

Item 5.**326-328 Botany Road, Alexandria - D/2019/657****File No.: D/2019/657****Summary**

Date of Submission: 24 June 2019. Several iterations of amended plans and additional information were submitted up until 14 November 2019.

Applicant: Mecone

Architect: Dickson Rothschild

Developer and Owner: Leading Group Development Pty Ltd

Cost of Works: \$28,726,946

Zoning: B7 Business Park - the proposed shop, commercial and food and drink uses are permitted with consent in the zone.

Proposal Summary: Proposal

The subject application seeks consent for a concept building envelope incorporating commercial uses. The proposal includes:

- in-principle approval for demolition of the existing warehouse building on site;
- a concept envelope up to 40m in height;
- indicative future land uses comprising:
 - kiosk, shop, office, food and drink premises, loading, servicing, bicycle parking and end of trip facilities at ground level;
 - office uses on levels 1 to 8; and
 - roof top food and drink premises.

This application is for Integrated Development requiring the approval of Water NSW under the Water Management Act 2000.

Issues

Additional information has been submitted by the applicant and the proposal amended several times. This was largely in response to the following concerns and questions raised by Council officers:

- There was a need to simplify the concept envelope by removing areas of articulation (this can be left to future detailed design);
- Demonstration that the proposed floor space ratio (FSR) can be achieved without unacceptable impacts,
- Clarification of a through site link on the site's northern boundary; and
- Details of the landscape concept plan and proposed ESD initiatives and target benchmarks.

Subject to the recommended conditions, the proposed envelope and Design Excellence Strategy provide suitable parameters for a future competitive design process. This will guide the creation of a detailed building design that is able to comply with the relevant 40m height and FSR controls contained in the Sydney Local Environmental Plan 2012 and that is capable of achieving design excellence.

Notification - Concept (stage 1) DA

As integrated development the subject application was notified and advertised for 30 days between 27 June and 27 July 2019. As a result of this notification one submission was received in support of the proposal on the basis that it would be an improvement on the warehouse that currently exists on the site.

On 30 October 2019, amended plans and information were submitted in response to Council officer requests for maximum heights to be notated on plans and for additional survey information. In accordance with section 1.3 of Schedule 1 of the Sydney DCP 2012 the amended proposal was notified for 14 days between 4 and 20 November 2019. No submissions were received during this second period of notification.

Voluntary Planning Agreement

The owner of the site has made a formal offer to enter into a voluntary planning agreement (VPA) with Council. This will provide for land dedications and a monetary contribution toward Green Square Town Centre. Dedications include a 1.4 metre wide strip of land along the Botany Road frontage and a 2.4 metre wide strip of land along the O'Riordan Street frontage of the development site.

The VPA commenced public exhibition on 3 December 2019. The VPA exhibition period is for a minimum of 28 days in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*.

As the application includes a VPA it is to be determined by the Local Planning Panel.

It is recommended that deferred commencement development consent is granted subject to the recommended conditions requiring the VPA to be executed and registered on title prior to the consent becoming operative.

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

Development Controls:

- (i) State Environmental Planning Policy No 55 - Remediation of Land
- (ii) State Environmental Planning Policy (Infrastructure) 2007
- (iii) Sydney Local Environmental Plan 2012
- (iv) Sydney Development Control Plan 2012

Attachments:

- A. Recommended Conditions of Consent
- B. Envelope Drawings
- C. Reference Scheme Drawings
- D. Design Excellence Strategy

Recommendation

It is resolved that:

- (A) the Design Excellence Strategy for 326-328 Botany Road, Alexandria prepared by Mecone and dated 30 October 2019 on behalf of Leading Group Development Pty Limited, as shown in Attachment D to the subject report, be approved pursuant to Section 3.3.1 of the Sydney Development Control Plan 2012 and Section 1.2 of the Competitive Design Policy; and
- (B) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2019/657 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

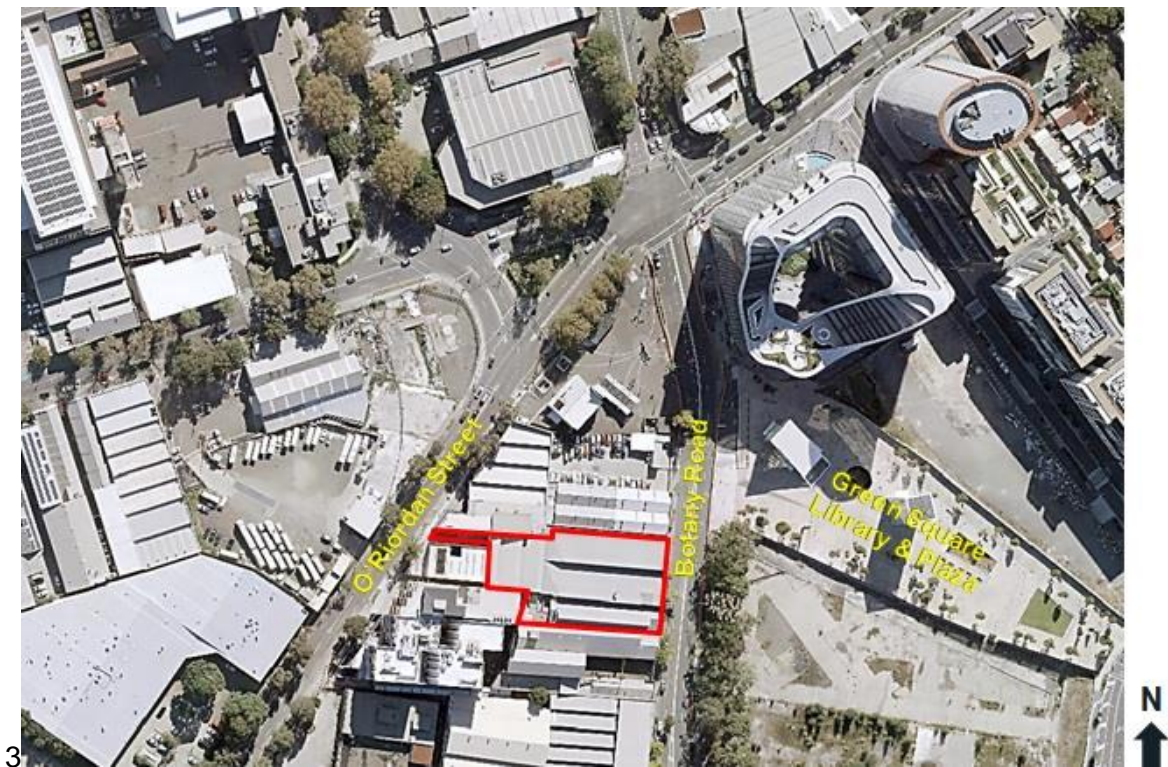
The application is recommended for deferred commencement approval for the following reasons:

- (A) The proposed kiosk, shop, office, and food and drink uses are consistent with the objectives of the B7 Business Park Zone as specified in the Sydney Local Environmental Plan 2012 (the LEP).
- (B) Subject to the recommended conditions the approved concept envelope will comply with the 40m maximum permitted height control pursuant to clause 4.3 of the LEP.
- (C) The proposed development will be the subject of a competitive design process in accordance with clause 6.21(5) of the LEP.
- (D) The approved Design Excellence Strategy includes ESD targets and benchmarks to be carried through the competitive design process and any subsequent development application for the detailed design of the building, to its completion. The approved Public Art Strategy sets out a process for the provision of public art. Conditions have been recommended for suitable design requirements pertaining to the landscape design, to be incorporated into the competitive design process brief. As such the approved concept demonstrates that a detailed building design is able to exhibit design excellence pursuant to clause 6.21 of the LEP and meets the relevant requirements of clause 7.20 of the LEP.
- (E) The approved concept includes the provision of community infrastructure in accordance with clause 6.14 of the LEP, through the Voluntary Planning Agreement (VPA). The VPA is required to be executed and registered on title prior to the consent becoming operative.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 2 DP 868508, Lot 4 DP 16475, Lot 5 DP 25272 and Lot A DP 81525, and is commonly known as 326-328 Botany Road, Alexandria.
2. The site is irregular in shape and has an area of 2,591sqm. It has a primary street frontage to Botany Road and a secondary street frontage to O'Riordan Street. It is located approximately 110m south of the intersection of Botany Road, Bourke and O'Riordan Streets. A generously proportioned single storey industrial building is contained within the site.
3. Adjacent to the north is a low-rise industrial building. Further north is a hard-stand parking area and then further north again is the open forecourt to Green Square railway station.
4. Adjacent to the north-east is Green Square Library and Plaza. On the opposite, eastern side of Botany Road are the currently vacant future development sites 8A and 8B in the Green Square Town Centre also known as 377-495 Botany Road, Zetland.
5. Immediately adjacent to the south are several parcels of land that are owned by the City and which contain several one to two storey former industrial buildings. Part of this site has undergone demolition works in preparation for the construction of the future east-west connector road.
6. To the south-west are two recently approved 8 storey hotel developments at 16 O'Riordan Street (D/2013/1871) and 18 O'Riordan Street (D/2015/1734). Immediately adjacent to the west is a two storey utilitarian building owned and used by Railcorp in association with the railway infrastructure in the area.
7. The site is not a heritage item and is not in the vicinity of a heritage item. The site is not located within a heritage conservation area.
8. A site visit was carried out by staff on 2 and 12 August 2019. Photos of the site are below.



