supermarket to service the needs of the local community). The proposal provides generous green roofs, and landscaped communal areas to offset the lack of deep soil. With dedicated areas included in the calculation, deep soil increases to 1,156.9sqm or 9.44% of the entire site, well in exceedance of the 7% in the ADG.</p> |

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

| 3F Visual Privacy  | Compliance | Comment  |
|--|------------|--|
| Up to four storeys (12 metres): <ul style="list-style-type: none"> <li>• 6m between habitable rooms / balconies</li> <li>• 3m between non-habitable rooms</li> </ul> | No         | Similarly to Objective 2F, separation has been measured from the podium.<br><br>There are oblique sightlines between habitable rooms and balconies of apartments of between 6 and 8 metres which is inconsistent with ADG requirements.<br><br>Refer to Issues section for further discussion. |
| Five to eight storeys (25 metres):   |            |  |

| 3F Visual Privacy  | Compliance | Comment  |
|--|------------|--|
| <ul style="list-style-type: none"> <li>• 9m between habitable rooms / balconies</li> <li>• 4.5m between non-habitable rooms</li> </ul>                       |            | <p>The development however, provides at least 6-9 metres separation between habitable rooms / balconies and the side boundaries of the site (measured to the middle of the lane), as well as to both Baptist and Marriott Streets in accordance with the objective.</p> <p>It is noted however, that the windows at the southern boundary may potentially overlook the private open space of Baptist Street terraces at levels 1 to 3 of apartments C1.03, C1.04, C2.03, C2.04, C3.03, and C3.04. The windows are to bedrooms, and form part of a pop-out that provides articulation to the facade. Whilst the pop-out frame itself will limit views out over the terraces there is insufficient detail provided in plan or section to determine whether the glass line is set in, or if it is in line with the pop-out. A condition is recommended to ensure that the glass line of these bedroom windows are set in.</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. | Yes        | The proposal complies.   |

| 4A Solar and Daylight Access  | Compliance         | Comment   |
|---|--------------------|---|
| 70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces. | No, but acceptable | <p>61% or 94 out of 154 apartments receive a minimum of 2 hours direct sunlight to living areas and private open space between 9am and 3pm in midwinter.</p> <p>Refer to Issues section for further discussion.</p> |

| <b>4A Solar and Daylight Access</b>   | <b>Compliance</b> | <b>Comment</b>   |
|---|-------------------|--|
| Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter. | Yes               | 2.6% or 4 out of 154 apartments receive no direct sunlight between 9am and 3pm at midwinter. |

| <b>4B Natural Ventilation</b>  | <b>Compliance</b> | <b>Comment</b>   |
|--|-------------------|--|
| All habitable rooms are naturally ventilated.  | Yes               | All habitable rooms are naturally ventilated.  |
| Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.          | Yes               | 73.4% or 113 of 154 apartments are capable of achieving natural cross ventilation.<br><br>Some apartments rely on 3.3m slots (within the wings of the development) with angled windows to capture wind for cross ventilation. Some of these windows are angled in the wrong direction (or have not been provided), and this is to be conditioned.<br><br>Refer to Issues section for further discussion. |
| Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line. | Yes               | All cross-over and cross-through apartments have a depth less than 18m, measured glass line to glass line.   |

Measured from finished floor level to finished ceiling level, minimum ceiling heights are as follows:

| <b>4C Ceiling Heights</b> | <b>Compliance</b> | <b>Comment</b>  |
|---------------------------|-------------------|---|
| Habitable rooms: 2.7m     | Yes               | All habitable rooms are provided with a floor to ceiling height of at least 2.7 metres.     |
| Non-habitable rooms: 2.4m | Yes               | All non-habitable rooms are provided with a floor to ceiling height of at least 2.4 metres. |

| 4C Ceiling Heights  | Compliance         | Comment   |
|---|--------------------|---|
| If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use. | No, but acceptable | Buildings A to C provide a floor to floor height of 5.7 metres at lower ground for the proposed retail uses.<br><br>The site specific DCP controls do not envision retail or commercial uses at level 1, with the exception of retail areas fronting the through-site link. A floor to floor height of 3.1 metres is provided to these tenancies. This is considered a minor non-compliance and is acceptable in this instance. |

| 4D Apartment Size and Layout  | Compliance | Comment  |
|---|------------|--|
| <p>Minimum unit sizes:</p> <ul style="list-style-type: none"> <li>• Studio: 35m<sup>2</sup></li> <li>• 1 bed: 50m<sup>2</sup></li> <li>• 2 bed: 70m<sup>2</sup></li> <li>• 3 bed: 90m<sup>2</sup></li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p> | Yes        | The apartments comply with the minimum apartment sizes and provide, including where an additional bathroom is being provided.    |
| Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.  | Yes        | All habitable rooms (including studies where provided) have access to an external window as required by the ADG.                 |
| Habitable room depths are to be no more than 2.5 x the ceiling height.  | Yes        | All apartments are open plan and have a maximum room depth of 8 metres measure from the inside of the glass line to the kitchen. |
| 8m maximum depth for open plan layouts.   | Yes        |  |

| 4D Apartment Size and Layout   | Compliance | Comment   |
|--|------------|---|
| <p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> <li>• master bedroom: 10m<sup>2</sup></li> <li>• all other bedrooms: 9m<sup>2</sup></li> </ul> <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p> | Yes        | The development provides compliant bedroom sizes.                 |
| <p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6m</li> <li>• Two-bedroom or more: 4m</li> </ul>  | Yes        | The development provides compliant living and dining room widths. |
| 4m minimum width for cross over and cross through apartments.  | Yes        | The minimum dimension of cross through apartments is 4 metres     |

| 4E Private Open Space and Balconies  | Compliance | Comment   |
|--|------------|---|
| <p>Studio apartments are to have a minimum balcony area of 4m<sup>2</sup> with a minimum depth of 1m.</p> <p>One bed apartments are to have a minimum balcony area of 8m<sup>2</sup> with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m<sup>2</sup> with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m<sup>2</sup> with a minimum depth of 2.4m.</p> | Yes        | <p>All apartments are provided with the required area of private open space.</p> <p>Some apartments have balconies with variable depths or are split into two (i.e. an area of 7sqm and 3sqm) to meet the overall area requirements of the ADG.</p> <p>All apartments however, provide sufficient area that meet the minimum depth requirements, and in all instances provides useable balcony areas.</p> <p>A landscape condition is recommended in order to provide maintenance access to a green area between buildings D and E. This will result in the terrace of D1.02 reducing in size from 75sqm to 60sqm, which remains compliant with ADG requirements.</p> |

| <b>4E Private Open Space and Balconies</b>  | <b>Compliance</b> | <b>Comment</b>   |
|---|-------------------|--|
| Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m. | Yes               | Apartments located on podiums and at ground level are provided with private open space that exceeds the minimum recommended areas. |

| <b>4F Common Circulation and Spaces</b>   | <b>Compliance</b> | <b>Comment</b>  |
|---|-------------------|---|
| The maximum number of apartments off a circulation core on a single level is eight (8).   | Yes               | The proposal complies with this requirement.  |
| 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               | Bedroom windows open onto landscaped areas that are inaccessible (other than for maintenance). The proposal otherwise does not result in primary living or bedroom windows opening directly onto common circulation spaces. |
| Daylight and natural ventilation are provided to all common circulation spaces.   | Yes               | Daylight and natural ventilation are provided to all lobby areas within each residential flat building.   |

| <b>4G Storage</b>   | <b>Compliance</b> | <b>Comment</b>   |
|---|-------------------|--|
| Minimum storage provision facilities: <ul style="list-style-type: none"> <li>• Studio: 4m<sup>3</sup></li> <li>• 1 bed: 6m<sup>3</sup></li> <li>• 2 bed: 8m<sup>3</sup></li> <li>• 3 bed: 10m<sup>3</sup></li> </ul> (Minimum 50% storage area located within unit) | Yes               | Adequate storage is provided for each apartment in accordance with ADG requirements. |

| 4J Noise and Pollution  | Compliance | Comment   |
|---|------------|---|
| Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings? | Yes        | <p>All apartments are capable of natural ventilation and provide acceptable acoustic amenity.</p> <p>The proposal has sought to minimise the impact of noise and air emissions by locating retail uses at lower levels, and providing upper level setbacks to vertically separate the residential apartments from any noise source below.</p> |

### State Environmental Planning Policy (Infrastructure) 2007

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

#### Clause 45

54. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP as the development involves the penetration of the ground within 2m of an underground electricity power line, and will require a substation.
55. In accordance with the Clause, the application was referred to Ausgrid for a period of 21 days during the original notification period, and again during re-notification.
56. On 8 November 2018, Ausgrid advised that no objection was raised to the proposal, subject to the imposition of conditions relating to the design of the substation, and for due consideration be given to existing Ausgrid infrastructure during construction works. The conditions have been included in the recommended conditions of consent (Refer to attachment A).

#### Clauses 101, 102 and 104

57. The application is subject to Clauses 101, 102 and 104 of the SEPP as the site has frontage to Cleveland Street, which is a classified road, with an average daily traffic volume of more than 40,000 vehicles and involves traffic generating development.
58. In a response dated 29 October 2018, Roads and Maritime Services advised that they had no objection to the application, and recommended a number of conditions to be imposed. These conditions relate to all structures along Cleveland Street to be contained wholly within the boundary of the site, and for excavation details (documentation and drawings) to be submitted to RMS for review prior to commencement of works.
59. These conditions have been included within the recommended conditions of consent.

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

- 60. A BASIX Certificate has been submitted with the development application.
- 61. The BASIX certificate lists measures to satisfy BASIX requirements, LEP and planning agreement requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

**Sydney Local Environmental Plan 2012**

- 62. The site is located within the B2 - Local Centre zone. The proposed uses are defined as residential accommodation, retail and commercial, and a recreation area (public park) which are permissible with consent within the zone.
- 63. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

| Development Control   | Compliance | Comment  |
|---|------------|--|
| <p>4.3 Height of Buildings</p> <p>6.39 Surry Hills Shopping Village</p> | <p>No</p>  | <p>Clause 4.3 of the Sydney LEP 2012 stipulates 7 building heights across the site. Clause 6.39 of the Sydney LEP 2012 also sets a maximum incline plane for a through-site link within the subject site.</p> <p>The proposed development seeks to utilise the design excellence provisions pursuant to Clause 6.21, where up to a further 10% height is possible. This is applicable where the design scheme has won a competitive design process and is considered by the consent authority to exhibit design excellence.</p> <p>This proposal is eligible for up to an additional 10% design excellence bonus for the building heights that apply to the site as follows: :</p> <ul style="list-style-type: none"> <li>• 9.9m street wall height (9m base height) that applies around the perimeter of the site to the northern, southern, eastern and western extent of the site frontages. The 9.9m height extends for a width of 4m to all frontages, excluding the former Bank of NSW building, to which this height limit does not apply;</li> </ul> |

| Development Control | Compliance | Comment  |
|---------------------|------------|--|
|                     |            | <p>Beyond the 9.9m street wall height limit are the overall maximum building heights across the site:</p> <ul style="list-style-type: none"> <li>• Buildings A-C at 27.5m (25m base height), stepping down to 25.3m (23m base height) at the southern corner of Baptist Street and the new laneway;</li> <li>• Buildings D-F at 19.8 (18m base height) to Marriott Street;</li> <li>• Building G at 24.2m (22m base height);</li> <li>• Former Bank of NSW building 12m (no 10% increase); and</li> <li>• Through-site link within the site (Area 9) at an incline plane of RL34.5 to RL 35.65 from west to east / Marriott to Baptist Streets (no 10% increase).</li> </ul> <p>The buildings comply with the overall building heights that apply to the site, as follows:</p> <ul style="list-style-type: none"> <li>• Building A: 26.6m;</li> <li>• Building B: 26.2m;</li> <li>• Building C: 25.3m (south) - 27.5m (north);</li> <li>• Building D: 18.7m;</li> <li>• Building E: 18.9m;</li> <li>• Building F: 18.4m;</li> <li>• Building G: 23.7m; and</li> <li>• Building H: 10.8m.</li> </ul> <p>The proposal exceeds the street wall Height of Buildings development standard in the following instances:</p> |

| Development Control   | Compliance | Comment   |
|---|------------|---|
|   |            | <ul style="list-style-type: none"> <li>• Building A provides a 10.1m street wall height;</li> <li>• Building C proposes 10.3m;</li> <li>• Building F proposes 11.2m; and</li> <li>• Building G proposes 23.7m (i.e. no street wall height is proposed).</li> </ul> <p>The technical non-compliances range from 2% to 139%. A Clause 4.6 variation to the maximum height development standard has been submitted, and is supported.</p> <p>Refer to Issues section for further discussion.</p>   |
| <p>4.4 Floor Space Ratio</p> <p>6.13 End of journey floor space</p> | No         | <p>Clause 4.4 of the Sydney LEP 2012 stipulates a base floor space ratio of 2:1 for the site, with up to an additional 0.3:1 of the building eligible for end of journey facilities.</p> <p>In this instance, the development provides 193sqm of end of journey facilities at basement levels 2 and 3 for the retail and commercial tenancies, equalling 0.007:1. This equates to a maximum permissible FSR of 2.007:1 (24,573.7sqm).</p> <p>The application proposes an FSR of 2.18:1 (26,698sqm) and an 8.6% variation (being 2,124.3sqm).</p> <p>A Clause 4.6 variation to the maximum FSR development standard has been submitted, and is supported.</p> <p>Refer to Issues section for further discussion.</p> |
| 4.6 Exceptions to development standards                             | Yes        | <p>The proposal seeks to vary the development standards prescribed under Clause 4.3 (Height of Buildings) and Clause 4.4 (Floor Space Ratio).</p> <p>See discussion under the heading Issues.</p>   |

| Development Control        | Compliance | Comment  |
|----------------------------|------------|--|
| 5.10 Heritage conservation | Yes        | <p>The site contains the heritage listed former Bank of NSW building on the corner of Cleveland Street and Baptist Street (I1305).</p> <p>The application proposes the retention and adaptive reuse of the building for retail purposes, with shopfront alterations and an extension replicating the existing footprint of the shopping village.</p> <p>The alterations are generally supported.</p> <p>This is discussed in greater detail within the Issues section.</p>   |
| 6.21 Design excellence     | Yes        | <p>Clause 6.21(5) of the Sydney LEP 2012 requires a competitive design process to be carried out for the site as the proposed development has a height greater than 25 metres (in areas other than Central Sydney) and has a site area of more than 5,000sqm (as per Clause 7.20(2)(b)).</p> <p>As detailed in the relevant history section of this report, a competitive design alternatives process was held in September 2017. The proposal prepared by SJB and Studio Prineas was preferred, and named as the winning scheme.</p> <p>Pursuant to the provisions of Clause 6.21(7)(a) of the Sydney LEP 2012, where the proposal is the winning entry of a competitive design process and is considered to exhibit design excellence, up to a further 10% height may be awarded across the site.</p> <p>The Selection Panel, in the architectural design competition report for the development dated 15 June 2018, concluded that they were of the view that the scheme was able to demonstrate design excellence and was worthy of being awarded the additional height.</p> |

| Development Control               | Compliance | Comment  |
|-----------------------------------|------------|--|
|                                   |            | <p>The proposal as amended has retained the important features of the competition winning scheme, whilst responding appropriately to the planning controls where required. The development has been designed so that it provides a suitable interface with the surrounding heritage conservation area, and complements the heritage listed former Bank of NSW Building.</p> <p>The development as proposed, achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The overall materiality, articulation and distinctive architectural contribution of the development to the local centre is considered to achieve design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.</p> <p>The development therefore satisfies the requirements of this provision.</p> |
| 6.39 Surry Hills Shopping Village | Yes        | <p>Clause 6.39 of the Sydney LEP 2012 allows for additional height through the design excellence process, subject to a number of requirements being met:</p> <ul style="list-style-type: none"> <li data-bbox="927 1330 1382 1630">(a) all BASIX affected buildings within the site cannot have a building height that exceeds the maximum height under Clause 6.21(7)(a) unless the buildings exceed BASIX commitments for water and energy by a minimum of 5 points;</li> <li data-bbox="927 1666 1382 1865">(b) a lane through the site with visual and physical access between Marriott and Baptist Streets, and is open to the sky is to be provided (known as 'Area 9');</li> </ul>  |

| Development Control  | Compliance                | Comment  |
|--|---------------------------|--|
|  |                           | <p>(c) Area 9 must not be higher than an incline plane extending from RL 34.5 along the land's western boundary to RL 35.65 along the land's eastern boundary; and</p> <p>(d) The development is not eligible for additional floor space under Clauses 6.12(b) and 6.21(7)(b).</p> <p>The proposal exceeds BASIX water and energy targets by 6 and 7 points respectively; provides a through-site link within the site that does not exceed the inclined height plane prescribed; and does not seek additional floor space under the provisions of design excellence. Rather, a Clause 4.6 variation has been submitted to address the 8.6% variation.</p> |
| <p>7.1-7.9 Car parking ancillary to other development</p> <p>Section 6.2.8(27) 397-399 Cleveland Street and 2-38 Baptist Street, Surry Hills Shopping Village, Redfern</p> | <p>Partial compliance</p> | <p>The development comprises a mix of land uses, with maximum parking rates specific to each use.</p> <p>Maximum and proposed parking rates are specified as follows:</p> <p>Residential (maximum):</p> <ul style="list-style-type: none"> <li>• 111 car spaces;</li> <li>• 24 car spaces for adaptable dwellings;</li> <li>• 13 visitor car spaces;</li> <li>• 2 service vehicles; and</li> <li>• 9 motorbike spaces.</li> </ul> <p>Residential (proposed):</p> <ul style="list-style-type: none"> <li>• 87 car spaces;</li> <li>• 24 car spaces for adaptable dwellings;</li> </ul>  |

| Development Control      | Compliance | Comment   |
|--------------------------|------------|---|
|                          |            | <ul style="list-style-type: none"> <li>• 8 visitor spaces (including 1 accessible);</li> <li>• 2 service spaces; and</li> <li>• 9 motorbike spaces.</li> </ul> <p>The commercial office maximum rate is 36 car spaces, and the maximum retail rate is 169 car spaces. The application proposes 34 commercial spaces and 170 retail spaces. It is recommended that 1 retail car space be allocated as a retail service vehicle space. This is discussed in further detail within the DCP table section.</p>  |
| 7.14 Acid Sulphate Soils | Yes        | <p>The site is identified as containing Class 5 Acid Sulphate Soil. The site is not within 500 metres of other soil classes and as such, an Acid Sulphate Soil management plan is not required to be submitted.</p> <p>Accordingly, City Staff are satisfied that the Acid Sulphate Soil provisions of the LEP are not triggered.</p>   |
| 7.15 Flood planning      | Yes        | <p>The site is identified as being flood affected.</p> <p>A flood impact assessment has been submitted with the application with post development flood maps demonstrating that the proposal will have no significant impact on existing flood levels for all possible storm events. The flood impact assessment confirms that the proposal complies with the minimum flood planning level requirements stipulated in the City of Sydney Interim Floodplain Management Policy (May 2014).</p> <p>The proposal is therefore considered to meet the requirements of Clause 7.5, and Section 3.7 of the Sydney DCP 2012.</p> |

| Development Control  | Compliance | Comment  |
|--|------------|--|
| 7.20 Development requiring preparation of a development control plan | Yes        | <p>The site is subject to detailed site specific controls contained in Clause 6.39 of the Sydney LEP 2012, and Section 6.2.8 of the Sydney DCP 2012 that address the requirements of Clause 7.20.</p> <p>The site specific controls relate to the height, land use mix, street frontage heights, setbacks and overall design of a new development within the site.</p> <p>A detailed assessment of compliance against the site specific controls is provided within this report.</p> |
| 7.23 Large retail development near Green Square Town Centre          | N/A        | The site is not located within the restricted retail development area.   |

### Sydney Development Control Plan 2012

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

#### 2.13.1 Locality Statements – Cleveland Street

The subject site is located in the Cleveland Street locality. Cleveland Street will continue to be a major east-west traffic route with an enhanced function as a place for people. The locality statement identifies that positive aspects of the streetscape are to be retained and reinforced, including existing corner commercial buildings, with a focus on pedestrians.

The proposed redevelopment of the site for residential, commercial and retail purposes is considered to be in keeping with the unique character of the area and design principles in that it enlivens the streetscape, providing active uses at ground level, strengthening the east-west vista of Cleveland Street. The new buildings respond appropriately to the heritage listed former Bank Building, and the heritage item itself is to be retained, with heritage features reinstated to ensure its prominence on the corner of Cleveland and Baptist Streets as envisioned by the DCP.

| 3. General Provisions  | Compliance        | Comment  |
|--|-------------------|--|
| <p>3.1 Public Domain Elements</p> <p>3.1.1 Streets, Lanes and Footpaths</p> <p>3.1.4 Public Open Space</p> | Yes               | <p>The planning agreement for the development site identifies the provision of a new laneway extension to the south of the site connecting Cooper Street and Baptist Street, and a new public park further south of the new laneway.</p> <p>The associated public domain and landscaping works are to be carried out in accordance with the planning agreement, and before the issue of the first Occupation Certificate for the development.</p> <p>The proposed development has been designed to actively address the laneway, with appropriate residential uses facing the new frontage, making a positive contribution to the public domain.</p> <p>The applicant is continuing to liaise with City Staff regarding the design of the laneway and public park to satisfy the requirements of the planning agreement. Details have not been provided during assessment to a level that can be approved. Therefore, a separate DA will be required for the delivery of the public park, and this has been conditioned.</p> |
| 3.1.5 Public Art   | Yes, by condition | <p>A revised public art plan was submitted during the assessment of the application.</p> <p>The plan proposes three areas for the proposed artwork: the sunken retail laneway, the through-site link within the Cleveland Street building and the building facades on Baptist and Cleveland Streets. The artwork may take the form of integrated suspended sculptures, ground plane treatments/inlays or small sculptural elements with potential for functionality.</p>   |

| 3. General Provisions  | Compliance | Comment   |
|------------------------|------------|---|
|                        |            | <p>The plan has been reviewed by the City's Public Art Unit who have advised that some minor amendments are required with regard to the artist procurement process, and indicating the budget for artwork. An appropriate condition is recommended addressing the outstanding information prior to the development of the art work.</p>   |
| 3.2.3 Active frontages | Yes        | <p>The development is required to provide active street frontages to Cleveland Street, Baptist Street and the north-west corner of the site to Marriott Street, as identified on the active frontages control map.</p> <p>The application proposes retail tenancies, residential lobbies and general loading / services to Baptist Street; and retail uses at ground floor along the Cleveland Street and (northern) Marriott Street corner frontages in accordance with the control.</p> |
| 3.2.4 Footpath awnings | Yes        | <p>Awnings are required to Cleveland Street, Baptist Street and the north-west corner of the site to Marriott Street, replicating the active frontages control.</p> <p>The application proposes awnings above the retail tenancies along Baptist Street, the north-west frontage on Marriott Street and on Cleveland Street.</p> <p>The awnings have a height of between 3.2m and 4.2m above the footpath, and relate to the ground floor of each building.</p>                           |
| 3.2.7 Reflectivity     | Yes        | <p>The proposal is accompanied by a reflectivity report analysing glare from the glazed north facade of the Cleveland Street commercial building (Building G) and its effect on drivers in particular.</p> <p>The report advises that the proposed glazing has 16% reflectivity, which is within acceptable glare limits in accordance with the control.</p>  |

| 3. General Provisions                                  | Compliance | Comment  |
|--|------------|--|
|  |            | A condition of consent is recommended requiring compliance with the recommendations of the report.   |
| 3.3 Design Excellence and Competitive Design Processes | Yes        | <p>The proposed development has been the subject of a competitive design process.</p> <p>The design excellence strategy approved in concurrence with the planning proposal sought additional height as part of the competitive design process. As discussed under Clauses 4.4 and 6.21 of the Sydney LEP 2012, the development has been assessed as exhibiting design excellence and has sought to utilise the additional 10% height under the controls.</p> <p>Refer to issues section</p>  |
| 3.5 Urban Ecology                                      | Yes        | <p>The proposed development necessitates the removal of the majority of trees within the site. Six trees have already been removed.</p> <p>The application proposes the removal of a single street tree along Cleveland Street that has been heavily lopped by Ausgrid. With design modifications proposed, the development will allow for the retention of all street trees along Baptist Street There are no street trees along Marriott Street that will be affected by the proposal.</p> <p>Overall, 60 trees are affected by the proposal.</p> <p>The application has been reviewed by the City's Tree Management Unit, who advised that the removal of trees is supported, subject to conditions. It is recommended that a minimum of 3 trees be planted in the new park adjoining the new laneway, and all street trees proposed for retention be adequately protected during construction.</p> |

| 3. General Provisions                                 | Compliance         | Comment  |
|---|--------------------|--|
|   |                    | <p>The new driveway on Baptist Street will need to be constructed using root sensitive techniques based on the proximity of the street tree that is recommended for retention. Additionally, the awning on Baptist Street will need to be reduced in width to ensure limited interference with the existing street trees.</p> <p>Appropriate conditions are recommended.</p> |
| 3.6 Ecologically Sustainable Development              | Yes                | The planning controls and the VPA require the proposal to exceed the minimum BASIX water and energy targets by 5 points, which has been achieved.  |
| 3.7 Water and Flood Management                        | Yes                | <p>The site is identified by Council as being flood prone.</p> <p>The proposal is generally compliant with the City's Interim Floodplain Management Policy.</p>  |
| 3.8 Subdivision, Strata Subdivision and Consolidation | Yes                | Conditions of consent are recommended regarding the subdivision of the site.   |
| 3.9 Heritage  | Yes                | Refer to Issues section of this report regarding the former Bank of NSW Building.  |
| 3.11 Transport and Parking                            | Partial compliance | <p><i>Bike parking and facilities</i></p> <p>The development requires at least 300 bike parking spaces, made up of 154 residential; 16 residential visitor; 63 non-residential and 64 non-residential visitor spaces.</p>  |

| 3. General Provisions | Compliance | Comment  |
|-----------------------|------------|--|
|                       |            | <p>The proposal relies on residential storage cages to double as bike parking. A condition is recommended to move these storage cages to allow for easy and direct access by residents, and to provide a class 2 storage facility at basement level as per DCP requirements. All non-residential spaces are to be accommodated at level 1 (within the site) and at basement 1, separate to the residential facilities.</p> <p><i>Servicing</i></p> <p>The DCP requires the development to provide 2 residential, 1 commercial and 6 retail servicing spaces at a minimum. The application provides 2 residential, 3 commercial and 3 retail.</p> <p>It is recommended that 2 of the commercial spaces be reallocated as retail; and the additional retail parking space proposed (discussed in further detail below), be converted into a service space in order to comply with DCP requirements.</p> <p><i>Design and location of waste collection points and loading areas</i></p> <p>The application proposes that Council's waste truck will be able to access the Baptist Street loading dock for residential waste collection, with bins transported from the waste storage area on basement 3 to the loading dock via a dedicated waste lift, which complies.</p> <p><i>Driveway design</i></p> <p>The proposed driveway design on Baptist Street provides poor pedestrian safety, and it is recommended that design modifications be made to provide a high quality ground level relationship to the public domain.</p> <p>Refer to Issues section for further discussion.</p> |

| 3. General Provisions                          | Compliance         | Comment   |
|--|--------------------|---|
| 3.12 Accessible Design                         | Partial compliance | <p>Equitable access can only be provided via Cleveland Street and Baptist Street due to flood planning levels on Marriott Street. Additionally, access to the site from the laneway to the south is provided by a set of stairs due to the difference in levels and the sloping of the site.</p> <p>Any alternative solutions for access are to be reviewed by the certifier for the development. Whilst the above is noted, a condition has been recommended for the proposed access and facilities for persons with disabilities to comply with the DCP and the BCA.</p>  |
| 3.13 Social and Environmental Responsibilities | Yes                | <p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p>   |
| 3.14 Waste                                     | Partial compliance | <p>The application proposes vertical chutes for the residential portion of the development, with the exception of Building E, where the chute has a bend at lower ground floor. This issue has been raised with the applicant, however has not been adequately addressed as part of the proposal.</p> <p>It is recommended that a condition be imposed requiring the waste management plan to address the bend in the chute within Building E. It is likely that the bend will be need to be removed.</p> <p>As discussed under Section 3.11 of the Sydney DCP 2012, Council's waste truck will be able to access the site from the loading dock on Baptist Street.</p> <p>The proposed supermarket has not been included in the waste management plan, however the plan of management for Coles stipulates that 2 x 4.5m<sup>3</sup> steel bins and 1 x 32m<sup>3</sup> compactor container are required. These bins and container are accommodated within the loading dock.</p> |

| 3. General Provisions              | Compliance | Comment   |
|------------------------------------|------------|---|
|                                    |            | A detailed waste management plan is required for Coles as part of any fit-out application, and is to be conditioned as part of this application accordingly. Other standard waste conditions are also recommended.  |
| 3.15 Late Night Trading Management | Yes        | <p>The application proposes hours of operation beyond 10pm for the supermarket at basement level 1.</p> <p>The hours of operation are supported. Refer to Issues for further discussion.</p>  |
| 3.16 Signage and Advertising       | Can comply | <p>Insufficient information has been provided to assess the proposed signage strategy, and as such, the applicant has advised in correspondence dated 25 September 2019 that the signage strategy is to be withdrawn from the proposal.</p> <p>Given that the site will contain more than four business premises, and involves a heritage item, a signage strategy is required for the site in accordance with Section 3.16.1 of the Sydney DCP 2012. An appropriate condition is therefore recommended to ensure that one is submitted and approved by Council prior to any Occupation Certificate being issued for the development.</p> |
| 3.17 Contamination                 | Yes        | As discussed under the heading "SEPP No. 55 Remediation of Land", the City's Health and Building Unit has reviewed the information submitted to satisfy both the SEPP and Section 3.17 of the Sydney DCP 2012 and is satisfied that, subject to conditions, the site can be made suitable for the proposed development.   |

| 4. Development Types<br><br>4.2 Residential flat,<br>commercial and mixed use<br>developments | Compliance            | Comment  |
|---|-----------------------|--|
| 4.2.1.2 Floor to ceiling heights<br>and floor to floor heights                                | Partial<br>compliance | <p>All habitable rooms within the residential buildings are provided with a floor to ceiling height of at least 2.7 metres, and a floor to floor height of at least 3.1 metres.</p> <p>Buildings A to C provide a floor to floor height of 5.7 metres at lower ground for the proposed retail uses, and Building G provides floor to floor heights of 3.5 metres.</p> <p>The site specific DCP controls do not envision retail or commercial uses at level 1, with the exception of retail areas fronting the through-site link. A floor to floor height of 3.1 metres is provided to these tenancies. This is considered a minor non-compliance and is acceptable in this instance.</p> |
| 4.2.3 Amenity   | Yes                   | <p>Many of the relevant provisions of Section 4.2.3 are superseded by the ADG, pursuant to the provisions of Clause 6A of SEPP 65.</p>   |
| 4.2.3.1 Solar access  | Yes                   | <p>The DCP requires development applications to demonstrate the shadow impact on neighbouring development between 9:00am and 3:00pm at the winter solstice. New development must not create any additional overshadowing onto a neighbouring dwelling where that dwelling currently receives less than 2 hours direct sunlight to habitable rooms and 50% of the private open space.</p> <p>The proposal is accompanied by a shadow analysis prepared in accordance with the control, some of which is replicated in the Issues section under the Clause 4.6 variations to Height and FSR. The analysis compares a DCP compliant envelope with that currently proposed.</p>              |

| 4. Development Types<br><br>4.2 Residential flat,<br>commercial and mixed use<br>developments | Compliance | Comment  |
|---|------------|--|
|   |            | <p>The analysis identifies that the existing low scale residential terraces directly to the west and south of the site (Marriott and Baptist Streets respectively) are subject to overshadowing between 9:00am and 10:00am. From 11:00am the residents to the west are not affected by the proposed development, receiving a minimum 2 hours direct solar access.</p> <p>With regard to the terraces on Baptist Street, the proposal generates less overshadowing compared to that of a DCP compliant building envelope between 11:00am and 1:00pm, with no discernible impact after 1:00pm.</p>   |
| 4.2.3.5 Landscaping   | Yes        | <p>Amended landscape plans and a landscape report have been submitted with the application. The overall integrity of the design relies on the success of the landscaping on concrete slab, and further details are required to ensure that the landscape component is successful.</p> <p>This includes:</p> <ul style="list-style-type: none"> <li>• The Marriott Street setback contains stormwater pipes and junction pits that interfere with the proposed deep soil zone, and it is preferred that these elements be rationalised;</li> <li>• All trees in raised planters on slab located within private courtyards and balconies need to provide adequate soil volumes to grow;</li> <li>• The level 1 inaccessible green "finger" between apartment Buildings D and E requires maintenance access that replicates the maintenance area provided between Buildings B and C;</li> </ul> |

| 4. Development Types<br><br>4.2 Residential flat,<br>commercial and mixed use<br>developments | Compliance | Comment   |
|---|------------|---|
|   |            | <ul style="list-style-type: none"> <li>• Replacement of the palms on the corner of Cleveland and Marriott Streets with an appropriate native tree species; and</li> <li>• Additional details with regard to the proposed green roof on top of the heritage building extension to minimise impacts to significant fabric.</li> </ul> <p>As such, a number of detailed landscape conditions are recommended</p> |
| 4.2.3.10 Outlook  | Yes        | Adequate building separation is provided and landscaping is provided throughout the site, ensuring all apartments are provided with a pleasant outlook.   |
| 4.2.3.12 Flexible housing and dwelling mix  | Yes        | <p>The proposal has the following unit mix:</p> <ul style="list-style-type: none"> <li>• 54 x 1 bedroom (35%);</li> <li>• 71 x 2 bedroom (46%); and</li> <li>• 29 x 3 bedroom (19%).</li> </ul> <p>The unit mix is consistent with that envisaged by the Sydney DCP 2012 and is acceptable.</p>   |
| 4.2.4 Fine grain, architectural diversity and articulation                                    | Yes        | The development is generally consistent with the site-specific controls (as discussed elsewhere in this report) with regard to the approved building envelope and siting of buildings.  |
| 4.2.5.3 Development on busy roads and active frontages  | Yes        | <p>Cleveland Street is a classified (State) road.</p> <p>The application proposes commercial and retail uses fronting Cleveland Street, eliminating any adverse amenity impacts to occupants within the site.</p>   |

| <b>4. Development Types</b>  | <b>Compliance</b> | <b>Comment</b>   |
|--|-------------------|--|
| <b>4.2 Residential flat, commercial and mixed use developments</b> |                   |  |
| 4.2.6 Waste and Recycling Management                               | Yes               | The proposal provides adequate storage within the residential units for at least two days volume of general waste and recyclables. A condition is to be imposed to ensure compliance with the Guidelines for Waste Management in New Developments. |
| 4.2.7 Heating and Cooling Infrastructure                           | Yes               | Heating and cooling infrastructure for the residential buildings are located at rooftop level.   |
| 4.2.8 Letterboxes  | Yes               | Plans have been received depicting letterboxes at ground floor within the each residential lobby in a secure location.   |

| <b>6. Specific Sites</b>   | <b>Compliance</b> | <b>Comment</b>  |
|--|-------------------|---|
| <b>6.2.8 397-399 Cleveland Street and 2-38 Baptist Street, Surry Hills Shopping Village, Redfern</b> |                   |   |
| (1)-(8) Uses and layout  | Yes               | <p>(1) The development provides a land use mix consistent with the layout specified Figures 6.50-6.52 of the DCP.</p> <p>(2) The proposed supermarket has a floor level RL of 31.45, with equitable pedestrian access provided via Baptist and Cleveland Streets to the lift lobby (labelled S3 on the plans).</p> <p>(3) Fine grain retail uses are proposed at street level fronting Cleveland and Baptist Streets, the northern part of Marriott Street and along the through-site link.</p> <p>(4) Building G to Cleveland Street contains non-residential uses at lower ground, level 1 and level 2 as required by the controls.</p> |