3

Figure 1: Aerial image of subject site and surrounding area



Figure 2: Botany Road frontage of subject site.



Figure 3: View north to the site and further along Botany Road.



Figure 4: City owned properties adjacent to the south at 330 Botany Road.



Figure 5: View to the site from Green Square Plaza.



Figure 6: View south to the site from the Green Square railway station forecourt.



Figure 7: Opposite eastern side of Botany Road (site 8A and 8B in Green Square Town Centre).



Figure 8: View south along Botany Road.



Figure 9: Interior of existing warehouse looking west.

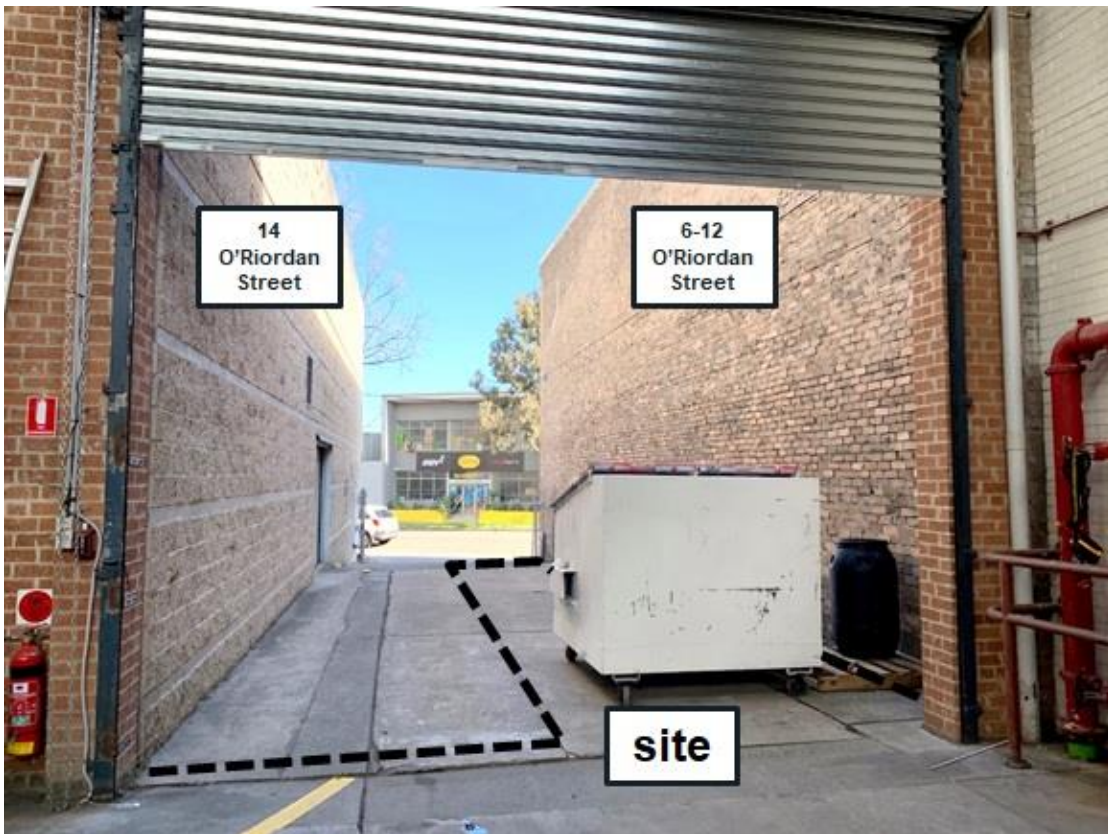


Figure 10: View from within the site to O'Riordan Street.



Figure 11: O'Riordan Street frontage of subject site looking to the north-east.



Figure 12: Existing vehicle access via O'Riordan St. frontage of site looking to the south-east.



Figure 13: Hotel developments at 16 and 18 O'Riordan Street adjacent to the south.



Figure 14: Access way to Railcorp building at 14 O'Riordan Street, with the site in the background.

History of the Subject Site

9. The existing warehouse on the site was constructed circa 1955 and has been used for various warehousing and business uses to the present day.
10. There are no current compliance actions pertaining to the site or that are relevant to the subject Development Application (DA).

Proposal

11. The application has been amended in response to concerns raised by Council officers. These amendments include simplification of the envelope and removal of a proposed through site link. This is discussed within the 'background section' below.
12. The amended proposal seeks consent for demolition of the existing warehouse and a concept building envelope incorporating the following:
 - (a) an envelope up to 40m in height;
 - (b) indicative future land uses comprising:
 - (i) kiosk, shop, office, food and drink premises, loading, servicing, bicycle parking and end of trip facilities at ground level;
 - (ii) office uses on levels 1 to 8;
 - (iii) roof top food and drink premises;
 - (c) indicative vehicle access via the southern end of the Botany Road frontage.
 - (d) This application is for Integrated Development requiring the approval of Water NSW under the Water Management Act 2000.
13. Drawings of the concept envelope are provided below.

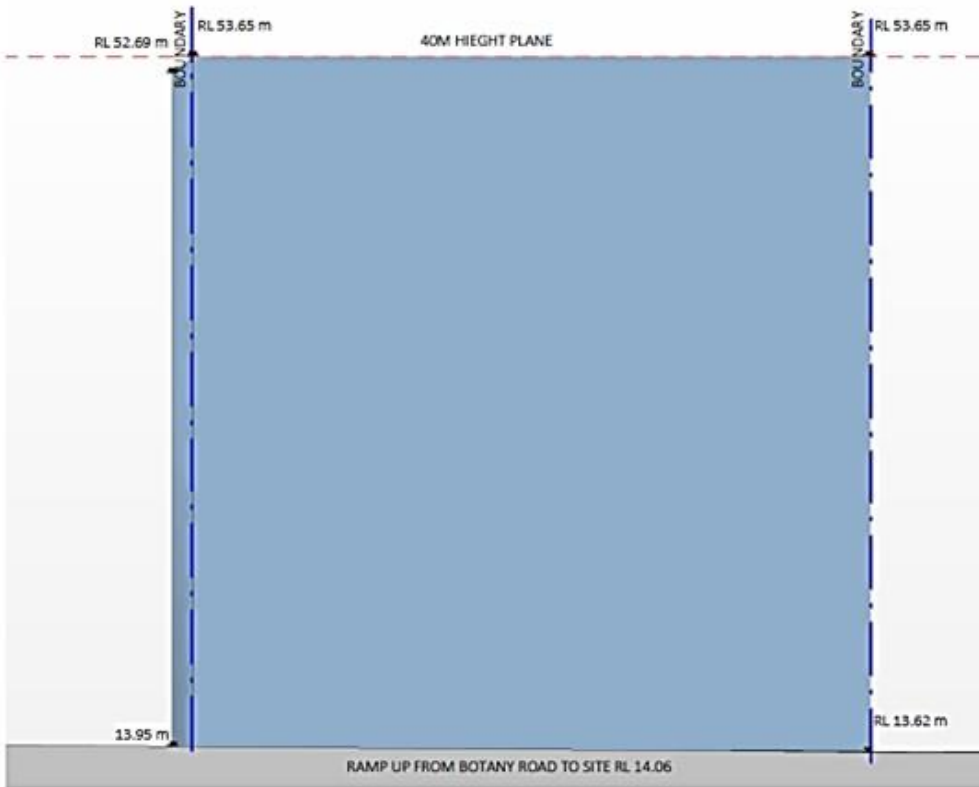


Figure 15: Envelope east (Botany Road) elevation.

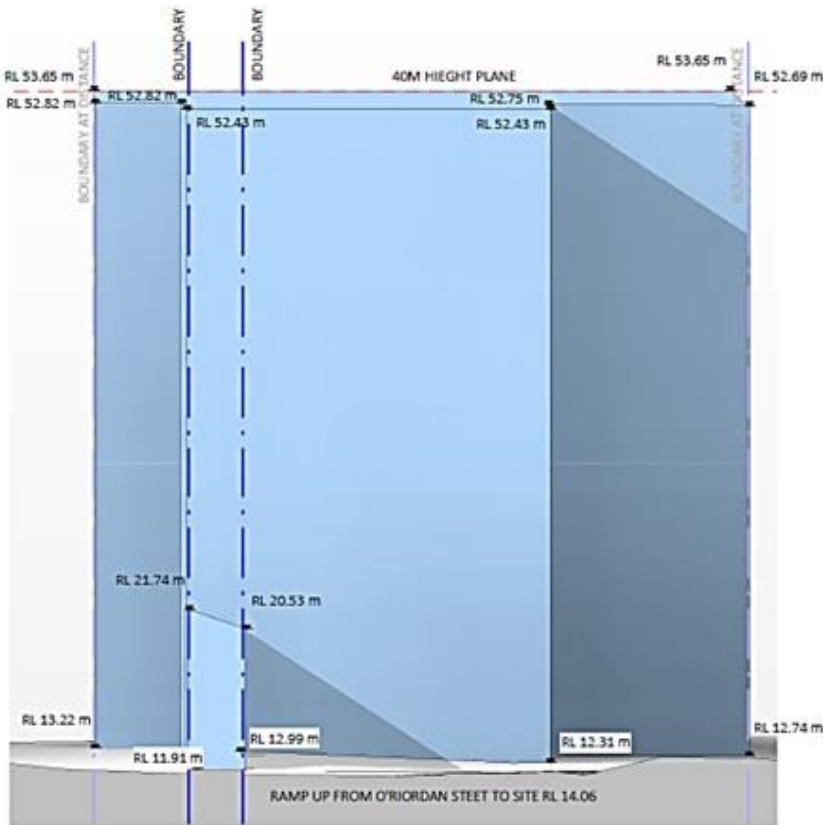


Figure 16: Envelope west (O'Riordan Street) elevation.

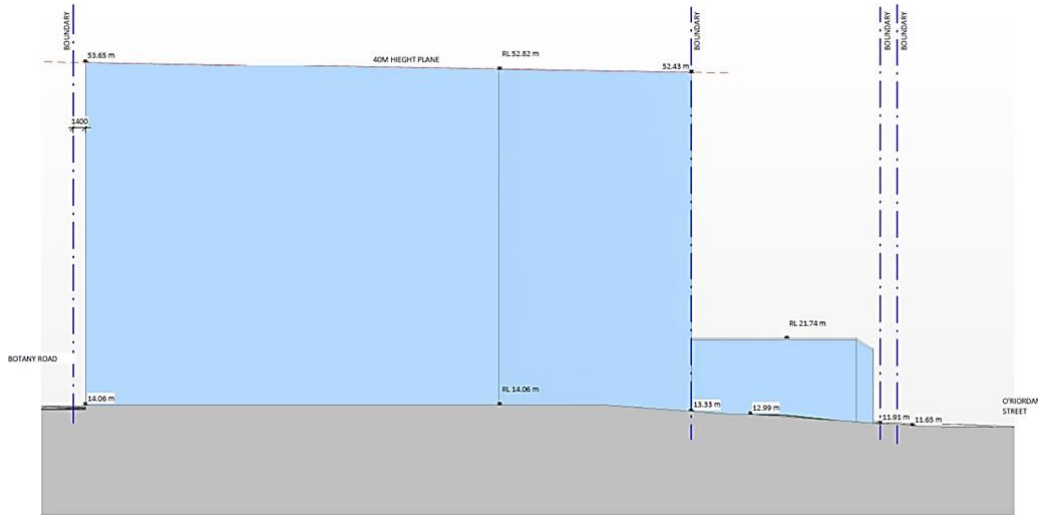


Figure 17: Envelope north elevation.

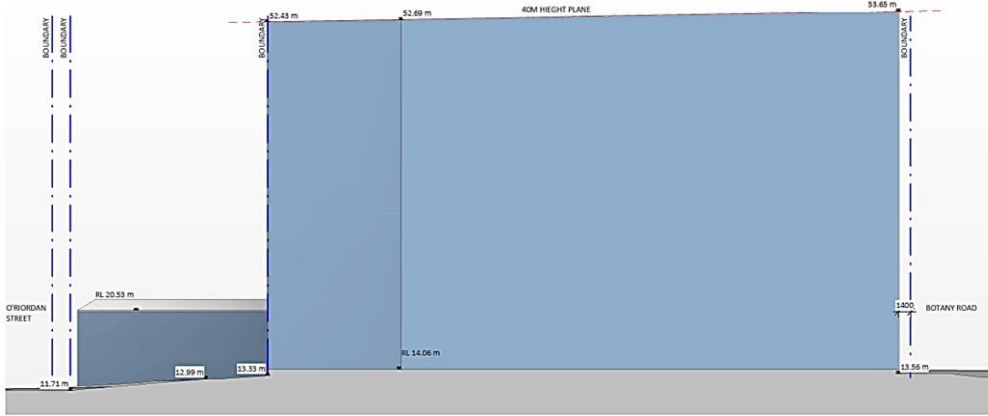


Figure 18: Envelope south elevation.

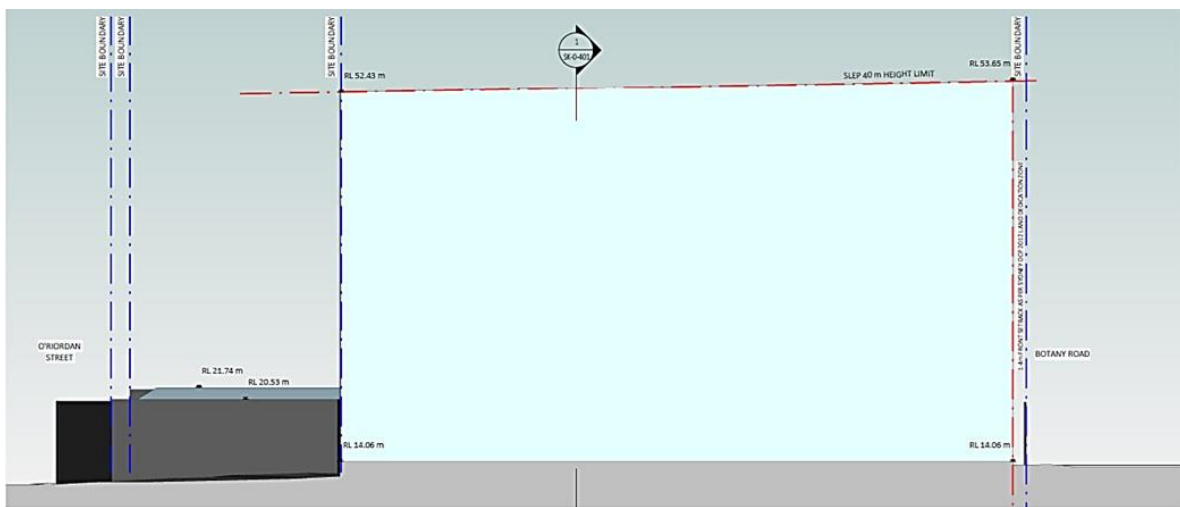


Figure 19: Envelope section 1.

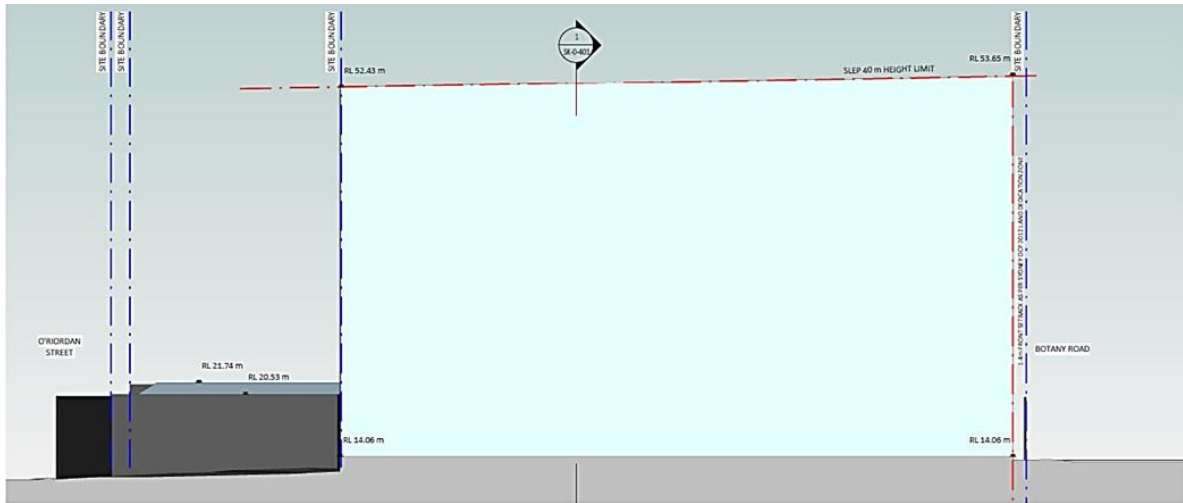


Figure 20: Envelope section 2.