| 6. Specific Sites   | Compliance | Comment  |
|---|------------|--|
| <p data-bbox="204 277 603 409"><b>6.2.8 397-399 Cleveland Street and 2-38 Baptist Street, Surry Hills Shopping Village, Redfern</b></p> |            | <p data-bbox="849 450 1390 611">(5) Residential uses are located at ground level fronting Marriott Street and the proposed laneway to the south of the site as per Figure 6.51 Land use plan - street level.</p> <p data-bbox="849 645 1385 741">(6) The development has been designed in accordance with Figure 6.49 - Structure plan:</p> <ul data-bbox="849 779 1378 1518" style="list-style-type: none"> <li data-bbox="849 779 1378 875">• Active frontages and awnings are provided to Cleveland and Baptist Streets;</li> <li data-bbox="849 913 1378 1010">• A publicly accessible through-site link is provided between Buildings A, F and G and H;</li> <li data-bbox="849 1048 1378 1182">• Vehicular access points are located at the south-east and south-west frontages of the site to Baptist and Marriott Streets;</li> <li data-bbox="849 1220 1378 1384">• A public laneway to the south of the site with a minimum width of 9m (made up of a shared zone connecting Baptist Lane to Baptist Street and Cooper Street); and</li> <li data-bbox="849 1422 1378 1518">• A public park further south of the laneway to be dedicated to Council.</li> </ul> <p data-bbox="849 1556 1378 1720">(7) The shared zone and park to the south of the site, and the footpath along Marriott Street is to be dedicated to Council in accordance with the planning agreement for the development.</p> <p data-bbox="849 1758 1378 1989">(8) Appropriate easements, and landscape setbacks have been provided. Whilst not technically compliant with Figure 6.53, the setbacks are considered acceptable. The non-compliance is discussed in further detail in the Issues section.</p> |

| 6. Specific Sites  | Compliance  | Comment  |
|--|---|--|
| <p data-bbox="204 277 603 409"><b>6.2.8 397-399 Cleveland Street and 2-38 Baptist Street, Surry Hills Shopping Village, Redfern</b></p> <p data-bbox="204 461 440 495">(9)-(21) Built form</p> | <p data-bbox="639 461 794 528">Partial compliance</p> | <p data-bbox="849 461 1385 622">(9) The proposal does not strictly comply with the building height in storeys required by the site-specific controls. Refer to Issues section for further discussion.</p> <p data-bbox="849 663 1385 958">(10) Building G (to Cleveland Street) has been amended so that no part of the building cantilevers over the former Bank of NSW Building. The pedestrian connection between Cleveland Street and the through-site link (between Building G and the heritage item) has a two storey height as required by the control.</p> <p data-bbox="849 999 1385 1256">(11) The proposed works to the former Bank of NSW Building are sympathetic to the significance of the heritage item, and have been designed to maximise the retention, reinstatement and exposure of heritage fabric and spaces. Refer to Issues section for further discussion.</p> <p data-bbox="849 1296 1385 1491">(12) The proposal provides building setbacks and street wall heights that are generally consistent with Figure 6.54 of the DCP, with the exception of building height in storeys. Refer to Issues section for further discussion.</p> <p data-bbox="849 1532 1385 1962">(13)-(14) Building G fronting Cleveland Street is proposed to be used for commercial purposes rather than residential as envisioned by the DCP. Clause (14) allows for the depth of the building envelope to be increased should non-residential uses be proposed, subject to there being no additional overshadowing to the through-site link compared to a single loaded residential building envelope; and if a two storey street wall height to Cleveland Street is provided.</p> |

| 6. Specific Sites   | Compliance         | Comment   |
|---|--------------------|---|
| <p><b>6.2.8 397-399 Cleveland Street and 2-38 Baptist Street, Surry Hills Shopping Village, Redfern</b></p> |                    | <p>The siting of Building G results in overshadowing to the through-site link regardless of whether the building envelope is single loaded or not. Amendments have been made during the assessment process to reduce the bulk and scale of the building, however a two storey street wall height to Cleveland Street is not provided.</p> <p>Notwithstanding, Building G as designed, provides a positive contribution to the activation of Cleveland Street, and responds appropriately to the masonry-built character of the streetscape and the adjoining heritage item within the site. Further to this, being located on a main arterial road means that a commercial building fronting Cleveland Street is better suited compared to a residential use. Whilst the commercial building has not been strictly design in accordance with Clauses (13) and (14) of the site-specific controls, it is considered to be a positive planning outcome for the site and overall Cleveland Street locality area.</p> |
| (22)-(26) Through-site link   | Partial compliance | <p>The proposed through-site link has been designed in accordance with (22) parts (a) to (e). Equitable access however, is not provided to the through-site link from Marriott Street due to flood planning levels. Instead, additional through-site links have been proposed from Cleveland Street to minimise travel around the site. This is considered acceptable given the circumstances surrounding Marriott Street in relation to flooding.</p>  |

| 6. Specific Sites   | Compliance         | Comment  |
|---|--------------------|--|
| 6.2.8 397-399 Cleveland Street and 2-38 Baptist Street, Surry Hills Shopping Village, Redfern |                    | The through-site link aligns with James Street and Matterson Lane (to the east and west of the site), providing a visual connection between Baptist and Marriott Streets.  |
| (27)-(30) Parking, vehicular access and servicing   | Partial compliance | <p>(27) The development proposes 170 retail spaces when a maximum of 169 car space are permitted. The additional car space is to be conditioned to become a retail service space.</p> <p>(28)-(29) The development provides a vehicle crossover to Baptist Street that allows for a 17.2m length truck to safely access the site. This results in a single driveway crossover being provided for both the loading dock and the car park entry/exit, with swept paths depicting the large truck potentially traversing over the exit lane of the car park which is unsafe for users of the car park, and pedestrians generally. Refer to Issues section.</p> <p>All servicing vehicles for the proposed retail and commercial uses are to use the loading dock and the Baptist Street entry to the car park only. It is recommended that a condition be imposed requiring a loading dock and car park management plan to be submitted.</p> <p>(30) The documentation provided with the planning proposal acknowledged that there would be substantial queuing along Baptist Street resulting from the use of the car park for retail purposes. Minimal impact was predicted to Marriott Street.</p> |

| 6. Specific Sites<br><br>6.2.8 397-399 Cleveland Street and 2-38 Baptist Street, Surry Hills Shopping Village, Redfern | Compliance | Comment   |
|--|------------|---|
|  |            | <p>Modelling for the detailed design DA, however, shifts the impact from Baptist Street to the basement car park within the site. This is discussed in further detail in the Issues section under 'Transport, parking and servicing'.</p> <p>The proposal provides bicycle facilities to encourage the use of sustainable transport to the site, which on balance, are considered to help mitigate any adverse impacts resulting from the car park. The design of the bike parking is to be developed further to ensure the facilities provided are of a compliant standard. A condition is therefore recommended to address this, as discussed elsewhere in this report.</p> |
| (31) Flooding and stormwater   | Yes        | The flood planning levels are consistent with the City's Interim Floodplain Management Policy.  |
| (32)-(35) Noise  | Yes        | <p>An acoustic report has been prepared in accordance with parts (32) to (35) of the site-specific controls. An appropriate condition is to be imposed requiring the development to comply with the recommendations of the report.</p> <p>No detail regarding the fit-outs have been provided. As such the retail fit-outs will be subject to separation applications (DA or CDC as appropriate), whereby hours of operation will be determined.</p>  |

| 6. Specific Sites<br><br>6.2.8 397-399 Cleveland Street and 2-38 Baptist Street, Surry Hills Shopping Village, Redfern | Compliance | Comment   |
|--|------------|---|
| (36)-(41) Design Excellence  | Yes        | <p>A competitive design process has been undertaken in accordance with Clause 6.21 of the Sydney LEP 2012.</p> <p>The proposed development is generally consistent with the winning scheme resulting from the competitive design process, achieving BASIX energy and water scores that exceed the minimum targets by more than 5 points respectively, and is capable of providing 4 star Green Star for the supermarket fit-out. Additionally the proposal meets the requirements for the National Construction Code Section J for the all other retail and commercial uses.</p> <p>The proposal is therefore considered to meet the requirements of parts (36) to (41), and achieves design excellence with regard to ecologically sustainable development outcomes.</p> |

## Issues

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

65. Clause 4.3 of the Sydney LEP 2012 stipulates 7 building heights across the site. Clause 6.39 of the Sydney LEP 2012 also sets a maximum incline plane for a through-site link within the subject site.
66. The proposed development also seeks to utilise the design excellence provisions pursuant to Clause 6.21, where up to a further 10% height is possible where the proposed design scheme has won a competitive design process and is considered by the consent authority to exhibit design excellence. The proposal is eligible for up to an additional 10% design excellence bonus for the podium and overall building heights as follows:
- (a) A 9.9m street wall height (9m base height) applies to the northern, southern, eastern and western perimeter of the building envelope for a width of 4m (excluding the former Bank of NSW, which has a height limit of 12m);
67. Beyond the 4m setback, the following heights apply across the site:

- (a) Buildings A-C at 27.5m (25m base height), stepping down to 25.3m (23m base height) at the southern corner of Baptist Street and the new laneway;
- (b) Buildings D-F at 19.8 (18m base height) to Marriott Street;
- (c) Building G at 24.2m (22m base height);
- (d) Former Bank of NSW building 12m (no 10% increase);
- (e) Through-site link within the site (Area 9) at an incline plane of RL34.5 to RL 35.65 from west to east / Marriott to Baptist Streets (no 10% increase); and
- (f) The shared laneway and public park at 3m (no 10% increase).

68. The height of buildings development standards as they apply to the proposed development are expressed in the building envelope in Figures 36 and 37 below. An extract of the height of buildings map is also provided.



Figure 35: Extract of the height of buildings map with site outlined in red. The 10% additional height under the design excellence provisions has not been factored into the above map.

LEP - Podium / Cleveland Street building Non-Compliances

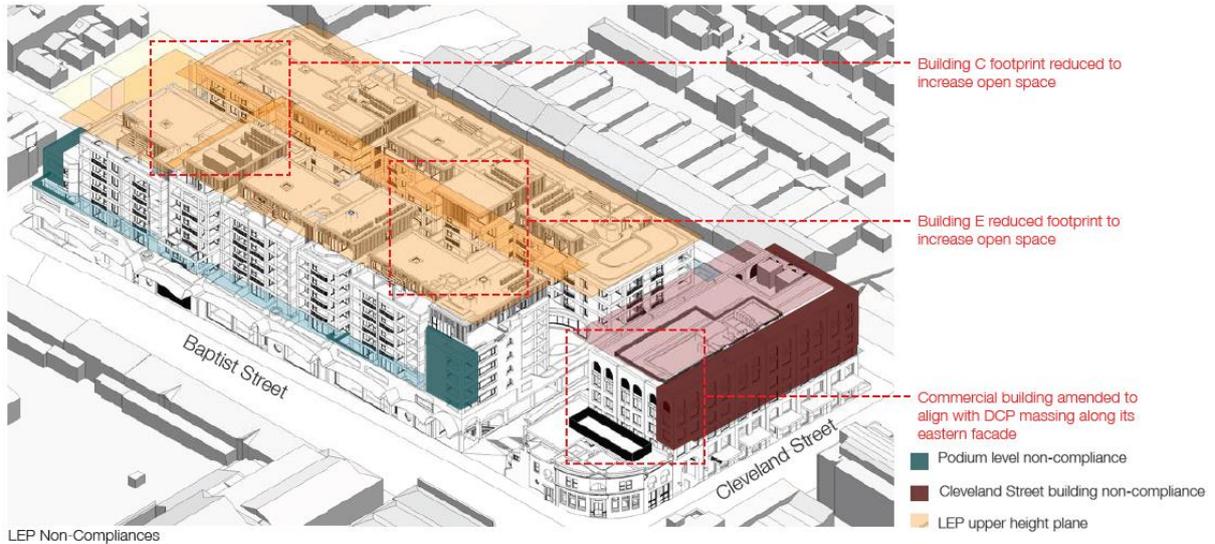


Figure 36: The height standards as they apply to the building envelope of the site - Cleveland Street / Baptist Street view.

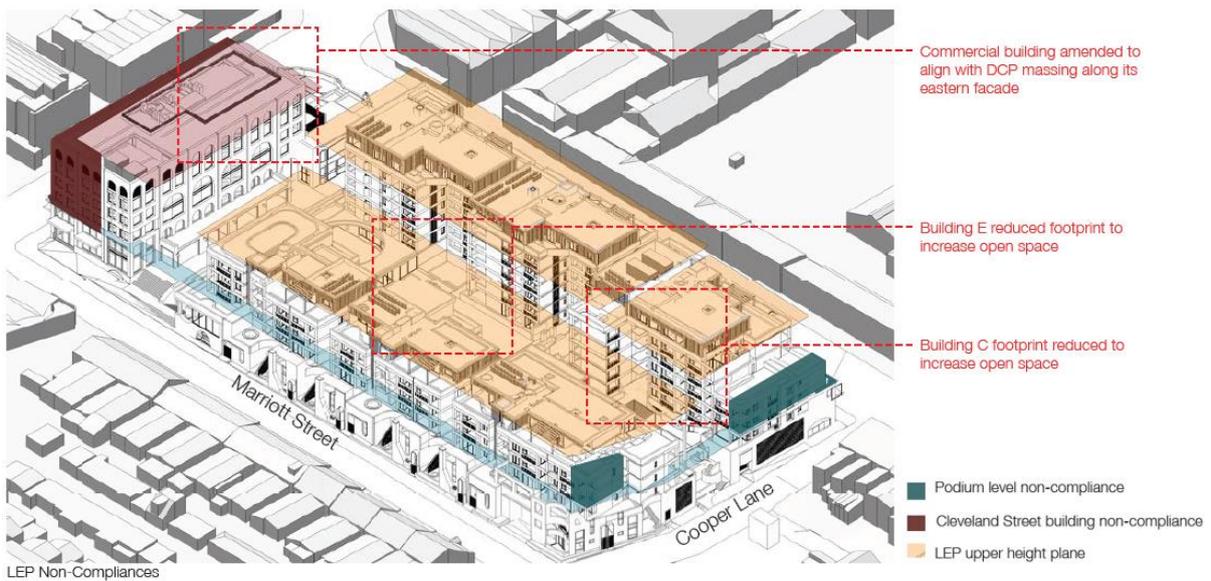


Figure 37: The height standards as they apply to the building envelope of the site - Marriott Street / laneway view.

69. The proposal exceeds the 9.9m Height of Buildings development standard along the perimeter of the site as follows:

- (a) Building A provides a 10.1m street wall height;
- (b) Building C proposes 10.3m;
- (c) Building F proposes 11.2m; and
- (d) Building G proposes 23.7m (i.e. no street wall height is proposed).

70. The non-compliances range from 2% to 149%.
71. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
  - (b) That there are sufficient environmental planning grounds to justify contravening the standard.
72. A copy of the applicant's written request is provided at attachment C.

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

73. The applicant seeks to justify the contravention of the height of buildings development standard for height across the site on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
    - (i) The statement has referred to the first and third methods of the five part test established in *Wehbe v Pittwater Council* [2007] NSW LEC 827 to demonstrate that compliance with the numerical standard is unreasonable or unnecessary. The tests seek to demonstrate that the objectives of the standard are achieved notwithstanding non-compliance with the numerical standard; and the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.
    - (ii) A summary of the applicant's assessment against the objectives of the control (first method) are provided below:

*Objective (a): to ensure the height of the development is appropriate to the condition of the site and its context*
    - (iii) The applicant states that the development has been designed to respond to the unique setting of the immediate surroundings of the site. The development complies with the maximum overall building heights for the site, the variations to street wall height resulting from the design response which articulates the facade with some elements pushing forward and others pulled back. This is considered to be a positive feature (and a superior planning outcome) and was supported in the Design Excellence process. Strict compliance with the maximum street wall height development standard would result in less articulation and a weaker design response.

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

- (iv) The proposed development:
- Retains and restores the existing heritage item (the former Bank of NSW Building) located within the site. Where new development abuts the heritage item, it has been designed to ensure an appropriate scale in relation to the item;
  - Uses materiality which responds to Surry Hills predominant masonry-built fabric;
  - Uses upper level setbacks which are recessed inwards from the street, reducing the perceived bulk and scale of development to the existing terrace housing, shopfronts and laneways within the surrounding Baptist Street heritage conservation area;
  - Provides sufficient separation and transition in built form from the site to surrounding heritage items; and
  - Does not result in any adverse impacts from the height exceedance.

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

- (v) That part of the development that departs from the height standard has no impact on existing public or private views. The proposed built form ensures internal privacy and view sharing for the future residents of the development.

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

- (vi) The site is not located in either Central Sydney or Green Square Town Centre. This objective is not applicable.
- (vii) A summary of the applicant's assessment against the third method, where the object or purpose would be defeated or thwarted if compliance was required is summarised below:
- (viii) The Cleveland Street area is a precinct undergoing a transition from low-quality built form to a more vibrant mixed-use neighbourhood. This is evident in the objectives of the B2 - Local Centre land use zone and the site-specific planning provisions that apply to the site. The proposed development is consistent with this transition and has been specifically designed to respond to the unique site context.
- (ix) The proposed building height enables efficient use of the land commensurate to the density envisaged for the site.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The statement considers two environmental planning grounds to justify contravening the standard: that there is reduced visual impact, and comparing a compliant building envelope with that which is proposed in determining the impacts on surrounding development.

*Reduced visual impact*

- (ii) The extent of visual impact as a result of the height variation is not of discernible scale. The development has been appropriately modulated at upper levels and at the streetscape interface. This minimises visual bulk and scale when viewed from the streetscape and park to the south. Further, the building materiality and landscaping will serve to screen the upper levels and reduce visual prominence. Overall, the proposed development results in a positive visual impact when viewed from the public domain.

*Impacts on surrounding development*

- (iii) To determine the additional impact of the development on terraces to the south of the site (on Marriott and Baptist Streets), the built form of the development has been compared a compliant building envelope.
- (iv) A shadow analysis has been prepared for the proposal that demonstrates the impacts generated from the development as proposed, and that of a development proposed in accordance with the site-specific controls. The analysis has been undertaken during the winter solstice.



**Figure 38:** Building C and G DCP envelope (left) and Building C and G proposed envelope (right) at 9:00am, winter solstice.



**Figure 39:** Building C and G DCP envelope (left) and Building C and G proposed envelope (right) at 10:00am, winter solstice.

- (v) The solar analysis demonstrates that the existing residential terraces along Baptist Street to the south of the site are subject to overshadowing between 9:00am and 10:00am, regardless of whether Building C is developed as proposed, or in accordance with the site-specific controls.
- (vi) Building C has been appropriately setback at the lower and upper levels and is almost entirely consistent with the site specific DCP controls. The height and setbacks to Building C have been further improved since the development was subject to a design competition process.
- (vii) The perceived bulk and scale of Building C is also modulated by the physical separation provided from the landscaped setback and 9m public share way.
- (viii) The variation to the height development standard on Building C does not cause any additional amenity impacts on surrounding properties and, as proposed, better responds to those properties than a compliant scheme.
- (ix) It is recognised that Building G causes a similar, but slightly increased, overshadowing impact to the northern most terraces along Marriott Street at 9:00am. The overshadowing is gone by 10:00am.
- (x) There is no material change to the amenity impacts to the northern most terraces whose solar access after 10:00am will be unaffected.

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

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

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

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

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

77. The statement provides environmental planning grounds specific to the circumstances of the site to justify the extent of non-compliance with the 'Height of Buildings' development standard. The design reflects the winning scheme of a competitive design process, with modulated upper levels that appropriately distribute bulk across the site without adverse impact on the public domain and amenity of the surrounding area.
78. Particular attention was given to the visual impact provided by the development, and the minimal overshadowing impact of the current scheme compared to that achieved by a development proposed in strict compliance with the site-specific controls.
79. The applicant has therefore demonstrated that there are sufficient environmental planning grounds to support the extent of the variation proposed.

Is the development in the public interest?

80. With regard to varying development standards, the public interest is conceived as being protected where a development meets the objectives of the zone and the development standard sought to be varied. As has been discussed within this report, the development is consistent with the objectives of Clause 4.3 notwithstanding the variation to the numerical standard.
81. The objectives of the B2 - Local Centre zone are provided below:
  - (a) To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in, and visit the local area.
  - (b) To encourage employment opportunities in accessible locations.
  - (c) To maximise public transport patronage and encourage walking and cycling.
  - (d) To allow appropriate residential uses so as to support the vitality of local centres.
82. With regard to the first objective, the development provides a mix of retail, business and residential land uses, and a public park to the south of the site, consistent with the desired future character of the site and surrounds. The land uses are permissible within the zone.
83. With regard to the second objective, the development provides sufficient employment opportunities with opportunities for commercial, office and retail uses.
84. The site is located in an accessible location, within walking distance of public transport for local workers and residents. Redfern and Central Railway Stations are located west and north-west of the site respectively. Both stations provide adjoining bus routes, forming a transport cluster. Central Station also provides a connection to the Sydney Light Rail Network.
85. Two bus stops are located along Cleveland Street, directly in front of the site. Two bus stops are located along Baptist Street. The future South East Light Rail link will include a light rail stop approximately 550m north of the site (on the corner of Marlborough and Devonshire Streets), and the future Waterloo Station, forming part of Sydney Metro, will be located approximately 1.6km south west of the site.

86. With regard to the third objective, the development provides bicycle parking and end of journey facilities for commercial and residential use, encouraging residents and employees to utilise active forms of transport such as walking and cycling.
87. With regard to the fourth objective, the proposed development provides a total of 154 residential units, with the forecasted residential population providing a suitable level of permanent critical mass to support the Surry Hills and Redfern local centre areas.
88. The statement demonstrates that the extent of non-compliance with the 'Height of Buildings' development standard is consistent with the objectives of Clause 4.3 and the B2 - Local Centre zone and is therefore in the public interest.

#### Conclusion

89. For the reasons provided above the requested variation to the 'Height of Buildings' development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the 'Height of Buildings' development standard and the B2 - Local Centre zone.

#### **Clause 4.6 request to vary a development standard - Floor Space Ratio**

90. The site is subject to a maximum floor space ratio of 2:1, with up to an additional 0.3:1 of the building eligible for end of journey facilities. The development provides 193sqm of end of journey facilities at basement levels 2 and 3 for the retail and commercial tenancies, equalling 0.007:1. This equates to a maximum permissible FSR of 2.007:1 (24,573.7sqm).
91. The application proposes an FSR of 2.18:1 (26,698sqm) and an 8.6% variation to the 'Floor Space Ratio' development standard (being 2,124.3sqm).
92. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
  - (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
  - (b) That there are sufficient environmental planning grounds to justify contravening the standard.
93. A copy of the applicant's written request is provided at attachment D.

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

94. The applicant seeks to justify the contravention of the 'Floor Space Ratio' development standard on the following basis:

(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

(i) The statement has referred to the first and third methods of the five part test established in *Webhe v Pittwater Council* [2007] NSW LEC 827 to demonstrate that compliance with the standard is unreasonable or unnecessary. The test seeks to demonstrate that the objectives of the standard are achieved notwithstanding non-compliance with the standard; and the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.

(ii) A summary of the applicant's assessment against the objectives of the control (the first method) are provided below:

*Objective (a): To provide sufficient floor space to meet anticipated development needs for the foreseeable future.*

(iii) The applicant asserts that the anticipated needs in the foreseeable future for the Surry Hills area will be influenced by forecast job growth, a growing population and low vacancy rates within the Sydney CBD. Specifically, the area is forecasted to provide an additional 24,480 jobs by 2036; will increase from 37,480 residents in 2016 to 56,390 residents by 2036; and demand for commercial floor space will be driven by a growing local population and ongoing low office vacancy rates within the Sydney CBD, increasing the demand for floor space in fringe sites (such as Redfern and Surry Hills).

(iv) The proposed development will provide commercial floor space to help accommodate the development needs generated from job and population growth expected for the area in the foreseeable future; and in turn the demand for residential floor space from local workers.

(v) The residential floor space proposed will improve housing choice within the area. The terrace style and residential apartments can accommodate individual and family compositions, contributing to a more diverse residential population, ensuring the area can absorb a greater number of residential needs.

(vi) The residential floor space will assist to meet the needs of Eastern City District Plan, specifically: 1-bedroom units proposed will support housing for single person households, expected to increase by 61,100 by 2036 in the Eastern City District; and 2 and 3-bedroom units will support housing for couple-only households, expected to increase by 31,750 in the Eastern City District by 2036.

*Objective (b): To regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic.*

- (vii) The density of the development is considered reasonable and appropriate, given the location and circumstances of the site in a local centre close to public transport, and given the proposed development creates no unreasonable impacts.
- (viii) There will be no significant additional overshadowing impacts to the existing residential terraces to the west of the site as a result of the additional floor space proposed for Building G (Cleveland Street building).
- (ix) The Traffic Impact Assessment has determined that traffic generation from the proposed development will not have a significant adverse impact on the surrounding road network.
- (x) The FSR proposed for the site is accommodated within the site's overall maximum height limits that apply, and is generally consistent with the requirements of the site-specific controls. Therefore, the proposed development is reasonably scaled in line with the envisioned environmental capacity of the site.
- (xi) A number of design measures have been included to regulate the density of the proposed development, such as an architecturally designed two storey podium that responds to the existing low-density scale of development surrounding the site; upper level setbacks to reduce perceived bulk and scale of the development; and distribution of floor space across 6 individual buildings to reduce an unsightly 'blank wall effect' along the Baptist Street and Marriott Street streetscapes.

*Objective (c): To provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure.*

- (xii) The increased floor space proposed for the site can be accommodated without any undue impact on the capacity of existing and planned infrastructure. The site is in a highly accessible location, being in walking distance (1.5km) from Redfern and Central Railway Stations. Two bus stops are also located along Cleveland Street directly in front of the site, and future light rail stops are in close proximity (550m) of the development.
- (xiii) The intensity of development is therefore considered suitable for the site as the majority of visitors, employees and residents of the site will use public transport for their daily mode of travel. This mode of transport will further be encouraged by the bicycle storage facilities and end of trip facilities provided by the proposed development.

*Objective (d): To ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.*

- (xiv) The site is located in the Cleveland Street Locality Area (Section 2.13.1 of the Sydney DCP 2012). The additional floor space proposed is the result of Building G becoming a commercial building (rather than residential as envisioned by the site-specific planning controls). Notwithstanding, the additional floor space will not cause Building G to become inconsistent with the Cleveland Street Locality Area. Specifically:
- Building G continues to provide ground floor retail along Cleveland Street and does not reduce the amount of residential floor space on the site, or the number of residents that can be accommodate within the site.
  - Deliberate design development and materiality responds to, and continues to complement, the existing heritage items surrounding the site. The proposal retains and restores the former Bank of NSW Building located on the corner of the site, reinstating its original integrity and reflects more broadly, the ongoing commitment to conserving the heritage character of the locality. The development provides street landscaping to confirm the existing pattern of street planting in the locality; and uses materiality which responds to Surry Hills predominantly masonry-built fabric.
  - Upper level setbacks are utilised to reduce the perceived bulk and scale of the development when compared to the existing surrounding terrace housing, shopfronts and laneways within the surrounding Baptist Street heritage conservation area.
  - The proposed terrace housing along Marriott Street and retail outlets along Cleveland and Baptist Streets will provide street activation.
  - A range of building heights across the site are provided. Heights along Marriott Street are proposed to be lower than those along Baptist Street to ensure greater sympathy and amenity for existing low scale residential terraces to the west.
- (xv) A summary of the applicant's statement with regard to the underlying object or purpose would be defeated or thwarted if compliance with the development standard was required and therefore compliance is unreasonable (the third method) is provided below:
- (xvi) Strict compliance with the development standard would likely result in Building G (Cleveland Street) being reverted back to residential use, or designed with smaller commercial floor plates which would not align to the identified demand for residential and commercial floor space.
- (xvii) Strict compliance with the development standard would reduce the diversity of commercial and retail uses sought in the locality statement for Cleveland Street, and would specifically fail to achieve objectives (a) and (d) of the 'Floor Space Ratio' development standard.
- (xviii) Reducing opportunities for residents to live and work locally would likely increase the need for more trips outside the area. This would inevitably increase the number of vehicle and pedestrian movements which is contrary to objective (b) of the 'Floor Space Ratio' development standard.

- (xix) The capacity of existing and planned infrastructure can support the intensity of the development proposed with manageable impacts consistent with objective (c) of the 'Floor Space Ratio' development standard.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The statement considers five environmental planning grounds to justify contravening the standard, all of which relate to Building G (Cleveland Street) as it is the element of the proposal which causes the non-compliance. The justifications detail: that the development will help satisfy demand for commercial floor space within Surry Hills, that the proposal has minimal impact compared to a compliant building envelope (in terms of overshadowing, privacy and heritage impact), that the development results in improved residential amenity within the site, that there are social and economic benefits from the variation, and the site is suitable for the proposed development.

*Demand for commercial floor space within Surry Hills*

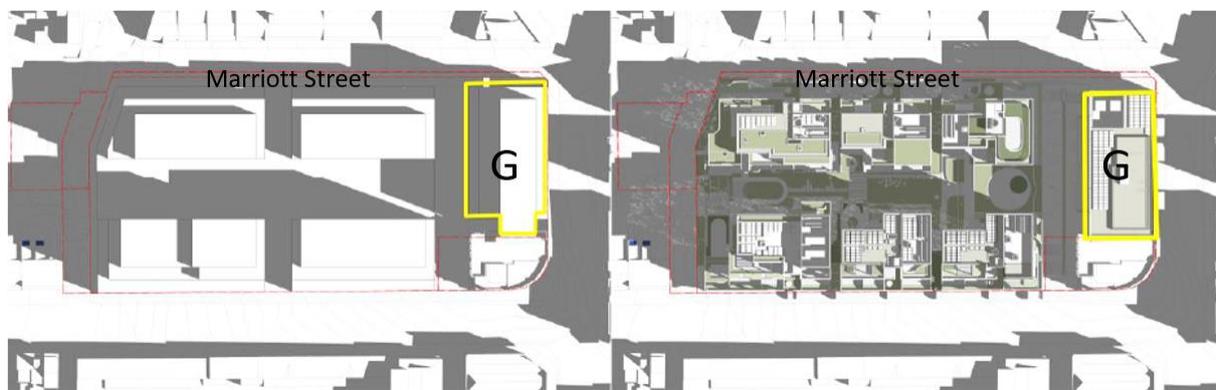
- (ii) The site is within an area forecast to experience significant job growth, driven by a growing population and ongoing low office vacancy rates within the CBD. Building G will provide employment generating land uses which will assist to accommodate this forecast growth.
- (iii) Building G provides floor plates which are between 650sqm and 950sqm. An examination of historical and current rental listings between 2015 and 2018 illustrates a gap in the market for offices with these size floor plates in the Surry Hills and Redfern area. The application is accompanied by a Social and Economic Benefit statement containing data about commercial rentals in Surry Hills and Redfern over the specified period.
- (iv) The proposed supply of floor space between 650sqm and 950sqm in Building G can also assist in the retention of established medium sized businesses in the locality.
- (v) If Building G were to provide smaller floor plates, the proposed development could comply with the 'Floor Space Ratio' development standard, but it would not meet market demand for commercial floor space between 650sqm and 950sqm. The benefits associated with providing in demand, yet undersupplied, floor space and retaining existing business within the Surry Hills and Redfern area would be lost.

*Impacts on surrounding development*

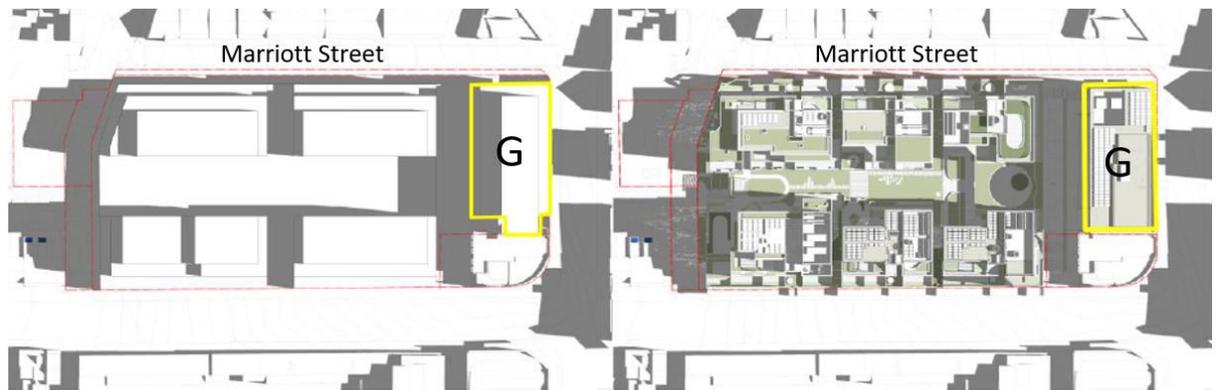
- (vi) The applicant has prepared a shadow analysis to determine the additional impact of the proposal on the existing low scale terraces directly to the west of Building G, compared to a compliant building envelope. The analysis has been undertaken during the winter solstice.



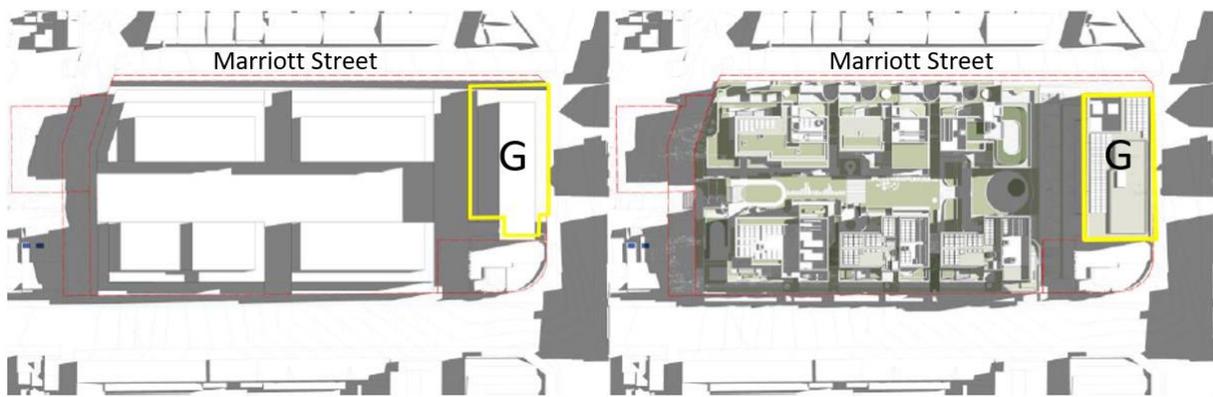
**Figure 40:** Building G DCP envelope (left) and Building G proposed (right) at 9:00am, winter solstice.



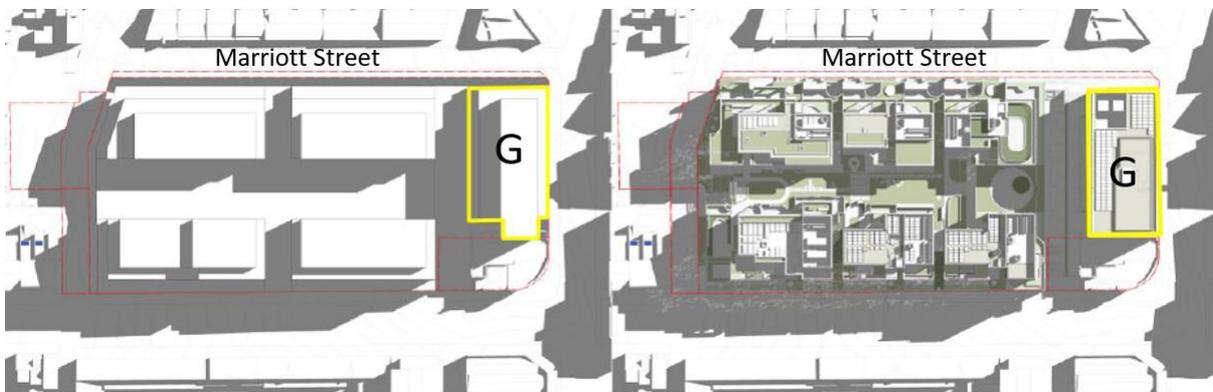
**Figure 41:** Building G DCP envelope (left) and Building G proposed (right) at 10:00am, winter solstice.



**Figure 42:** Building G DCP envelope (left) and Building G proposed (right) at 11:00am, winter solstice.



**Figure 43:** Building G DCP envelope (left) and Building G proposed (right) at 12 midday, winter solstice.



**Figure 44:** Building G DCP envelope (left) and Building G proposed (right) at 1:00pm, winter solstice.

- (vii) The analysis demonstrates that the existing residential terraces along Marriott Street are subject to overshadowing between 9:00am and 10:00am. This occurs regardless of whether Building G was to be developed as proposed, or in accordance with the site-specific controls.
- (viii) Whilst Building G as proposed does increase the extent of overshadowing to these terraces on Marriott Street, it lasts for one hour during the winter solstice, and on balance is considered to be a nominal additional adverse impact in terms of overshadowing to surrounding development.
- (ix) In addition to the above, the proposed commercial land use of Building G will remove a habitable interface from the Marriott Street frontage, and any potential issues associated with visual privacy to the residential terraces to the west.
- (x) Building G is adjacent to the former Bank of NSW Building, a heritage item located on the corner of the site to Cleveland and Baptist Streets. Building G has been designed so that it provides appropriate separation and is sympathetic to the significance of the heritage item. The scaling and detail of Building G does not dominate the heritage item, and the sense of scale of the heritage item is not lost.