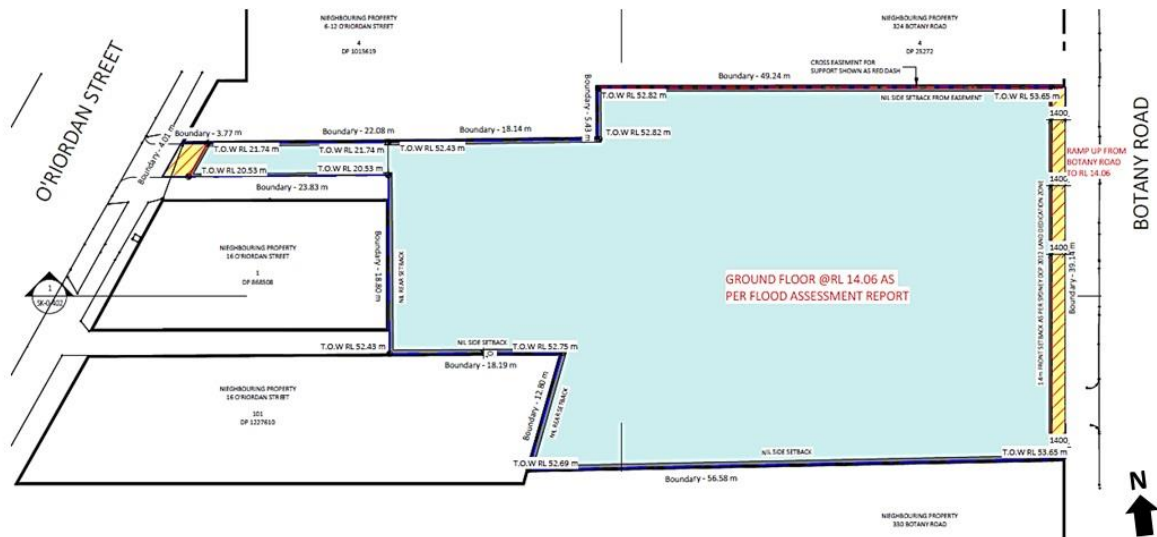


Figure 21: Envelope plan.

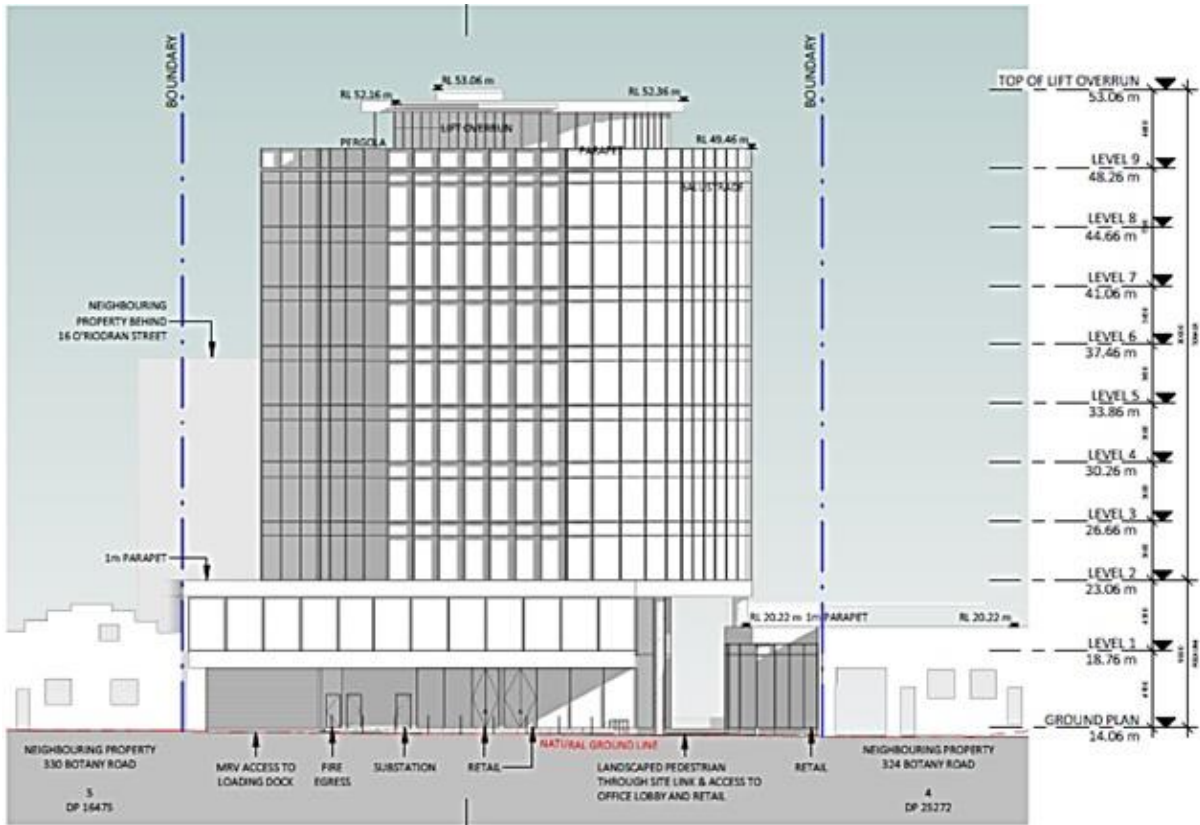


Figure 22: Reference scheme east (Botany Road) elevation.

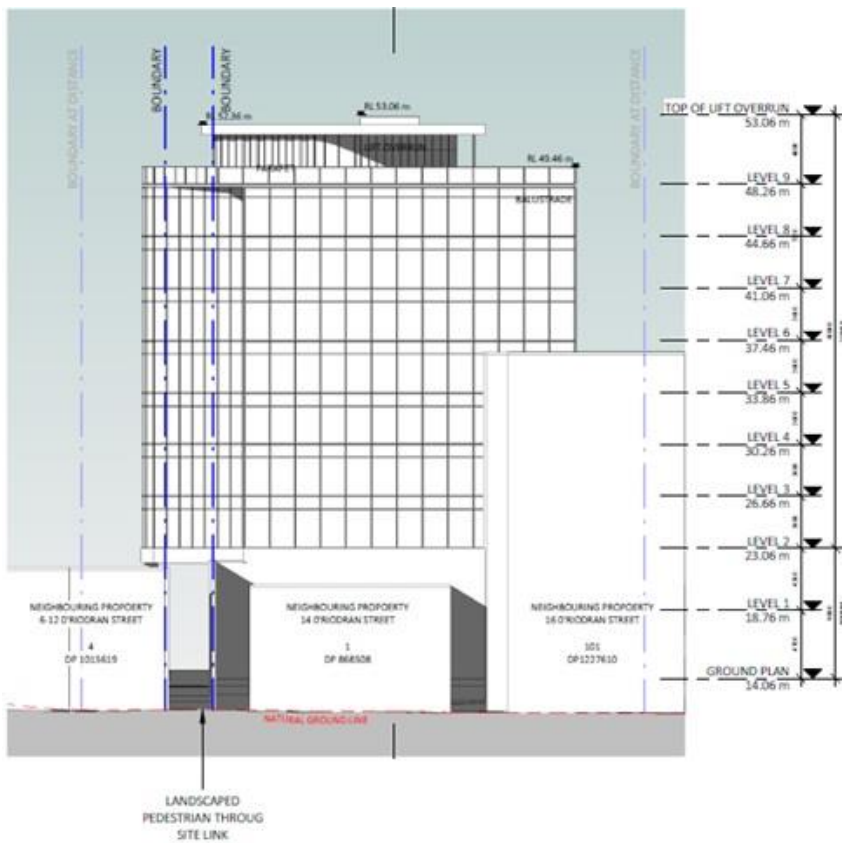


Figure 23: Reference scheme west (O'Riordan Street) elevation.

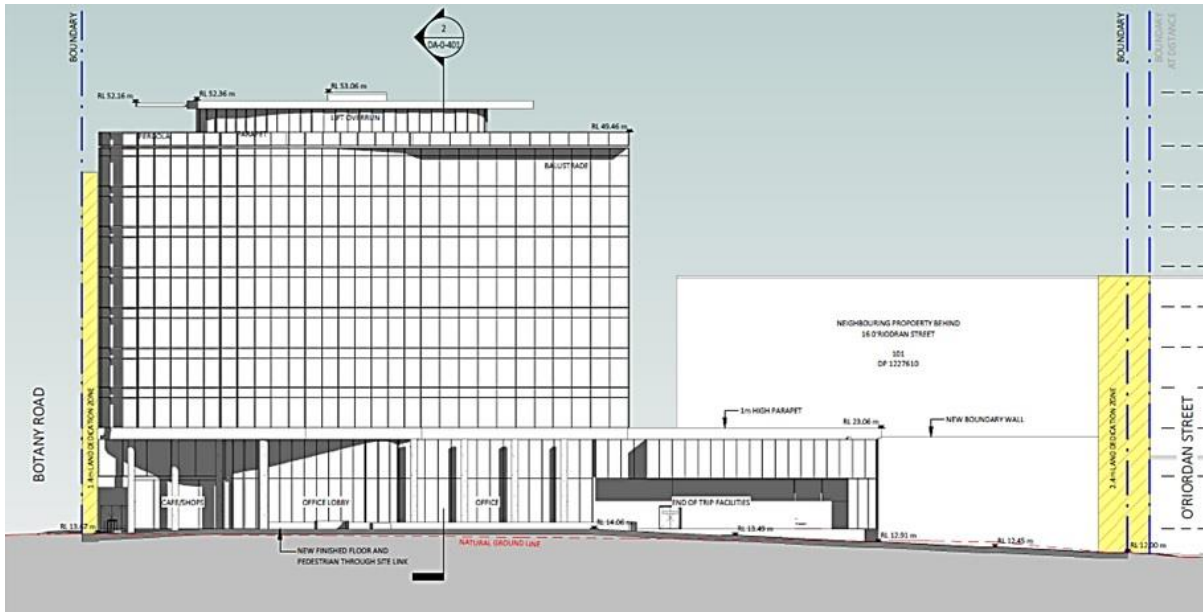


Figure 24: Reference scheme north elevation.