*Improved residential amenity*

- (xi) The competitive design process for the site envisioned Building G as a residential use. A recommendation from the Design Excellence Panel, inter alia, was to reconsider the use of Building G due to its location fronting Cleveland Street.
- (xii) A non-residential use is more appropriate to Cleveland Street as residential units would experience a lower level of amenity, caused from the ongoing traffic and activity along the street front.
- (xiii) The commercial use of Building G is considered a better planning outcome, separating residents from Cleveland Street, and better responds to the constraints of the active streetscape.

*Social and economic benefits*

- (xiv) The floor plates proposed for Building G will help reduce the current undersupply of office floor space within the fringe CBD and improve employment opportunities within Surry Hills and Redfern. This will provide an opportunity to deliver an office product which allows emerging and small business to evolve within Surry Hills / Redfern and provide opportunities for medium-sized business to remain in the area. This could not be achieved if the floor plates for Building G were reduced to below 650sqm to ensure a development compliant with the 'Floor Space Ratio' development standard.

*Site suitability*

- (xv) The amount of commercial floor space within Building G is appropriate to the site's zoning and location within the Surry Hills Town Centre. The site is highly accessible, in walking distance to a range of existing and future transport options, and is consistent with the existing commercial land use pattern running east and west along Cleveland Street.

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

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

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

96. The applicant has correctly referred to the test established by Preston CJ in *Wehbe v Pittwater* to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. Specifically, the applicant has addressed the first part of the test by demonstrating that the development meets the objectives of Clause 4.4, notwithstanding non-compliance with the numerical standard; and has addressed the third part of the test by addressing that the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.
97. A detailed discussion of the applicant's submission with regard to the objectives of the 'Floor Space Ratio' development standard has been provided and satisfies the test under Clause 4.6(3)(a), in that compliance with the 'Floor Space Ratio' development standard, to the extent of the variation proposed, is unreasonable and unnecessary.

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

98. The statement provides environmental planning grounds specific to the circumstances of the site to justify the extent of non-compliance with the 'Floor Space Ratio' development standard. In particular, the non-compliance is the result of the change of use of Building G from residential (as envisioned under the site-specific controls), to the more appropriate commercial land use given its frontage to Cleveland Street, a State road connecting East and Inner Western Sydney.
99. The statement gives particular attention to the demand for commercial floor space in the immediate area being satisfied by the proposed commercial land use, the minimal impact of the non-compliant floor space (in terms of overshadowing, visual privacy and heritage), improved residential amenity within the site, the social and economic benefits of Building G and the suitability of the site fronting Cleveland Street for commercial use.
100. The applicant has therefore demonstrated that there are sufficient environmental planning grounds to support the extent of the variation proposed.

Is the development in the public interest?

101. With regard to varying development standards, the public interest is conceived as being protected where a development meets the objectives of the zone and the development standard sought to be varied. As has been discussed within this report, the development is consistent with the objectives of Clause 4.4 notwithstanding the variation to the numerical standard.
102. The objectives of the B2 - Local Centre zone are provided below:
  - (a) To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in, and visit the local area.
  - (b) To encourage employment opportunities in accessible locations.
  - (c) To maximise public transport patronage and encourage walking and cycling.
  - (d) To allow appropriate residential uses so as to support the vitality of local centres.
103. The applicant has replicated their response to the non-compliance with the 'Floor Space Ratio' development standard with regard to the objectives of the B2 - Local Centre zone. For completeness, the response has been reproduced below.

104. With regard to the first objective, the development provides a mix of retail, business and residential land uses, and a public park to the south of the site, consistent with the desired future character of the site and surrounds. The land uses are permissible within the zone.
105. With regard to the second objective, the development provides sufficient employment opportunities with opportunities for commercial, office and retail uses.
106. The site is located in an accessible location, within walking distance of public transport for local workers and residents. Redfern and Central Railway Stations are located west and north-west of the site respectively. Both stations provide adjoining bus routes, forming a transport cluster. Central Station also provides a connection to the Sydney Light Rail Network.
107. Two bus stops are located along Cleveland Street, directly in front of the site. Two bus stops are located along Baptist Street. The future South East Light Rail link will include a light rail stop approximately 550m north of the site (on the corner of Marlborough and Devonshire Streets), and the future Waterloo Station, forming part of Sydney Metro, will be located approximately 1.6km south west of the site.
108. With regard to the third objective, the development provides bicycle parking and end of journey facilities for commercial and residential use, encouraging residents and employees to utilise active forms of transport such as walking and cycling.
109. With regard to the fourth objective, the proposed development provides a total of 154 residential units, with the forecasted residential population providing a suitable level of permanent critical mass to support the Surry Hills and Redfern local centre areas.
110. The statement demonstrates that the extent of non-compliance with the 'Height of Buildings' development standard is consistent with the objectives of Clause 4.3 and the B2 - Local Centre zone and is therefore in the public interest.

#### Conclusion

111. For the reasons provided above the requested variation to the 'Floor Space Ratio' development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of 'Floor Space Ratio' development standard and the B2 - Local Centre zone.

#### Competitive Design Alternatives Process

112. Following the implementation of the site specific controls, the applicant commissioned a competitive design alternatives process for the site.
113. Presentations were given to the Selection Panel in September 2017. Following the presentations by all competitors, SJB, Studio Prineas and Aspect Studios were identified as the preferred scheme. On 15 June 2018, the Selection Panel concluded that the scheme was capable of achieving design excellence. The proposal was considered to be of high quality, demonstrating a thorough and thoughtful understanding of the area, with a "delightfully whimsical" architectural language and sophisticated thinking in the relationship of public and private spaces.
114. The Selection Panel identified a number of items to be retained throughout design and development, and recommended further design refinement.

115. The development is generally consistent with the recommendations of the Selection Panel, which are included in attachment E. Further discussion is provide with regard to the following matters, with a response following:

*Trees, particularly those on the corner of Cleveland and Marriott Streets, to be maintained where possible for community benefit.*

- (a) The application proposes to retain the majority of street trees, however all trees within the site are to be removed to make way for the redevelopment of the site. The proposal has been amended over the course of the assessment to provide deep soil to the corner of Cleveland and Marriott Streets, allowing for the planting of palm trees which meet the intent of the Selection Panel's comments. It is recommended that the palm trees be replaced with a tree species more appropriate to the site.

The proposal was reviewed by the City's Tree Management Unit who advised that the overall removal and replacement of trees was an acceptable outcome for the site and surrounds, and appropriate standard conditions are recommended.

*Revise/confirm drawings demonstrate SEPP 65 and ADG compliance, with particular attention to natural ventilation, natural cross ventilation and achieving suitable acoustic amenity within apartments.*

- (b) Additional information has been provided during the assessment of this application confirming general compliance with natural ventilation, natural cross ventilation and acoustic amenity to apartments within the development. As noted elsewhere in this report, conditions are recommended to address natural cross ventilation (via the provision of windows within the wings to take advantage of prevailing winds).

*The suitability of the residential building fronting Cleveland Street.*

- (c) The Cleveland Street building (Building G) has been revised as part of the detailed design DA to contain commercial and retail uses only. As discussed elsewhere in this report, this is considered to be a superior planning outcome compared to a residential development given the amenity impacts of its location adjacent to a major arterial road.

*Further consideration of another layer of texture/colour/materiality to the upper level facades.*

- (d) In amended plans received on 20 May 2019, the facades of the residential buildings, particularly to Baptist Street, were redesigned to provide further articulation and distinction between the podium and upper levels. In particular, the materiality was lightened in tone, with the inclusion of bagged brick, and popped windows were introduced to increase glazing. The design amendments are considered to satisfactorily address the Selection Panel's comment with regard to the facade.

*Review ground plane and common areas / a clear statement on public vs private needs to be made to ensure the residential communal spaces don't intersect with public circulation and to avoid over-use of gating within communal spaces.*

- (e) Amendments have been made to the scheme to provide a consolidated area of communal open space within the development that still achieves the intent of the winning design competition scheme with regard to the relationship of private and public open spaces. Clear demarcation has been provided between private terraces and communal open space, and security access is required for residents entering the communal open space from the through-site link.

*Demonstrate deep soil zones and design detail to achieve ambitious landscaping/greening vision.*

- (f) Deep soil areas are equal to 301.3sqm or 2.6% of the site which is considered appropriate in this instance given the site constraints (particularly the need for a replacement supermarket to service the local community). The proposal provides generous green roofs to offset the lack of deep soil. With dedicated areas included in the calculation, deep soil increases to 1,156.9sqm or 9.44% of the entire site, well in exceedance of the 7% requirement of the ADG.

Concerns were raised by City staff during the assessment of the application with regard to the viability of landscaped areas over concrete slabs in terms of soil depth and volume and species of plants proposed. Amendments were submitted on 20 September 2019 demonstrating that the proposal is capable of providing generous landscaping within the site. Appropriate conditions are recommended to ensure that these elements of the design can be achieved and carried through to occupation of the development.

*Demonstrate sunken terraces have good security and access to light and air.*

- (g) The sunken terraces have been removed from the proposal due to amenity concerns.

### **Design Advisory Panel**

116. The application was presented to the Design Advisory Panel on 13 December 2018 and 14 March 2019. The Panel raised concerns during the first review of the proposal relating to the street wall height non-compliance, as well as the lack of communal open space and deep soil; and recommended a reconsideration of the architectural aesthetics of the overall development.

117. The proposal was redesigned to recess the lift cores (so that they did not protrude beyond the permitted street wall height), and changes to the facade were made to provide a distinction between the podium and upper levels.

118. The second presentation sought feedback on the preliminary design amendments made in response to the initial recommendations, and the following advice was provided:

- (a) *The design has been amended to incorporate previous DAP advice. Lift cores have been recessed so that they are not visible from the Baptist Street elevation, footpaths have been widened and building setbacks have been increased. On the southern edge of the site at street level, the retail space has been converted to residential.*

Response: These design changes have been carried through to the final amendments made to the proposal.

- (b) *While generally supportive of the scheme, the Panel noted that the building form still protruded into the centre of the communal open space, dividing the communal courtyard and reducing outlook. In addition, privacy of apartments located in the protrusion is compromised from all three sides.*

Response: One wing has been removed from the development, and the wing of Building C has been significantly reduced to provide a consolidated area of communal open space. See comparison between the original proposal, and the amended plans received 20 September 2019 below.

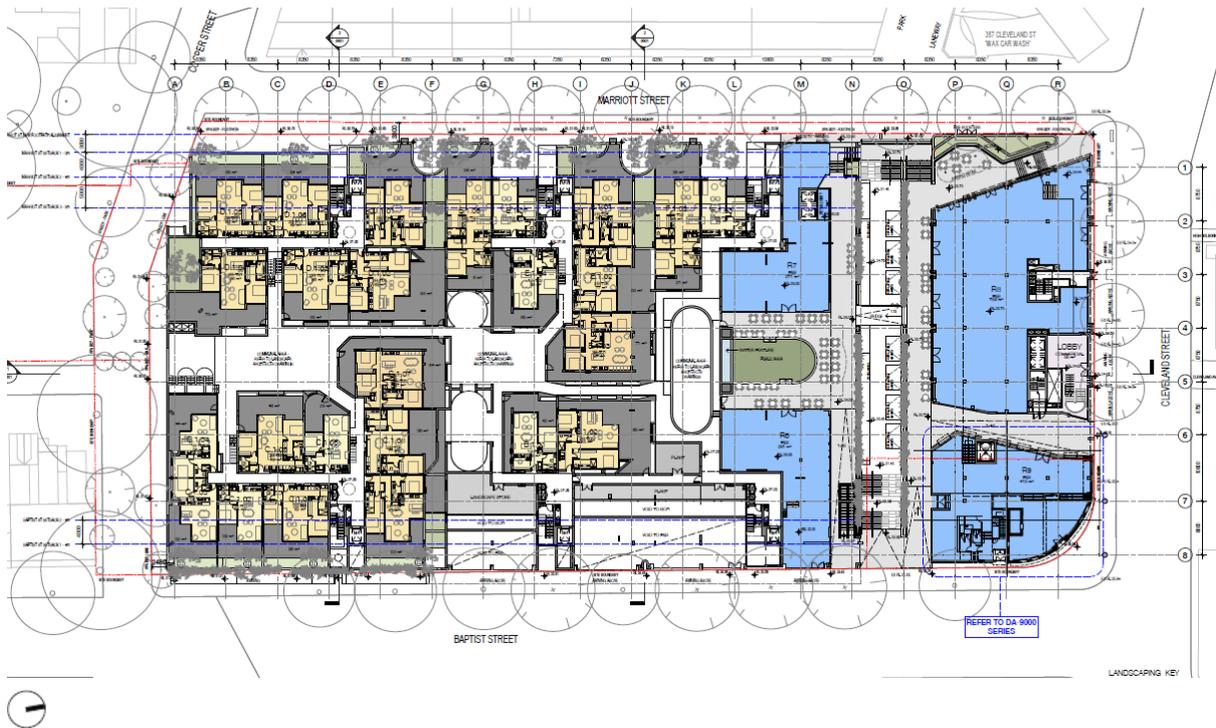
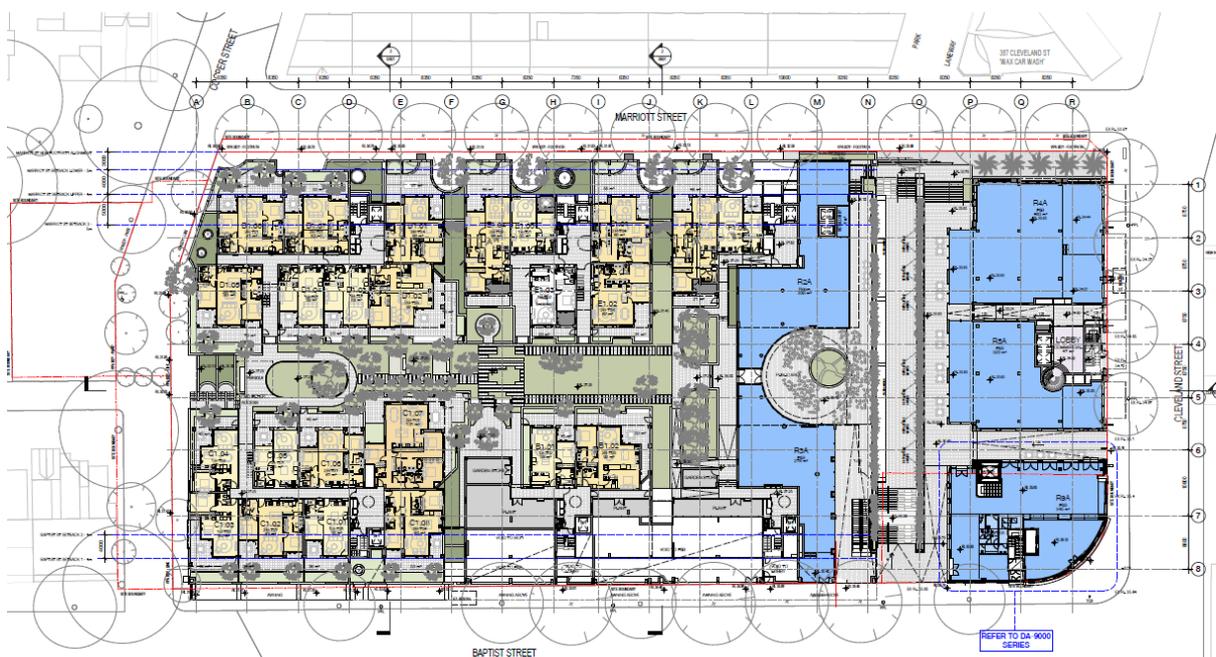


Figure 45: Original level 1 floor plan



**Figure 46:** Proposed level 1 floor plan (20 September 2019)

- (c) It is acknowledged that privacy of the apartments is a concern, and conditions are recommended to address these impacts as discussed elsewhere in this report.
- (d) *Regarding the Marriott Street terraces, the Panel noted a lack of transparency on the street elevations. Visual access into and out of the terraces should be increased, and forms to be adjusted to optimise amenity for the occupants.*

Response: The proposal has been amended to remove the sunken terraces, therefore providing courtyards at ground level that optimise amenity and allow visual access into and out of the terraces on Marriott Street.

- (e) *The Panel agreed with the strategy to make the commercial building on Cleveland street a recessive element, however noted that more design development is required and careful investigation into appropriate facade systems to integrate with the street front facades below, and promote excellent environmental design is needed.*

Response: The design presented to DAP in its preliminary form was overly glazed, and City Staff agreed that it did not successfully integrate with the podium facade below. Amendments have since been made, proposing a cross laminated timber (CLT) structure clad in a textured masonry facade that references the historical Surry Hills warehouse buildings, and responds to the materiality and character of the former Bank of NSW Building within the site. The depth of the facade achieves passive shading, as recommended by DAP. See below a comparison between the preliminary and the proposed design of Building G.



**Figure 47:** Preliminary design amendments to Building G (facing Cleveland Street)



**Figure 48:** Proposed photomontage of Building G depicting the proposed CLT structure (internally) and the exterior brick cladding.

The amended design response is considered to be a superior outcome compared to both the original proposal and the preliminary response to DAP.