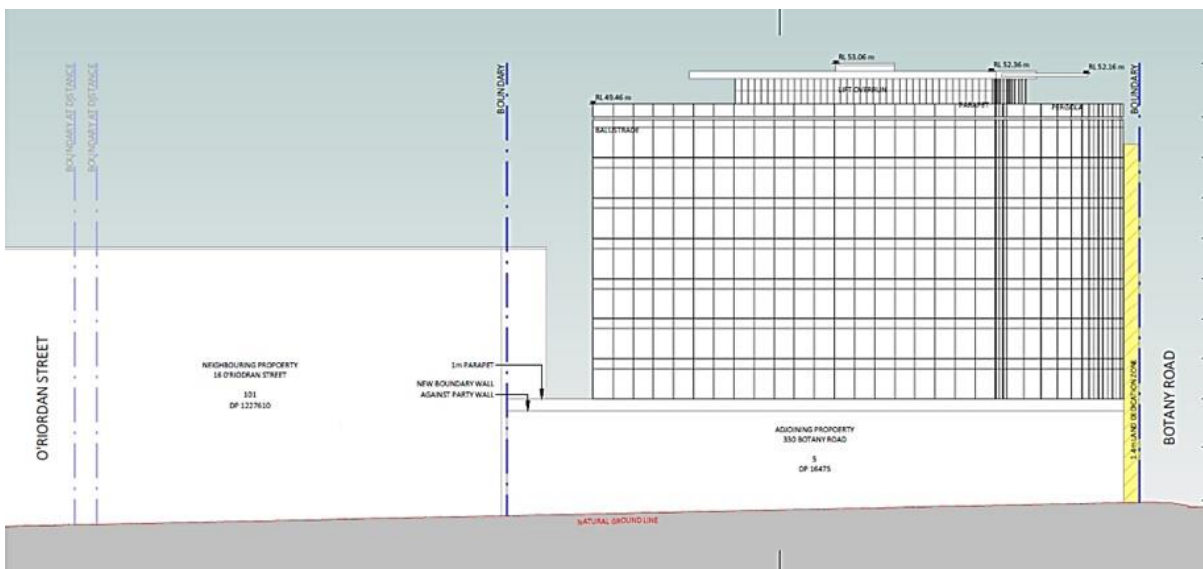


Figure 25: Reference scheme south elevation.

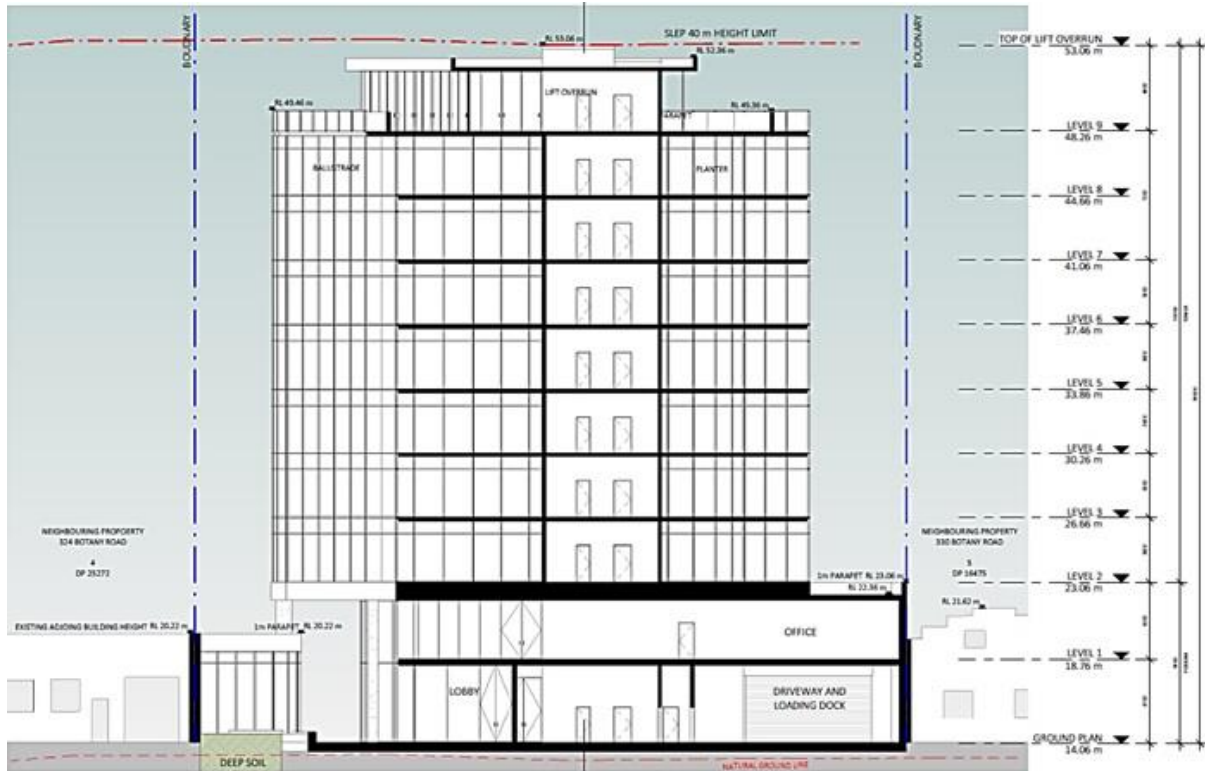


Figure 26: Reference scheme section 1.



Figure 27: Reference scheme section 2.

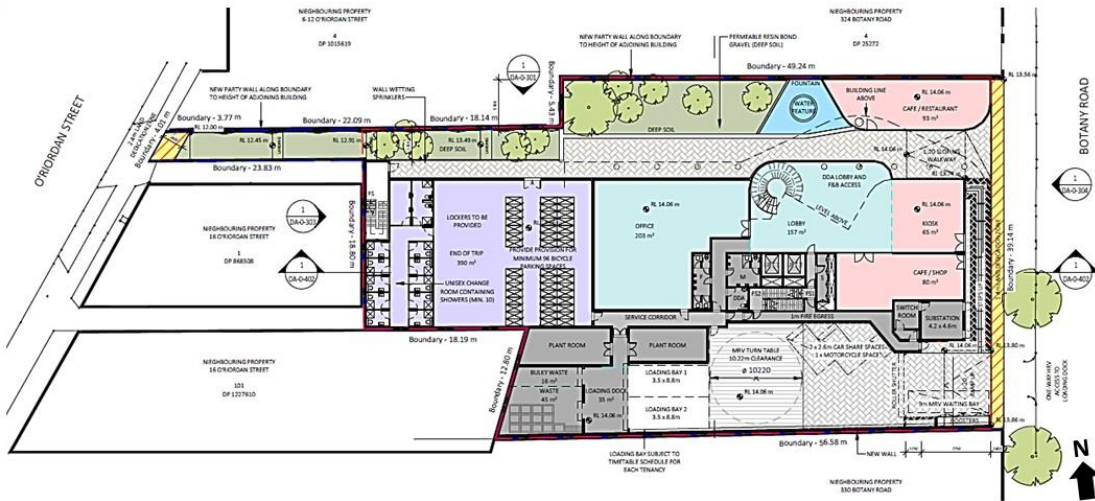


Figure 28: Reference scheme ground level plan.