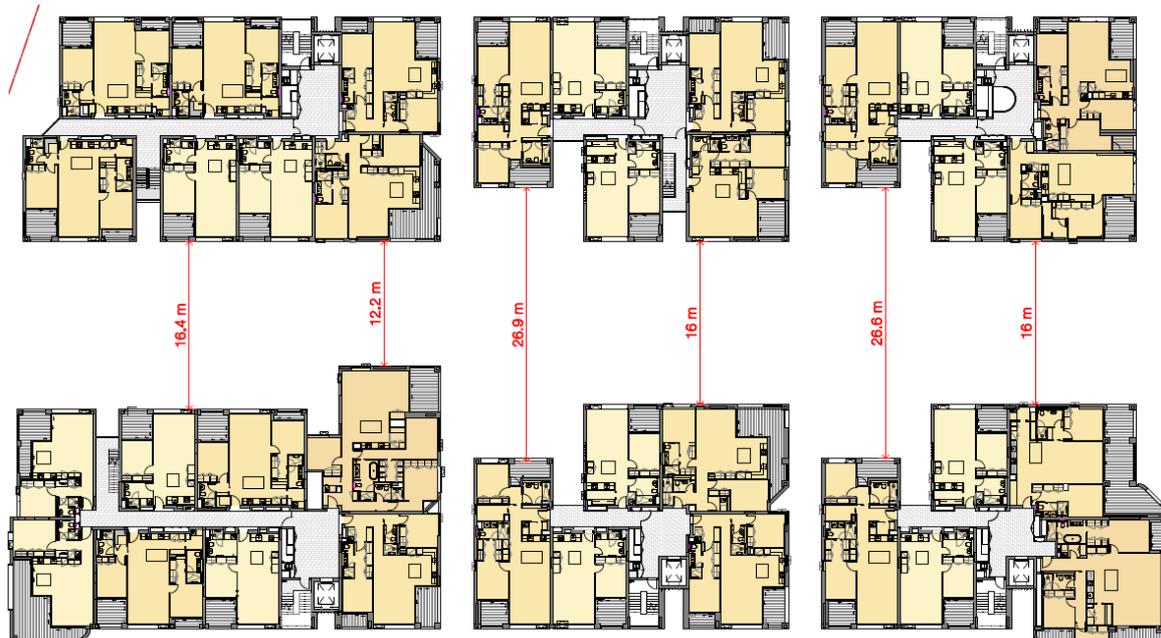
- (f) *Issues regarding vehicle access onto the site and community concerns regarding increased traffic volumes was raised. The Panel support in principle, the proposal to restrict service and delivery to time-controlled access via Baptist Street off Cleveland Street and requested Council negotiate this with RMS. Parking and residential traffic concerns are to be further investigated and resolved in a separate forum. If changes are necessary to the location of site vehicle entries, those changes are to be referred back to the Panel.*

Response: The concerns raised by DAP are noted. RMS support the removal of the 'No left turn' at the Cleveland Street and Baptist Street intersection to improve access to the subject site, and minimise construction vehicle impacts to surrounding properties. No changes are proposed to the location of site vehicle entries.

### **Building Separation**

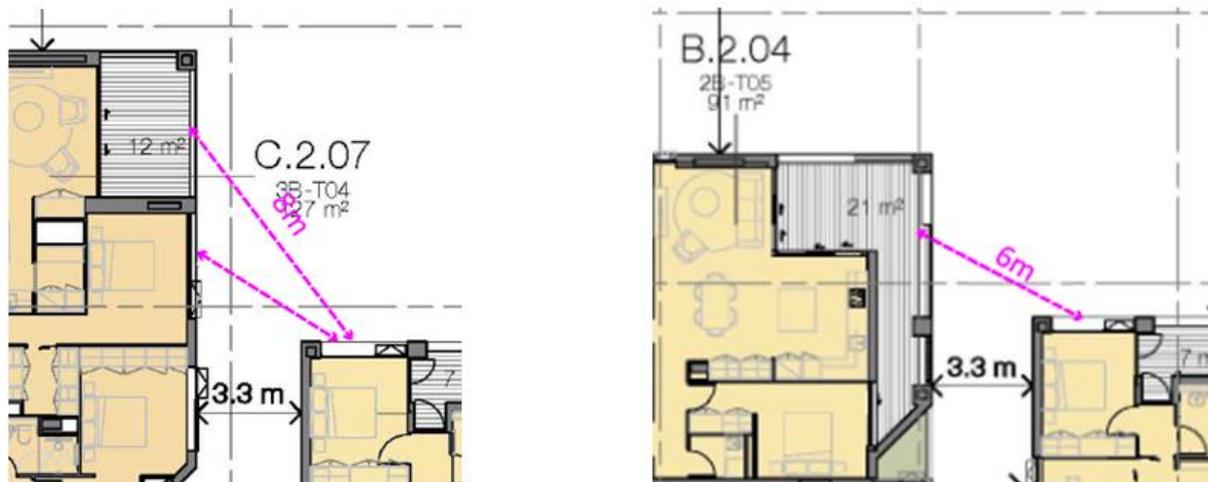
119. Objective 2F of the ADG considers building separation to assist with visual and acoustic privacy, outlook, natural ventilation and daylight access within apartments, and ensures communal and private open spaces can have useable space with landscaping, deep soil and adequate sunlight and privacy.
120. Habitable room windows and balconies for the subject development are to be setback between buildings by 12 metres up to four storeys, and 18 metres from five to eight storeys.

- 121. Objective 3F-1 of the ADG specifically requires visual privacy to be provided with habitable room windows and balconies to be setback from side and rear boundaries by 6 metres up to four storeys, and 9 metres from five to eight storeys in this instance.
- 122. The building height is taken from the podium (level 1) when assessing separation between the buildings, as this is the level where apartments within the different buildings across the site face each other. The Marriott Street buildings are 4 storeys high from the podium, and the Baptist Street buildings are 7 storeys high from the podium. Therefore the separation between buildings is required to be a minimum of 12 metres between habitable rooms and balconies.



**Figure 49:** Typical lower floor level within the development depicting separation distances between buildings.

- 123. Generally, building separation complies when measured parallel between habitable rooms and balconies. However, it is the angled relationships between openings that do not comply. There are oblique sightlines between habitable rooms and balconies of apartments of between 6 and 8 metres, with the potential for noise transfer.



**Figure 50:** Oblique sightlines between balconies and bedrooms, and between bedrooms.

124. Given that the privacy impacts are at an oblique angle between buildings, the concerns can be addressed via the installation of perpendicular screening to the bedrooms. In the diagram above, screens would be required to the two bedrooms of C.2.07, and the bedroom to the north of B.2.04. An appropriate condition is to be imposed reflecting this requirement for the bedroom of apartments A.2.02, A.3.02, A.4.02, A.5.02, A.6.02, B.2.02, B.3.02, B.4.02, B.5.02, C.2.07, C.3.07, C.4.05, C.5.05, E.2.04, E.3.05, F.2.04 and F.3.04.

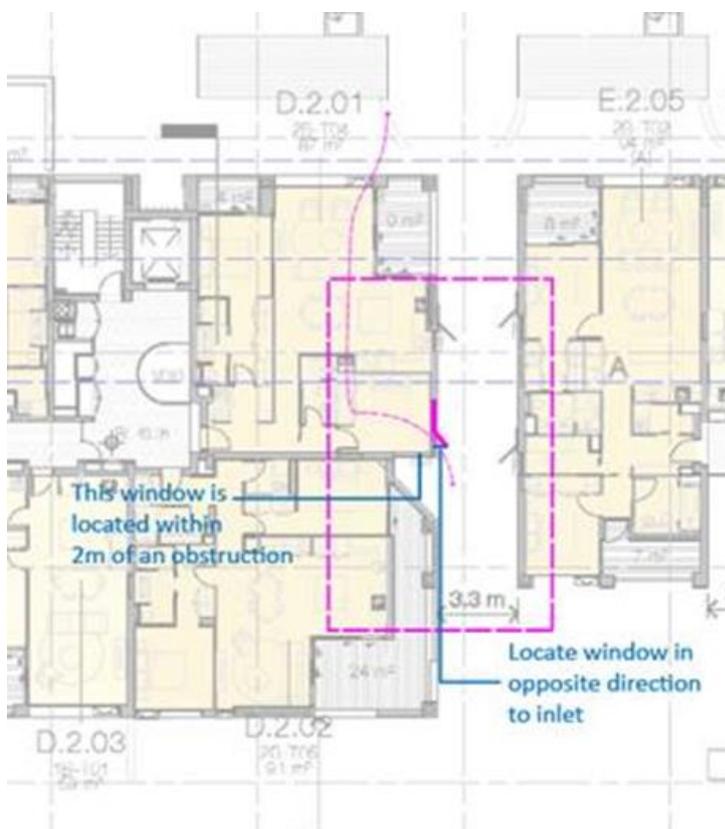
#### **Solar Access (to the apartments)**

125. The proposal achieves 61% solar access, whereby 94 out of 154 residential apartments receive a minimum of 2 hours direct sunlight to living areas and private open space between 9am and 3pm in midwinter. Objective 4A-1 of the ADG requires at least 70% to achieve at least 2 hours solar access.
126. The development achieves 2.6% (or 4 out of 154) apartments that receive no direct sunlight between 9am and 3pm at midwinter, which complies.
127. The sun's eye views submitted with the application demonstrate that the angle of the sun starts becoming oblique at approximately 10:45am at the winter solstice for east facing facades. As such, it is not possible for apartments relying on the eastern facade for solar access to achieve 2 hours. Rather, apartments facing Baptist Street and the eastern facade of the internal courtyard achieve 1 hour 45 minutes (apartments A.01, A.02, A.04, B.01, B.02, B.05, C.01, C.02, C.03, C.06, C.08, D.03, D.04, D.05, F.02 and F.03 at most levels within the development).
128. Whilst it is acknowledged that the proposed 61% solar access is a variation to the design criteria of Objective 4A-1 of the ADG, the proposal has been assessed as acceptable in this instance.
129. Compliant solar access is difficult to achieve given the site-specific controls allow for more height on the eastern side of the site (both Baptist Street and the internal courtyard elevation), and therefore more apartments. This, coupled with the design development since the winning scheme of the competitive design process removing the north-facing, east-west wings within the communal open space, and the proposed additional depth of Building G to Cleveland Street create obstacles in achieving ADG compliance in this regard.

130. The removal of the north-facing, east-west wings within the development allow for the communal open space in the centre of the site to achieve solar access in accordance with Objective 3D-1. Additionally, the commercial building now proposed to Cleveland Street is considered a better planning and amenity outcome compared to the residential flat building envisioned as part of the site-specific planning controls. Being located on a main arterial road means that a commercial building fronting Cleveland Street is better suited compared to a residential use.
131. The site faces a number of competing priorities, and the assessment of City staff, is that the proposal has maximised the potential solar access in terms of apartment planning and layouts.

### Cross Ventilation

132. Objective 4B-3 of the ADG requires at least 60% of apartments to be naturally cross ventilated. The proposal achieves 73.4%, where 113 of 154 apartments are capable of complying.
133. There are apartments that rely on 3.3m slots (in the wings of the development) with angled windows to capture wind for cross ventilation. Some of these windows are angled in the wrong direction, meaning that they have limited exposure to prevailing winds. These apartments face a wall located 3 metres away, and are deep within a slot.
134. For example, apartment D2.01 is located within 2 metres of an obstruction (being the corner of a balcony) and requires a window in the opposite direction to the inlet. See below:



**Figure 51:** Plan of Building D and Building E wings depicting cross ventilation solution

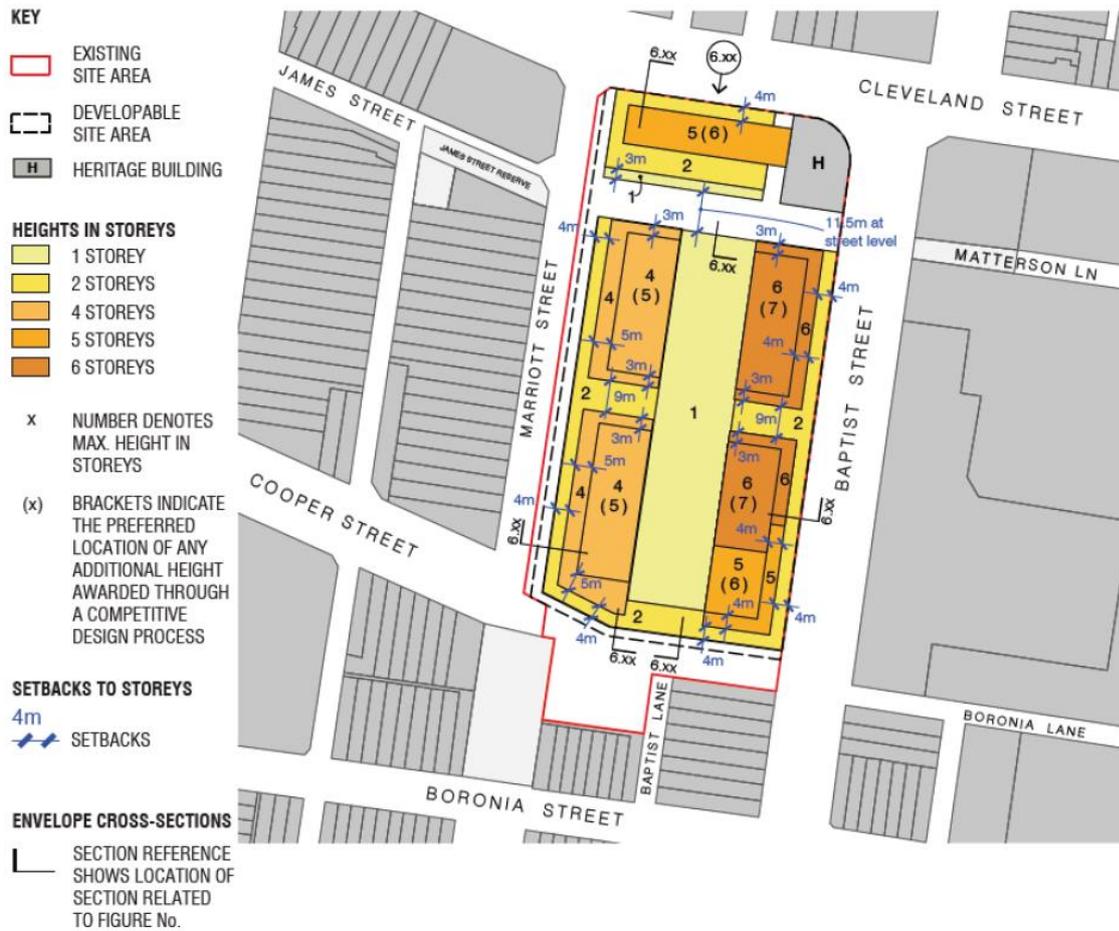
135. The apartments affected are B2.05/3.05/4.05/5.05/6.05; C2.07/3.07/4.05/5.05; D1.01/2.01/3.01/3.04; and E1.01/1.02/2.01/2.02/3.01/3.02.
136. An appropriate condition addressing natural cross ventilation is recommended.

### **Building Height in Storeys and Landscape Setbacks**

137. The Sydney LEP 2012 requires the preparation of a site-specific development control plan before any development is carried out on the site. Site-specific controls, requiring amendments to the Sydney LEP 2012 and the Sydney DCP 2012 came into effect on 24 August 2018.
138. The proposal does not comply with building height in storeys (in terms of the street wall / lower building heights within the site) identified in Figure 6.54 of Section 6.2.8 (the site-specific controls) of the Sydney DCP 2012; and does not provide the full 2.5m and 3 metre landscape setbacks required by Figure 6.53 to the new laneway at the south of the site and Marriott street respectively. A discussion of the non-compliances with building height in storeys and landscape setbacks is provided below.

#### *Building Height in Storeys*

139. Figure 6.54 of Section 6.2.8 of the Sydney DCP 2012 sets out the permitted height in storeys for each building within the site, with the exception of the former Bank of NSW Building, where additional storeys are not encouraged.
140. The development complies with the overall height in storeys permitted for the site, however has proposed variations to the street wall height. Figure 6.54 depicting the permitted height in storeys for the site, and the proposed height in storeys are provided below.



**Figure 52:** Figure 6.54 from Section 6.2.8 of the Sydney DCP 2012 depicting the permitted height in storeys and setbacks for the subject site