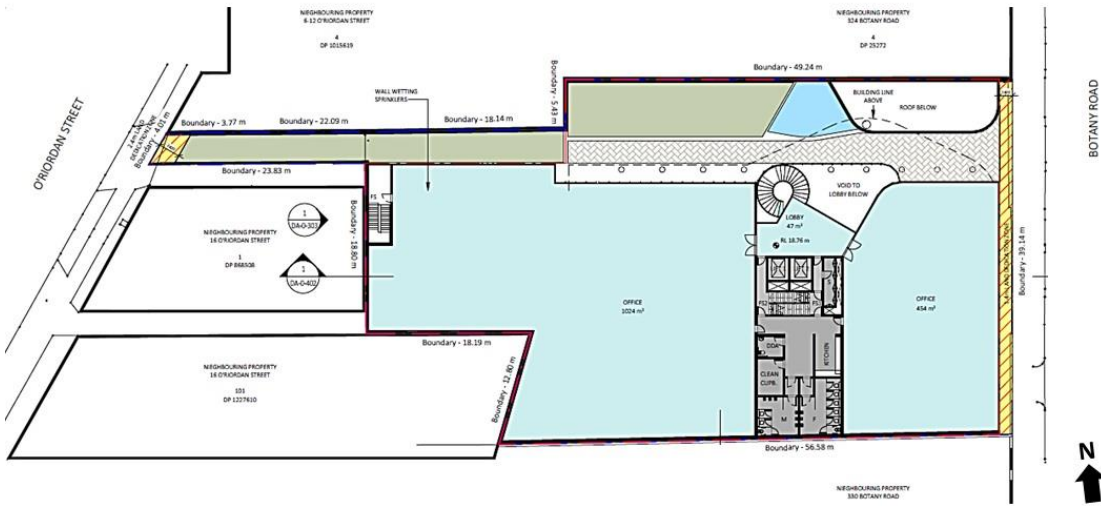


Figure 29: Reference scheme level 1 plan.

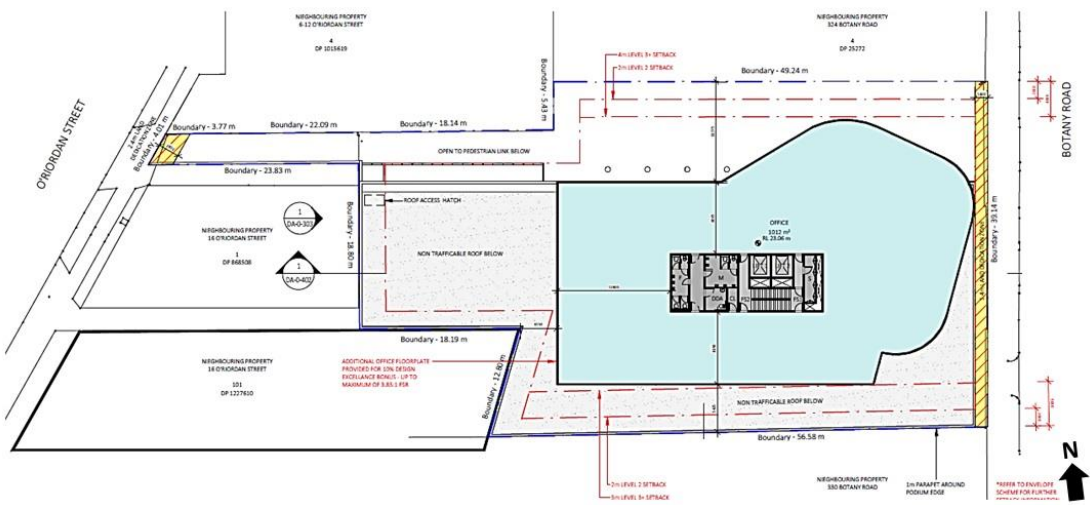


Figure 30: Reference scheme levels 2 to 8.

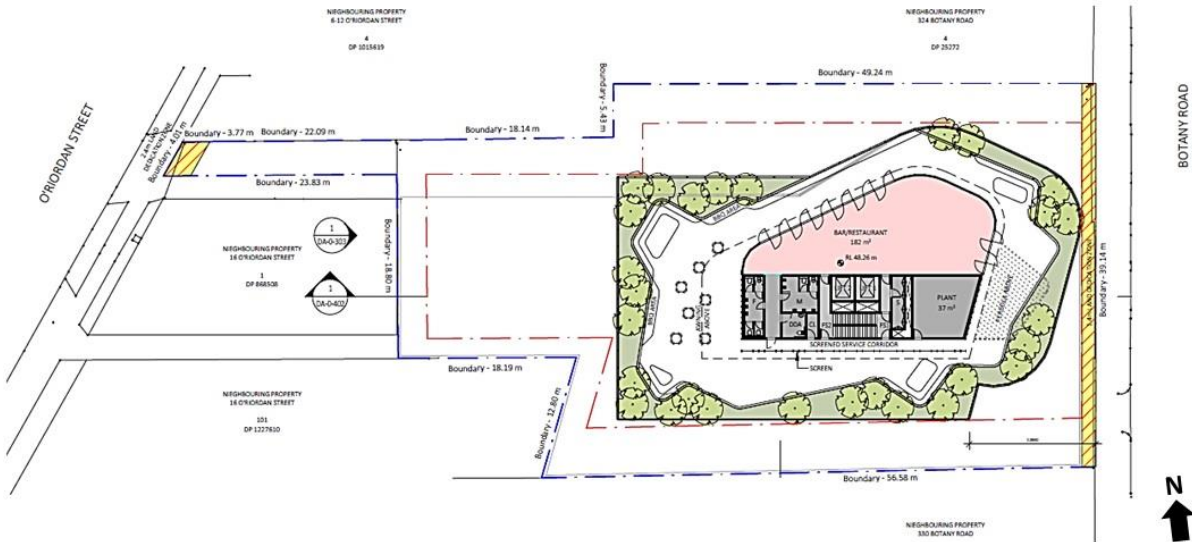


Figure 31: Reference scheme rooftop / level 9 food and drink premises.

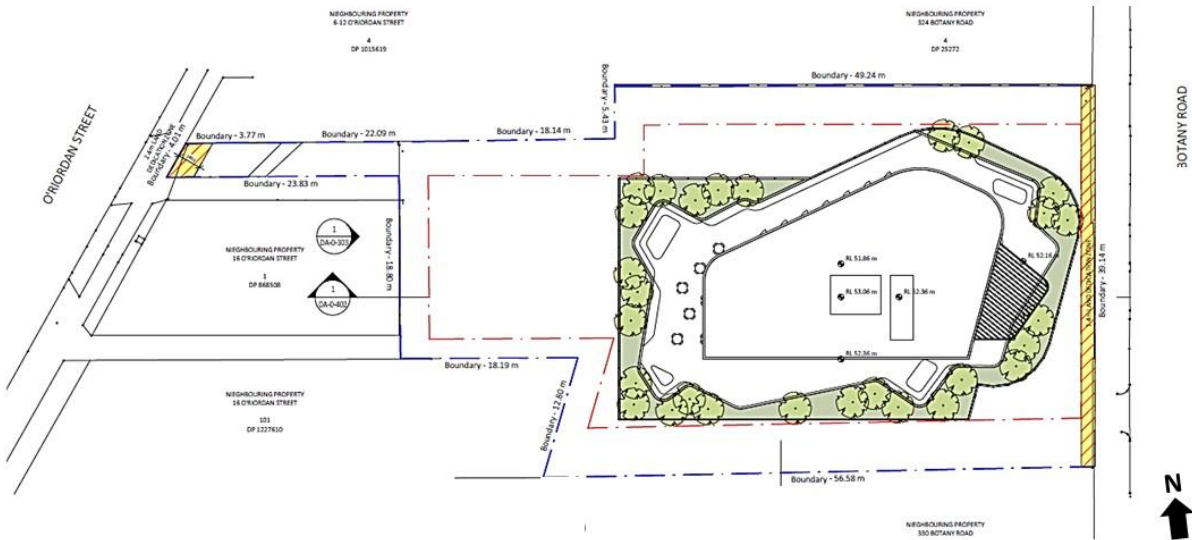


Figure 32: Reference scheme roof level.

History of the Subject Development Application

Pre-DA Consultations

14. On 11 January 2019, the proponent's project team had a pre-DA meeting with Council officers to discuss various development options for the site. Issues discussed included:
 - (a) proposed land uses and use mix;
 - (b) the public benefit offer;
 - (c) traffic conditions and access constraints; and
 - (d) the design excellence process.

Post lodgement

15. The subject DA was lodged on 24 June 2019.
16. During the assessment Council officers requested additional information and amendments of the proposed envelope. The proposal was also reviewed by Council's Design Advisory Panel. Council officers incorporated these comments in feedback to the applicant. This included:
 - (a) the stepped form of the envelope be simplified;
 - (b) the reference scheme does not demonstrate the maximum permissible FSR can be achieved within the proposed envelope;
 - (c) removal of the indicative through site link on along the northern boundary. The through site link was not supported as it did not demonstrate that it could satisfy DCP design requirements for through site links and due to CPTED issues with its design;
 - (d) the landscape concept plan should be amended to remove illustrative detail and drawings of the reference scheme and is to be coordinated with the envelope drawings;
 - (e) a vehicle access from O'Riordan Street is preferred and should be further explored;
 - (f) demonstrate a compliant number of bicycle parking and end of trip facilities can be accommodated within the development and provide information as to how the proposed active transport targets are to be achieved;
 - (g) solar PV is recommended to achieve a more ambitious ESD target; and
 - (h) shadow diagrams are to be submitted to demonstrate the proposed envelope will not overshadow residential sites within the Green Square Town Centre.
17. This final iteration of amended envelope and reference scheme drawings are shown in **Figures 15 to 32** above and are discussed in the following sections of this report.

Economic/Social/Environmental Impacts

18. 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

19. 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.
20. Preliminary and Detailed Environmental Site Investigations (DESI), an addendum DESI and Remediation Action Plan were submitted with the development application. Council's Environmental Health Specialists have reviewed the submitted information and have advised that subject to the recommended conditions the site can be made suitable for the proposed development.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45 - Development likely to affect an electricity transmission or distribution network

22. The development is in the vicinity of electricity power lines and may require a substation as a result of increased demand for electricity arising from the development.
23. In accordance with SEPP clause 45 the application was notified to Ausgrid on 27 June 2019.
24. Ausgrid provided written referral comments on 22 July 2019, raising no objection to the proposed development subject to the recommended conditions of consent.

Clauses 85 and 86 - Development adjacent to rail corridors and interim rail corridors

25. The development is adjacent to a rail corridor. In accordance with SEPP clause 85 the application was notified to Sydney Trains on 27 June 2019.
26. In response, Sydney Metro provided referral comments on 8 July 2019 to advise that:
 - (a) the site is not within the Sydney Metro City and Southwest corridor pursuant to the SEPP. Accordingly, Sydney Metro considers that concurrence under SEPP clause 86 is not required in relation to the Sydney Metro City and Southwest corridor; and
 - (b) SEPP clause 85 which pertains to development adjacent to rail corridors, has also been considered and does not apply for the Sydney Metro City and Southwest corridor.

Clause 101 - Development with frontage to classified road

27. The site has frontage to Botany Road, which is a classified road. In accordance with SEPP clause 101 the application was notified to Roads and Maritime Services (RMS) on 27 June 2019.
28. RMS provided referral comments on 17 July 2019 and raise no objection subject to the recommended conditions of consent.
29. The application is considered to satisfy the requirements of the SEPP because:
 - (a) it has adequately demonstrated that it is not practicable to provide vehicular access via its O'Riordan Street frontage (which is also a state classified road);
 - (b) there are two existing vehicle crossovers to its Botany Road frontage. The approved general location of the single vehicle crossover on the southern end of the Botany Road frontage will reduce the number of vehicle crossovers to the Botany Road frontage by one and is considered to have no adverse impacts upon the safety, efficiency and ongoing operation of the classified road; and
 - (c) the development is capable of being designed to ameliorate the impacts of traffic noise and vehicle emissions upon future intended occupants of the site.

Sydney Local Environmental Plan 2012

30. The site is located within the B7 Business Park Zone.

31. The proposed indicative uses include kiosk, shop, office, food and drink premises uses and loading, servicing, bicycle parking and end of trip facilities at ground level, office uses on levels 1 to 8 and roof top food and drink premises. These indicative uses are permitted with consent in the zone.
32. The relevant matters to be considered under Sydney Local Environmental Plan 2012 (the LEP) for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	Able to comply	<p>A maximum height of 40m is permitted.</p> <p>A height of up to 40.09m is proposed.</p> <p>A condition is recommended for the height of the building envelope to be reduced by 0.09m to RL 53.56 (40m).</p> <p>Refer to the Issues section in this report.</p>
<p>4.4 Floor Space Ratio</p> <p>6.13 End of Journey Floor Space</p> <p>6.14 Community Infrastructure Floor Space</p> <p>6.21 Design Excellence</p>	Able to comply	<p>LEP clause 4.4 stipulates a base floor space ratio (FSR) of 2:1 for the site.</p> <p>LEP clause 6.13 allows an additional amount of floor space equal to the floor space occupied by end of journey facilities (EoJF) up to 0.3:1 of FSR. The reference scheme incorporates EoJF with an area of 390sqm, which is equal to 0.15:1 FSR.</p> <p>LEP clause 6.14 provides an opportunity for a further 1.5:1 FSR where community infrastructure is provided.</p> <p>As part of the subject application, the owner of the site has made a formal offer to enter into a Voluntary Planning Agreement (VPA) with Council. This VPA is for the dedication of 65sqm of land to Council, for the purposes of footpath widening on its Botany Road and O'Riordan Street frontages with a value of \$13,120, public domain works with a value of \$23,747 and a monetary contribution of \$747,723 for community infrastructure provision in Green Square.</p>

Development Control	Compliance	Comment
		<p>In accordance with LEP clause 6.21 up to 10% additional FSR (0.35:1) may be approved subject to a competitive design process being carried out and the subsequent detailed design scheme exhibiting design excellence.</p> <p>Considering all of the relevant FSR provisions contained in the LEP, the maximum permitted FSR for the development is 4:1 (10,365.35sqm GFA).</p> <p>The submitted GFA diagrams and schedules that set out the GFA and FSR of the reference scheme contain some discrepancies. Council officers have calculated the reference scheme to have a FSR of 4.01:1 (10,377sqm GFA), which exceeds the permissible FSR for the site.</p> <p>No actual works or FSR are approved as part of any concept approval. So notwithstanding the reference scheme's minor non-compliance with the FSR development standard, it is considered that a building with a compliant FSR can be achieved at the detailed design stage and without unacceptable impacts to adjacent properties. A condition has been recommended that requires that the floor space ratio of the detailed design must not exceed the permissible floor space ratio for the site.</p> <p>The subject concept proposal has been assessed against the relevant requirements of 6.21(4) including site suitability, proposed uses, bulk and massing, street frontage heights and other environmental impacts. The concept proposal demonstrates that a detailed building design is capable of being achieved for the site. Clause 6.21(4) will be considered in the assessment of any subsequent DA for the detailed building design.</p> <p>Refer to the Issues section in this report for further discussion of the VPA.</p>

Development Control	Compliance	Comment
5.4 Controls relating to miscellaneous permissible uses	Able to comply	<p>The maximum permitted GFA for a kiosk is 20sqm.</p> <p>The reference scheme proposes indicative uses including a shop, kiosk and food and drink premises at the ground floor. The kiosk shown in the reference scheme has a GFA of 65sqm and does not comply.</p> <p>A condition is recommended for kiosk uses to not exceed 20sqm in GFA to be inserted as a requirement in the competitive design process brief and for any future DA for the detailed design of the building.</p>
5.10 Heritage conservation	Yes	<p>The site does not contain a heritage item and is not in the vicinity of a heritage item. The site is not located within a heritage conservation area.</p> <p>Council's Heritage Specialist raises no objection to granting in-principle approval for the demolition of the existing warehouse building.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
Division 4 Design excellence	Able to comply	<p>A Design Excellence Strategy (DEX Strategy) has been submitted with the application and which establishes a design excellence process for the development of the site.</p> <p>Conditions are recommended to approve the DEX Strategy and ESD targets, and for design requirements to be incorporated into any future competitive design process brief.</p> <p>A competitive design process is to be undertaken prior to lodgement of any future DA for the detailed design of the building. This competitive design process must adhere to the DEX Strategy and conditions of consent for the development to be eligible for up to 10% additional FSR.</p>

Part 7 Local Provisions - General	Compliance	Comment
7.13 Contribution for the purposes of affordable housing	Able to comply	Any subsequent DA for the detailed design of the building will be subject to an affordable housing contribution under clause 7.13 of the LEP.
7.14 Acid sulphate soils	Able to comply	<p>The site is identified as containing Class 5 Acid Sulphate Soils and is approximately 36m from Class 3 Acid Sulphate Soils.</p> <p>LEP clause 7.14 requires acid sulphate soils to be considered in the granting of consent for any works. As no approval is granted for any works to be carried out as part of any concept DA consent, this matter is to be addressed by any future DA for the detailed design of the building. A condition has been recommended to this effect.</p>
7.15 Flood planning	Able to comply	The site is identified as being flood affected.

Part 7 Local Provisions - General	Compliance	Comment
		<p>A flood impact assessment prepared by WMA Water was lodged with the subject DA and recommends flood planning levels (FPLs) for the development of the site.</p> <p>Council's Public Domain Infrastructure Specialist raises no objection to the proposal subject to the recommended conditions to establish minimum floor levels in accordance with the FPLs specified in the flood impact assessment.</p> <p>A design modification condition is recommended requiring the notation on the Typical Floor Plate drawing '<i>ramp from Botany Road to RL14.06'</i> to be deleted. This is to avoid locking a single solution into the concept approval and to allow a solution to be found through the competitive design process to provide a high quality public domain interface to Botany Road.</p> <p>Refer to the assessment against DCP provision 3.2.2 Defining the Public Domain - Addressing the street and public domain in the DCP compliance tables below.</p>
7.16 Airspace operations	Decision pending	<p>The proposed development will penetrate the Obstacle Limitation surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport. Consequently, approval of the concept envelope is required from Federal Department of Infrastructure and Regional Development, Airspace Protection, Aviation and Airports.</p> <p>The final iteration of the concept envelope design was submitted to Council on 14 November 2019 and was forwarded to the Federal Department. Final approval was granted on 22 November 2019 subject to the recommended conditions.</p>

Part 7 Local Provisions - General	Compliance	Comment
		Refer to the External Referrals heading in this report.
7.17 Development in areas subject to airport noise	N/A	The subject site is not located on land in an ANEF contour of 20 or greater and as such is not subject to the requirements of this clause.
7.20 Development requiring preparation of a development control plan	Able to comply	<p>As the height of the proposed development is over 25m in height, preparation of a site specific DCP is required.</p> <p>Pursuant to the provisions of Section 4.23(2) of the Environmental Planning and Assessment Act 1979, the lodgement of a concept proposal DA may be considered by the consent authority as satisfying this obligation.</p> <p>As detailed elsewhere in this report, subject to the recommended conditions the concept proposal adequately addresses the matters for consideration specified under this clause including, height, bulk, massing, streetscape and environmental impacts.</p>
7.23 Large retail development near Green Square Town Centre	Able to comply	<p>The subject site is located on land identified as restricted retail development on the Retail Premises Map. As such, development consent cannot be granted for the purposes of shops or markets with a gross floor area of greater than 1,000sqm.</p> <p>While indicative ground floor shop uses are proposed, the quantum of gross floor area is not approved as part of this concept DA.</p> <p>As such, any subsequent DA for the detailed design of the building will be required to comply with this control.</p>
7.25 Sustainable Transport On Southern Employment Land	Able to comply	This clause requires the consent authority to consider whether the development will promote sustainable transport modes and minimise traffic.