**Figure 53:** Proposed height in storeys and setbacks for the subject development application.

141. Combined LEP and DCP building envelope non-compliances are provided below.

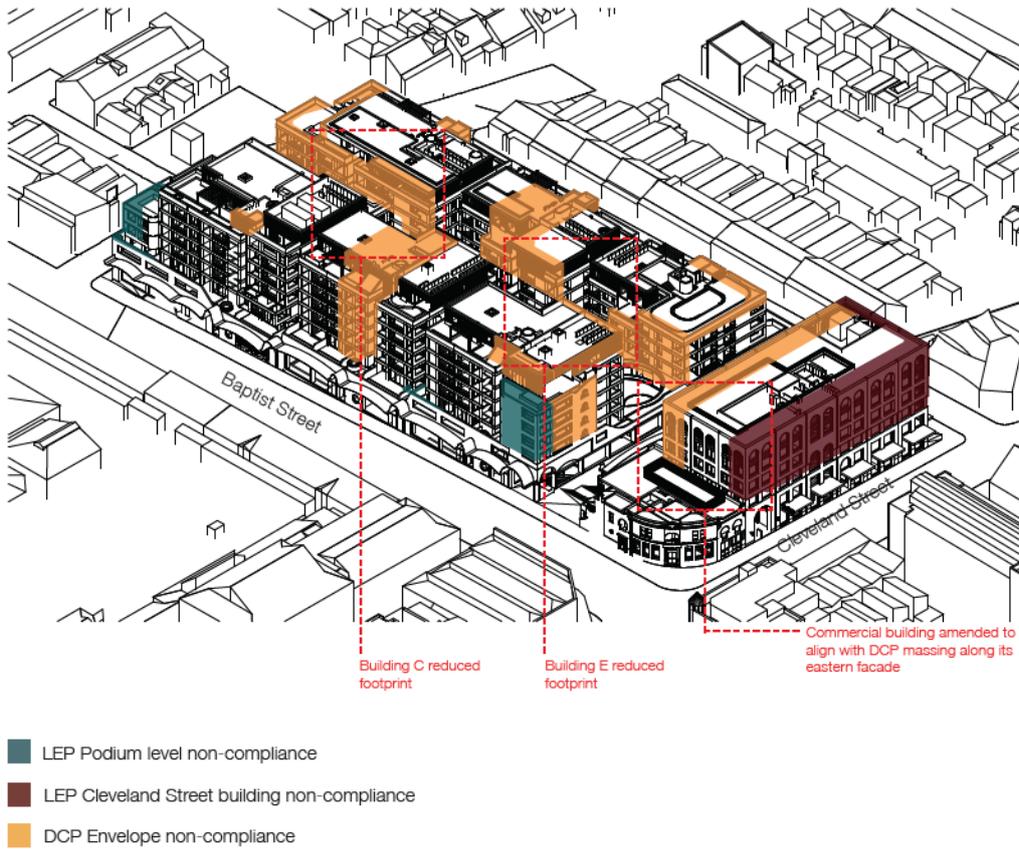


Figure 54: Proposed envelope non-compliances - Baptist Street view

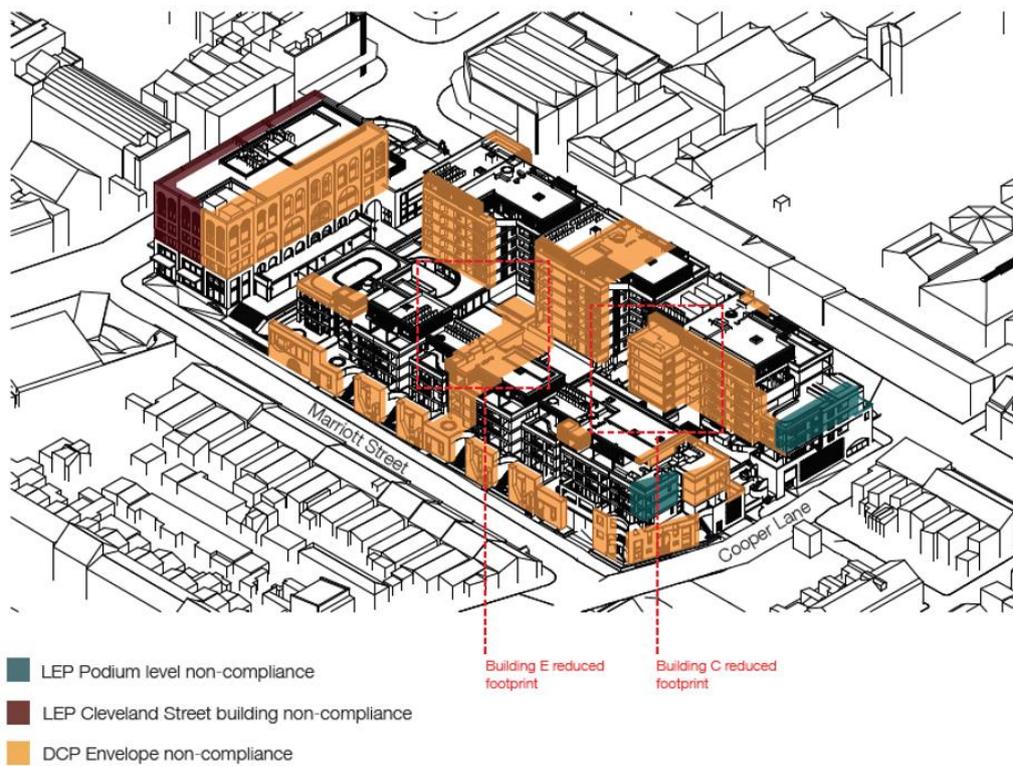


Figure 55: Proposed envelope non-compliances - Marriott Street view

142. The above diagrams demonstrate that the non-compliances relate to:
- (a) The Cleveland Street commercial building 'G', not providing the required street wall height in storeys (both to Cleveland Street and internal to the site);
  - (b) The Marriott Street terraces, whilst being two storeys in height, structures encroach into the required 3 metre landscape setback;
  - (c) In some instances along both Marriott Street and Baptist Street, the breaks between each building have not been provided strictly in accordance with the location of breaks sited in Figure 6.59; and
  - (d) Some building structures encroach onto the communal open space internal to the site.
143. The Marriott Street landscape setback non-compliance is addressed in greater detail below under 'Landscape setbacks'.
144. The overall form is generally consistent with the maximum building height in storeys permitted for the site. Whilst not strictly in accordance with the site-specific controls, the development continues to achieve the intent of the required building height in storeys by:
- (a) Positioning the lowest heights along Marriott street to minimise overshadowing impacts to existing low scale terraces west of the site;
  - (b) Designing Building G to Cleveland Street so that it provides a positive contribution to the activation of Cleveland Street, and responds appropriately to the masonry-built character of the streetscape and the adjoining heritage item within the site;
  - (c) Positioning the tallest building elements along Baptist Street and Cleveland Street north, enabling the development to provide an appropriate height transition to the south-east corner of the site to the existing low scale terraces on Baptist Street; and
  - (d) Incorporating appropriate building articulation addressing the street wall heights and upper level setbacks across the site to reduce the perceived scale of the development; and
  - (e) Projecting building envelopes into the central open space area to create distinct areas of communal open space as envisioned by the winning design competition scheme.
145. The proposal as currently designed does not generate any substantial or significantly adverse environmental impact compared to a compliant building envelope as demonstrated elsewhere in this report. The non-compliances with the building height in storeys control is considered acceptable in this instance and is supported.

#### *Landscape setbacks*

146. The Marriott Street terraces, whilst being two storeys in height as required by Figure 6.54, structures encroach into the required 2.5 and 3 metre landscape setbacks set out by Figure 6.53 of Section 6.2.8 of the Sydney DCP 2012. Figure 6.53, and the non-compliance with setbacks are reproduced below.

Figure 6.53  
Dedications,  
easements  
and landscape  
setbacks

- BOUNDARY CONDITIONS**
- EXISTING SITE BOUNDARY
  - EXTENT OF DEVELOPABLE SITE AREA
- DEDICATIONS**
- A FOOTPATH WIDENING - 279 SQ. M.
  - B PEDESTRIAN/CYCLE PATH - 9M. WIDE, 294 SQ. M.
  - C SHARED ZONE - 9M. WIDE, 316 SQ. M.
  - D OPEN SPACE - 517 SQ. M.
- EASEMENTS**
- 1 6.5M. WIDE THROUGH-SITE LINK ONE STOREY BELOW STREET LEVEL OPEN TO SKY
  - 2 11.5M. WIDE THROUGH-SITE LINK AT STREET LEVEL OPEN TO SKY
  - 3 6M. WIDE INTERNAL PEDESTRIAN LINK AT STREET LEVEL - 2 STOREY INTERNAL HEIGHT
- LANDSCAPE SETBACKS**
- a 3M. SETBACK TO MARRIOTT STREET
  - b 2.5M. SETBACK TO SOUTH BOUNDARY



Figure 56: Figure 6.53 from Section 6.2.8 of the Sydney DCP 2012 depicting the required dedications, easements and landscape setbacks for the site. The non-compliant landscape setbacks are highlighted by red dashed lines.

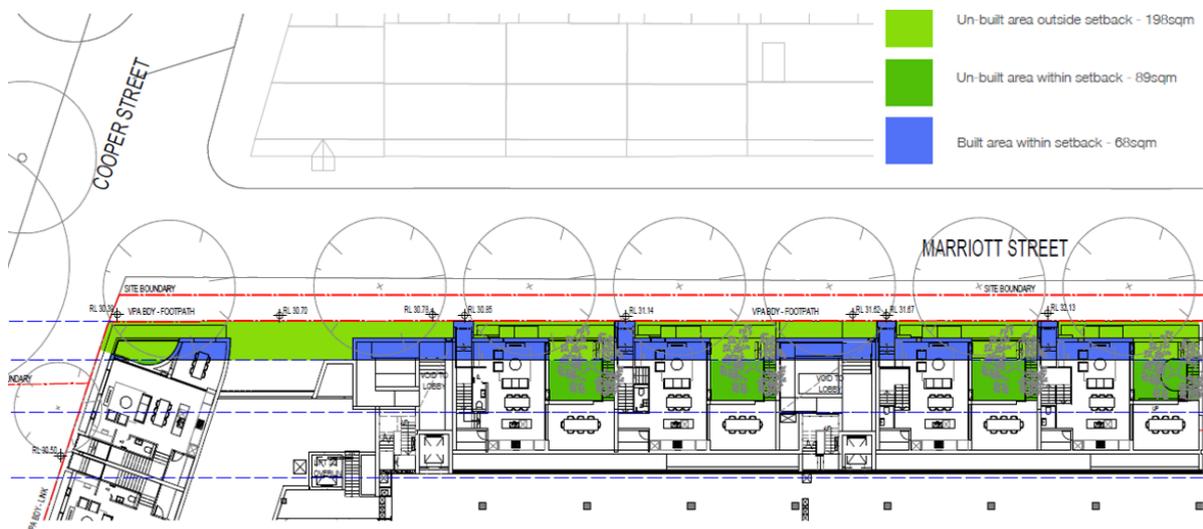


Figure 57: Proposed lower ground floor plan depicting the 3 metre required setback to Marriott Street, with built and unbuilt areas highlighted.

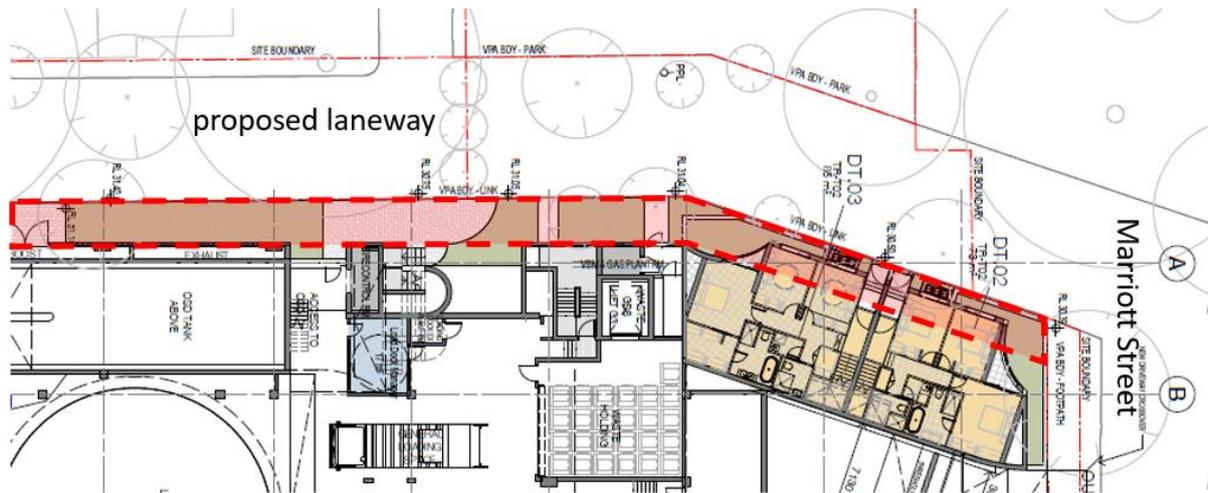


Figure 58: Proposed lower ground floor plan depicting the 2.5 metre required setback to the proposed laneway, with built and unbuilt areas highlighted by red dashed lines.

147. For the most part, the 2.5 and 3 metre setbacks are provided, however non-compliances at ground level are the result of the modulation and articulation of the terraces at certain points along the streetscape, creating a "push and pull" effect that seeks to complement the Marriott Street low scale dwellings directly opposite the site. These encroachments are low scale in the streetscape, being 1-2 storeys in height (as required by the building height in storeys control), with no adverse environmental impact to surrounding development.
148. The proposed Marriott Street terraces have been designed to contribute to the diversity of housing offered within the site and help to integrate the scheme into the neighbouring context. It is this design, along with the overall expressiveness of the Marriott Street facade that was celebrated by the Selection Panel during the competitive design process.
149. On balance, the proposed non-compliance with regard to landscape setbacks is appropriate in this instance.

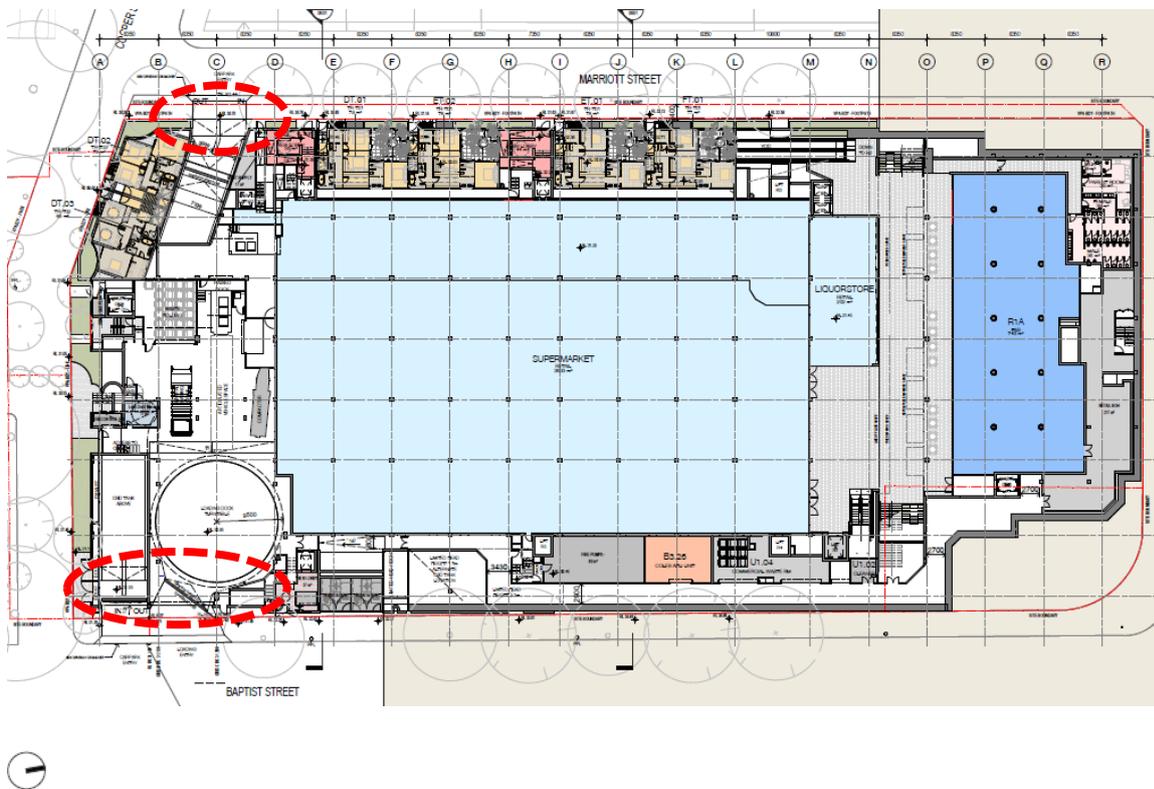
### Heritage

150. The former Bank of NSW building at 397-399 Cleveland Street is a heritage listed site under the Sydney LEP 2012 (I1305). The building is a good example of a Federation free Classical style building on a prominent corner site. The inventory sheet for the site recommends that the building be retained and conserved. No vertical additions to the building are recommended, and no alterations to the facade of the building other than to reinstate original features.
151. Urbis has developed a Conservation Management Plan (CMP) for the former Bank of NSW building, dated 10 September 2018. The CMP makes a number of recommends with regard to alterations. In particular, the exterior of the remnant historic building should be conserved, with new elements focused in any new additions proposed within the site rather than on or within the heritage item itself.
152. The application proposes the adaptive reuse of the building for retail purposes, and the demolition of the later structures (that are part of the current shopping village), with a modest addition at the rear that replicates the existing footprint of the shopping village.

153. Building G, adjoining the heritage item to the west along Cleveland Street, originally cantilevered above the heritage building, but has since been pulled back to retain the building's setting and significance. Additionally, the proposed works along the Cleveland Street elevation of the addition have subsequently been amended to provide a true reinstatement of the heritage shopfront.
154. Appropriate conditions regarding minor design details (i.e. the main entry replacement door design, the internal floor pattern of the former banking chamber etc.) and standard heritage requirements are to be imposed.

### Transport, parking and servicing

155. The development proposes car parking entry/exit and loading access from Baptist Street, and a car parking entry/exit point on Marriott Street. Refer to plan below depicting site access.



**Figure 59:** Proposed basement level 01 plan depicting car park and loading access to the site

156. The traffic assessment identifies that Baptist Street currently experiences vehicle queuing from the Cleveland Street intersection, past the location of the proposed driveway of the subject site. To ameliorate existing traffic impacts, the traffic assessment models a 50/50 split of residential, retail and commercial vehicular traffic between the two access points on Baptist and Marriott Streets.
157. During the development of the site-specific controls, the traffic assessment covered the same 50/50 split of traffic across the site, however made the key assumption that a two lane exit at Baptist Street would be provided. This would allow exiting traffic to turn left or right onto Baptist Street without holding up users within the basement.

158. The driveway design of the DA, however, proposes one exit lane to Baptist Street, meaning that there will be significant queuing within the basement car park as users wait to exit.
159. Section 6.2.8 (30) of the Sydney DCP 2012 (the site-specific controls) requires the location of vehicle access for non-residential car parking to minimise the impact on the local street network and residential amenity of areas to the west of the site (i.e. Marriott Street, Cooper Street etc.).
160. The proposed 50/50 split of vehicular traffic, whilst inconsistent with the DCP, is a more positive outcome for the site compared to restricting retail access to Baptist Street only. It will ease congestion within the basement to some degree, and will share vehicular traffic amongst surrounding streets, therefore minimising burden on one area of the local street network. Existing traffic conditions, particularly on Baptist Street, would worsen if DCP requirements were complied with.
161. The traffic assessment additionally predicts a 20% increase in pedestrian traffic to the development. One large driveway is proposed for ingress/egress to the basement and the loading dock on Baptist Street due to the required swept paths for a 17.2m supermarket delivery truck. The intended driveway design provides poor pedestrian safety as a result, and creates a situation where the large truck will traverse over the car park exit lane in order to access the loading dock.
162. Additionally, the City's Traffic Operations team has concerns about the proposed 17.2 metre truck proposed to service the supermarket on-site from Baptist Street. The application does not indicate a clear route for the truck to take in order to access the loading dock on Baptist Street, and as discussed, the size of the truck also creates an issue with regard to the driveway.
163. In order to address pedestrian safety, and access to the loading dock, it is recommended that design modifications be made to provide either a reduced driveway, or alternatively two driveways at the Baptist Street interface, with a dedicated pedestrian waiting area in between in order to achieve a high quality ground level relationship to the public domain and increase safety for local residents. The amended design is to provide the swept path of the largest vehicle entering/exiting the loading dock, which should not cross the path of travel of exiting vehicles from the basement car park.
164. The loading dock design is also required to be amended to ensure the accommodation of all loading needs for the site, including the supermarket. Details of any turn restrictions at the driveway entry/exit are to be provided to determine delivery routes. This may result in the supermarket requiring a smaller truck to service the site.
165. Appropriate conditions reflecting the above have been included in the proposed conditions of consent in attachment A.

#### *Construction traffic*

166. An updated Construction Traffic Management Plan (CTMP) has been submitted in response to concerns raised by residents about the proposed construction vehicle routes to the site.

167. Construction trucks are proposed to travel down Elizabeth and Cooper Streets to the subject site; and Cleveland Street west, with a left turn into Baptist Street. The left turn onto Baptist Street from Cleveland Street is the result of Roads and Maritime Services (RMS) agreeing to temporarily lift the 'No left turn' ban at this intersection in order to ease impacts to residential properties in close proximity as a result of construction.
168. Trucks are to exit the site up Marriott and Baptist Streets to Cleveland Street.
169. Whilst the proposed CTMP has attempted to address public concerns about construction traffic, the suitability of the CTMP and the proposed construction vehicle routes will be determined by the City's Traffic Operations Team at post-determination. Compliance is to be achieved with the City's standard requirements before approval of the CTMP is granted, and this is to be conditioned. Additionally, the Developer will be required to establish a construction liaison committee (with parties representing affected properties adjacent to the development, and any other interested groups), to ensure that construction related impacts can be dealt with expeditiously and cooperatively. Refer to attachment B for the proposed conditions of consent.

### **Operation of the supermarket within the development**

170. Approval is sought for the use of the tenancy at basement level 1 as a Coles supermarket with associated liquor store. No details of the fit-out have been provided, other than the tenancy covering an area of 3,835sqm. The proposed hours of operation are between 6.00am and 12 midnight Mondays to Sundays inclusive, with deliveries to occur 24 hours a day, 7 days per week via a 17.2 metre delivery truck using the loading dock on Baptist Street.
171. The fit-out of the supermarket is to occur under a separate approval process (either DA or CDC where appropriate). The main issues with the supermarket as this application goes, is hours of operation, noise and deliveries.
172. The combined supermarket and liquor store is defined as a Category B - Low Impact Premises, and is located within a Local Centre Area under Section 3.15 of the Sydney DCP 2012. The recommended hours of operation for a Category B premises within a Local Centre Area are the internal base hours of 7am to 11pm, with an extension until 12 midnight for a trial period.
173. The proposed hours of operation are generally consistent with the recommended internal trading hours for a Category B premises, however the hours of 6.00am to 7.00am, and 11pm to 12 midnight are to be subject to a 12 month trial period to ensure that early morning trade, and late night operations are well managed and will have minimal impact on surrounding development.
174. In determining whether the proposed hours of operation are acceptable, the plan of management and the acoustic report for the development has been reviewed by the City's Health and Building Unit, and additional comment was sought by NSW Police.
175. The acoustic report recommends the implementation of certain glazing thicknesses to protect residential occupants within the site from traffic noise intrusion, and music from the supermarket is not to be audible within the lower ground breakout areas (i.e. below the through-site link) from 10pm onwards. These recommendations are to be conditioned as part of the application.

176. The plan of management for the premises however, does not meet the requirements of Schedule 3.2 of the Sydney DCP 2012. Additional details are required with regard to the identification of noise sources (including the recommendations of the acoustic report), how noise will be managed, the use of a complaints register, and the responsible service of alcohol within the liquor store. The plan of management will require amendments prior to the trial hours of operation for the supermarket operating, and this has been conditioned accordingly.
177. The City's Health and Building Unit has recommended conditions relating to the use of CCTV, neighbourhood amenity conditions and for the plan of management to be kept on the premises at all times (once approved). A shopping trolley management plan will also need to be prepared for the proposed supermarket use and approved by Council, prior to the issue of an Occupation Certificate.
178. NSW Police, in a response dated 30 October 2018, advised that the site is located in a high density hotspot for crime, and recommended conditions regarding the installation of CCTV, with good lighting of the public areas of the development. The recommended conditions are similar to that imposed by other internal units within Council.
179. It has been assessed that the supermarket will be able to operate with minimal impact on surrounding development, subject to the imposition of conditions. It is recommended that hours of operation be restricted as follows:
- (a) 7am to 11pm, Mondays to Sundays inclusive; with an extension between 6am and 7am, and between 11pm and 12 midnight, Mondays to Sundays inclusive for a 12 month trial period.
180. With regard to 24/7 deliveries, there are concerns regarding the delivery route of the 17.2 metre truck, the capacity of the loading dock and whether the truck is able to access the loading dock without impact on the car park and pedestrian safety. This is discussed in further detail under the heading 'Transport, parking and servicing'.
181. The acoustic report states that the operation of the loading dock 24 hours a day, 7 days per week is able to comply with the night time noise criteria for Baptist Street (where the loading dock is located). However, the City's Health and Building Unit has advised that 24/7 use of the loading dock has the potential to disrupt residents of the development, and has therefore recommended that loading be restricted.
182. In light of these concerns, approving deliveries 24 hours a day, 7 days per week is premature. It is therefore recommended that deliveries occur between 7.00am and 10.00pm, 7 days per week. .

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

183. The proposed development is capable of complying with the BCA.
184. 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**

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

## Internal Referrals

186. The conditions of other sections of Council have been included in the proposed conditions.

The application was referred to the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Licenced Premises; Public Domain; Safe City; Surveyors; Transport and Access; Social Planning; Tree Management Unit; and Waste Management; who advised that the proposal is acceptable subject to the recommended conditions.

## External Referrals

### Notification, Advertising and Delegation

187. The application constitutes integrated development and as such the application was notified and advertised for 30 days between 4 October 2018 and 5 November 2018 in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this notification 23 individual submissions, and 3 pro-forma responses from 51 residents were received.
188. Amended plans and documentation were received on 17 May 2019, and the application was re-notified for a period of 28 days (due to changes in legislation regarding the period of notification for integrated development applications) between 4 June 2019 and 3 July 2019. As a result of the re-notification 7 individual submissions and 1 pro-forma response from 27 residents were received.

*Issue: Construction traffic / traffic post construction*

- (a) The CTMP allows construction and delivery heavy vehicles to travel up and down Baptist Street for the period of construction and then permanently for deliveries to the shopping complex. There is a clear alternative via Cleveland Street turning left into Baptist Street, and requiring those same trucks to return to Cleveland Street upon exit.
- (b) Having construction trucks travelling down Baptist Street is incompatible with the 3 tonne limit. Removing the limit will destroy the amenity of the area.
- (c) It will be difficult for construction trucks to manoeuvre down Young Street to the site due to the street trees and traffic calming measures in place.
- (d) The amended CTMP (2 August 2019) shows the removal of Young Street as a route for construction traffic, and this is supported.

*Officer Response:* The applicant has revised the CTMP throughout the assessment process, with construction trucks travelling down Elizabeth and Cooper Streets to the subject site; and Cleveland Street west, with a left turn into Baptist Street. Trucks are to exit the site up Marriott and Baptist Streets to Cleveland Street.

The suitability of the CTMP and the proposed construction vehicle routes will be determined by the City's Traffic Operations Team at post-determination. Compliance is to be achieved with the City's standard requirements before approval of the CTMP is granted, and this is to be conditioned.

- (e) Whilst the left turn from Cleveland Street is positive, it is important for construction vehicles and Coles to follow these requirements. This should be monitored closely.

*Officer Response:* A copy of the approved construction/delivery routes and the loading dock management plan are required to be distributed to the relevant parties as required by the City's standard requirements for CTMPs.

- (f) The left hand turn removal on Cleveland Street is not supported on safety grounds as it is already an unsafe intersection. It is a high pedestrian area. All vehicle access should be via Cleveland Street.
- (g) There will be increased traffic on Baptist, Crown and Cleveland Streets from the proposed development. A review of traffic signals are required, or an overpass from Baptist to Crown Streets for pedestrians.

*Officer Response:* RMS have advised that they support the removal of the left turn prohibition on Cleveland and Baptist Street for a 12 month period. A pedestrian overpass is not required at this point in time and does not form part of the infrastructure works.

- (h) The DCP requires the location of vehicle access for non-residential parking to minimise impact on the local street network and residential amenity of areas to the west of the site. The DA proposes use of both access points for residential, commercial and retail and does not comply with the site-specific control. Vehicles should not be allowed to access the site from Marriott/Cooper Streets.
- (i) Retail traffic should be permitted to enter and exit the shopping centre via Cooper Street (in addition to Baptist Street) to mitigate traffic congestion on Baptist Street.

*Response:* While the proposal does not technically comply with this aspect of the site-specific controls, sharing vehicular access split between Marriott and Baptist Streets will ease traffic congestion (particularly queuing within the basement) for the site and the surrounding area.

- (j) Loading dock access has always been located on Marriott Street with house prices reflecting this. Now trucks will enter/exit at night via Baptist Street. This is unfair on residents who live and have purchased properties on Baptist Street.

*Officer Response:* The submission is noted, however land and property values are not a planning consideration. As discussed, having the loading dock on Baptist Street is considered to be the most appropriate location given site constraints, access, and the context of surrounding development.

- (k) There are concerns that vehicles other than occupiers of terraces on Baptist Street using the new lane to the south of the site as a thoroughfare.

*Officer Response:* The new lane will be a shared cycle/pedestrian zone and is to be designed as such so that vehicles are required to slow down.

- (l) Sufficient parking is not being provided within this development and should be increased. No occupiers of this development (retail, commercial or residential) should be offered parking permits due to current issues with parking in surrounding streets.

*Officer Response:* The proposed car parking rates comply with LEP and DCP requirements. Parking permit eligibility is a separate matter to the assessment process.

*Issue: Heritage Concerns*

- (m) The repairs and refurbishment of the heritage item is important to get right.
- (n) Very little detail has been provided about the heritage building works. The relationship with the commercial building sitting over it is not well resolved and both suffer.
- (o) The design of the commercial building is not as well resolved as the rest of the development, and cantilevers over the heritage item.

*Officer Response:* The proposal has been amended to reduce the length of the commercial building so that it no longer cantilevers over the heritage item. Building G is now of masonry construction, responding to the heritage significance of the former Bank of NSW Building, and heritage warehouses in close proximity. Additionally, the facade works to the heritage item have been developed further so that they are a true restoration of heritage fabric.

*Issue: Height, bulk and scale*

- (p) This is a gross overdevelopment of the site with no respect for the surrounding heritage conservation area. It will result in overshadowing and will have an unsightly impact on the skyline.
- (q) No buildings match the scale of this development.
- (r) The site should comply with FSR.

*Response:* The site-specific controls have been designed to allow for a medium density development of this nature, with scaled heights from Cleveland Street to Baptist and Marriott Streets that respond to the surrounding development.

The proposal has been the subject of a design competition that proposed a similar bulk and scale, and FSR non-compliance, and was considered capable of achieving design excellence. Furthermore, as part of the detailed design development, the proposal has evolved in terms of materiality, and overall modulation to respond and complement adjoining buildings within the heritage conservation area.

It has been determined within this assessment report that the non-compliances with street wall height and FSR are acceptable in this instance and will not result in any significantly adverse amenity impacts, particularly in relation to overshadowing.

*Issue: Landscape setbacks / deep soil*

- (s) Inadequate setbacks have been provided to soften the development's harsh facade.
- (t) There is a lack of sufficient landscaping and deep soil.

*Response:* This issue has been acknowledged in the assessment report. The variation to the landscape setback to Marriott Street relates to the modulation and articulation of the terraces at certain points along the streetscape.

Deep soil is restricted due to the required size of the supermarket at basement level. This means that there will always be structures below ground impeding the provision of deep soil. The level of deep soil provided is considered acceptable in this instance, however additional information is required in order to ensure that viable and generous landscaping is provided as part of the development.

*Issue: Privacy*

- (u) Balconies at higher levels face the private open spaces of existing properties on Baptist Street. They should be modified to protect privacy.

*Response:* Compliant separation has been provided between the apartments at the southern elevation of the site and the existing Baptist Street terraces. A condition however, is recommended to ensure that the glass line of the bedroom pop-out windows are set in to protect the privacy of neighbouring dwellings.

*Issue: Design development*

- (v) The artist's impressions between the design competition and community newsletters are substantially different. The design has appeared to have evolved to use less materials and colour differentials in the facades.

*Response:* The proposal has been amended to create a distinction between the upper level facades and the podium, with the introduction of bagged brick and other masonry elements. The design has been reviewed by City staff and is considered to satisfactorily address the site-specific controls whilst maintaining the intent of the design competition winning scheme and therefore achieves design excellence.

*Issue: ESD concerns*

- (w) There are no green credentials, only contributing to future greenhouse gasses.
- (x) How are the residential development and Coles meeting future energy and water requirements?

*Response:* The development is required to achieve a number of BASIX and Green Star targets that have been built into the planning agreement and the site-specific controls. The proposal provides for photovoltaic cells at roof level, the use of indigenous/low water use vegetation species, extensive green roofs and landscaping, and other standard BASIX/Green Star requirements. The proposed measures are to be conditioned to ensure they are provided.

*Issue: Dilapidation reports*

- (y) The basement excavation process will cause soil to move, creating stresses in surrounding buildings. Dilapidation reports are required for Baptist and Marriott Street terraces.

*Response:* A condition requesting dilapidation reports to be carried out for surrounding affected properties has been included in the proposed conditions of consent.

*Issue: Trees*

- (z) Trees provide invaluable habitats for local fauna, and shade. Replacing mature trees with saplings will not provide birds or humans with shade or refuge.

*Response:* The City's Tree Management Unit support the removal of trees within the site, subject to the planting of new trees at completion of the development. The majority of the existing street trees however, are to be retained and protected during construction, where indicated in the proposed conditions.

- (aa) There are trees exceeding 10-12 metres height at maturity being planted in the public park. They may cause damage to the existing terraces.

*Response:* The design of the public park is to be subject to a separate development application, where the suitability of the proposed trees will be considered.

*Issue: Substation / kiosk*

- (bb) The proposed substation within the new public park should be moved elsewhere. There will be an increased health risk.

- (cc) Why is the substation being provided in the public domain rather than being encased within the proposed development?

*Response:* The VPA requires that the substation kiosk in park only service surrounding development. The site itself will be serviced by a substation located on the Baptist Street frontage.

*Public park*

- (dd) There is no public space as part of this development for the community to enjoy.

- (ee) Consider adding a water play area to the park for young children.

- (ff) A public park will generate more noise compared to the existing staff car park.

- (gg) There are concerns about landscaping and lighting of this park and whether it will provide for a safer community.

- (hh) Is the park being delivered as a separate project?

*Response:* The public park has been identified as a public benefit for the community, and is subject to a separate design process between the City and the Developer as part of the planning agreement for the site. The park will be delivered prior to the issue of the final Occupation Certificate for the residential component of the development.

The size of the park (at 500sqm) means that it is likely to be utilised by local residents only, and is considered to be a better use of the site compared to a staff car park. Casual surveillance of the park can be undertaken from existing terraces, and the proposed residential development within the site.

#### *Hours of operation*

- (ii) The proposed hours of operation of Coles will further exacerbate noise issues residents are currently experiencing.

*Response:* The application is accompanied by an acoustic report that identifies Coles is able to operate until 12 midnight with no significant adverse noise impact, subject to a number of recommendations. A condition is to be imposed for the hours to be subject to a trial period of 12 months to monitor the operation of the supermarket.

#### *Use of Buildings E and F*

- (jj) Please confirm that Buildings E and F will be residential, and not substituted for the purposes of a hotel, as indicated by the Developer on their sales plan.

*Response:* The application proposes permanent residential accommodation for Buildings E and F. Any proposal for hotel accommodation is subject to a separate development application that will be subject to a merit based assessment.

#### *Name of the development*

- (kk) The name Surry Hills Shopping Village is outdated. The site is located in Redfern. The development should acknowledge its nearest neighbours and the indigenous community.

*Response:* The submission is noted. The site's street address is located within the boundaries of Redfern and is referenced as such.

### **Public Interest**

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

### **S7.11 Contribution**

- 190. The development is subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015. This contribution is calculated on the basis of the development's net increase in resident, worker and/or visitor populations.

191. Credits have been applied for the most recent past use of the site as a supermarket and various retail and office tenancies. Credits have been calculated based on information provided by the applicant with regard to the use and GFA of each tenancy.
192. With the above credits applied, the following monetary contribution is required towards the cost of public amenities:
- |                           |                |
|---------------------------|----------------|
| (a) Open Space            | \$2,089,750.90 |
| (b) Community Facilities  | \$1,194,100.49 |
| (c) Traffic and Transport | \$112,913      |
| (d) Stormwater Drainage   | \$0            |
| Total                     | \$3,396,764.40 |
193. The monetary contribution is to be paid prior to the issue of any Construction Certificate. An appropriate condition has been recommended and is provided in attachment E.

### Relevant Legislation

194. The Environmental Planning and Assessment Act 1979.
195. Sydney Airport Referral Act 1996
196. Water Management Act 2000.

### Conclusion

197. The proposal seeks consent for the redevelopment of the site for residential, retail and commercial purposes across 8 buildings, including the heritage listed former Bank of NSW Building, with 154 residential apartments, 3 levels of basement car parking for 345 car spaces.
198. The development has been the subject of a competitive design process with the winning scheme being a collaboration between SJB Architects and Studio Prineas was selected as the winning entry. The proposal is generally consistent with the winning scheme.
199. The application seeks Integrated Development approval under the Water Management Act 2000 for dewatering. General terms of approval have been granted by Water NSW and are included in the list of recommended conditions.

200. Written requests seeking to vary Clause 4.3, the 'Height of Buildings' development standard, and Clause 4.4 of the Sydney LEP 2012, the 'Floor Space Ratio' development standard have been submitted. The variations relate to non-compliance with the 9.9m height (subject to 10% additional height with design excellence) and the proposed commercial building to Cleveland Street known as 'Building G' and its change of use from mixed use residential as envisioned under the site-specific controls contained in Section 6.2.8 of the Sydney DCP 2012.
201. The proposed requests to vary the development standards are well founded. The statements provided demonstrate that compliance with the standards are unnecessary in this instance and that there sufficient environmental planning grounds to justify the variations. The variations to the development are consistent with the objectives Clause 4.3 and 4.4, and the B2 - Local Centre zone, and therefore in the public interest.
202. The development achieves a high standard of architectural design, materials and detailing, with the provision of landscaping and green roofs throughout the site that will contribute positively to the public domain. The development is generally consistent with the design quality principles of the State Environmental Planning Policy No. 65 and the objectives of Parts 3 and 4 of the Apartment Design Guide. Where non-compliances exist they have been demonstrated in this report to be acceptable in the circumstances of the case, or can be resolved by the recommended conditions of consent. The development achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to amenity of the surrounding area and future occupants.
203. Overall, the proposal responds satisfactorily to surrounding development and its context, achieving a standard of architectural design that is considered to demonstrate design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.
204. There were 30 individual submissions, and 78 pro-forma responses across two periods of notification of the proposal. The submissions raised concerns with the height, bulk and scale of the proposal, heritage impacts, the removal of street trees, vehicular access, construction vehicle routes, the requirement for dilapidation reports to be carried out, and hours of operation of the proposed supermarket. The concerns are addressed within the report.
205. Subject to conditions, the development is in the public interest and is recommended for approval.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

Jessica Symons, Senior Planner