Part 7 Local Provisions - General	Compliance	Comment
		<p>As no works are approved as part of this concept DA the clause does not apply, however it will be a consideration to be addressed by any subsequent DA for the detailed design of the building.</p> <p>A condition is recommended to outline information to be provided as part of any subsequent DA for the detailed design of the building to adequately address this clause.</p>

Sydney Development Control Plan 2012

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

2. Locality Statements – 2.10.4 East Alexandria

The subject site is located in the locality of East Alexandria. The proposal is considered to be in keeping with the unique character of the area and design principles in that it provides employment uses, land dedications for footpath widening to both its street frontages to improve pedestrian amenity and limits retail uses to ensure the primacy of Green Square Town Centre.

3. General Provisions	Compliance	Comment
<p>3.1.1 Public Domain Elements - Streets, lanes and footpaths</p> <p>3.1.1.4 Public Domain Elements - Footpaths</p>	Able to comply	<p>Construction of footpaths on land to be dedicated for footpath widening to both the Botany Road and O'Riordan Street site frontages have been secured in the Voluntary Planning Agreement associated with this DA.</p> <p>Footpaths are to be designed and constructed in accordance with the Sydney Streets Design Code.</p>
3.1.2.2 Pedestrian and Bike Network - Through site links	Yes	<p>The DCP does not require a through site link (TSL) to be accommodated within the site.</p> <p>No TSL is proposed in the most recent iteration of the reference scheme.</p>

3. General Provisions	Compliance	Comment
		Refer to the Issues section in this report.
3.1.4 Public Domain Elements - Public open space	Yes	The proposed concept envelopes do not have any overshadowing impacts to public open space in the vicinity of the site.
3.1.5 Public Domain Elements - Public art	Yes	A Public Art Strategy has been submitted with the application and which sets out a process for providing public art as part of the development.
3.2.1.1 Defining the Public Domain - Sunlight to publicly accessible spaces	Yes	As noted in the assessment against DCP provision 3.1.4 above, the proposed concept envelopes do not overshadow any publicly accessible open space.
3.2.2 Defining the Public Domain - Addressing the street and public domain	Able to comply	<p>Council's Urban Design Specialist has reviewed the reference scheme and has advised that it does not demonstrate that incorporation of the flood planning levels has been adequately considered.</p> <p>Accessible entry to shop fronts is via a convoluted route via the commercial lobby and does not directly address the street.</p> <p>Tapered steps are shown to two of the shopfronts and in front of the substation. It is noted that this arrangement is unlikely to be supported by Ausgrid.</p> <p>Conditions are recommended for design requirements to be incorporated into the competitive design process brief for the development to positively address the street and public domain.</p>
3.2.3 Active frontages	Able to comply	<p>Both of the site's Botany Road and O'Riordan Street frontages are identified as active frontages.</p> <p>A condition is recommended for design requirements to be incorporated into the competitive design process brief for the development to positively address the street and public domain.</p>

3. General Provisions	Compliance	Comment
3.2.4 Footpath awnings	Able to comply	<p>The site's Botany Road frontage is identified as requiring a footpath awning.</p> <p>A condition is recommended for design requirements to be incorporated into the competitive design process brief and any subsequent DA for the detailed design of the building, to provide a footpath awning to the Botany Road frontage.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>A Design Excellence Strategy (DEX Strategy) has been submitted with the application and which establishes a design excellence process for the development of the site.</p> <p>Conditions are recommended to approve the DEX Strategy and for design requirements to be incorporated into any future competitive design process brief.</p> <p>A competitive design process is to be undertaken prior to lodgement of any future DA for the detailed design of the building. This competitive design process must adhere to the DEX Strategy and conditions of consent for the development to be eligible for up to 10% additional FSR.</p> <p>This provision requires submission of a landscape concept plan as part of any concept DA. A landscape concept plan was submitted but is not approved by this consent. Landscape design is not determinative at this concept stage and is deferred to be developed through detailed design phase.</p> <p>Refer to the assessment against DCP provision 5.8.2.5.1 Landscaping in the Southern Employment Lands section of the DCP compliance table below.</p>
3.4 Hierarchy of Centres, City South	Able to comply	Refer to the assessment against LEP clause 7.23 in the LEP compliance table above.

3. General Provisions	Compliance	Comment
3.5.2 Urban Ecology - Urban Vegetation	Able to comply	Conditions are recommended for a target of at least 15% canopy coverage of the site within 10 years of completion of the development.
3.5.3 Urban Ecology - Tree Management	Able to comply	No tree removal is approved as part of this concept DA.
3.6 Ecologically Sustainable Development	Able to comply	<p>ESD target benchmarks have been incorporated into the DEX Strategy that is recommended for approval.</p> <p>Proposed ESD initiatives to achieve the ESD target benchmarks include recycled water use and a solar PV system.</p>
3.7 Water and Flood Management	Able to comply	Refer to the assessment against LEP clause 7.15 in the LEP compliance table above.
3.8 Subdivision, Strata Subdivision and Consolidation	Able to comply	<p>The concept demolition plan shows a note relating to the northern boundary of Lot 5 in DP 25272 - 'Retain party wall to adjoining property subject to structural engineer'.</p> <p>Conditions are recommended for this notation to be deleted and to address the rights pertaining to the party wall.</p> <p>A condition is recommended requiring lot consolidation as part of any subsequent development application for the detailed design of the building.</p>
3.9 Heritage	Yes	Refer to the assessment against LEP clause 5.10 in the LEP compliance table above.
3.11 Transport and Parking	Able to comply	Refer to the assessment against LEP clause 7.25 in the LEP compliance table above.

3. General Provisions	Compliance	Comment
3.12 Accessible Design	Able to comply	A condition has been recommended for any subsequent DA for the detailed design of the building to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.
3.13 Social and Environmental Responsibilities	Able to comply	In accordance with the public domain interface and active use requirements discussed elsewhere in this report it is considered that any detailed design scheme is able to provide adequate passive surveillance and in accordance with the relevant CPTED principles.
3.14 Waste	Able to comply	A condition has been recommended for any subsequent DA for the detailed design of the building to comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
3.15 Late Night Trading Management	Able to comply	<p>While indicative food and drink uses are proposed, the operational details of these uses are not approved as part of this concept DA.</p> <p>As such, any subsequent DA for the detailed design of the building that comprises late trading premises as defined in the DCP will be required to comply with this control.</p>
3.16.1 Signage Strategy	Able to comply	A condition has been recommended for any subsequent DA for the detailed design of the building to include a signage strategy for the building.

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.1 Building height	Able to comply	<p>A maximum of 11 storeys is permitted.</p> <p>The number of storeys is not approved as part of this concept DA. However, the reference scheme demonstrates that the proposed FSR may be achieved within the 11 storey height limit.</p>
4.2.1.2 Building height - Floor to ceiling heights and floor to floor heights	Able to comply	<p>In commercial buildings a minimum floor to floor height of 4.5m on the ground floor and 3.6m on any floor above is required.</p> <p>The reference scheme demonstrates that the minimum floor to floor heights can be achieved.</p> <p>A condition is recommended for minimum floor to floor heights to be included as design requirements to be incorporated into any future competitive design process brief.</p>
4.2.2 Building setbacks	Able to comply	<p>The DCP <i>Building setback</i> and <i>Setback above street frontage height</i> maps do not impose any setback requirements on the site.</p> <p>Where no setback or setback above street frontage is shown on the map setbacks are to be consistent with those of adjacent buildings.</p>
4.2.3.1 Amenity - Solar access	Yes	Submitted shadow diagrams illustrate that the concept envelope will not have any overshadowing impacts to residential properties.
4.2.5 Types of development	Able to comply	The proposed concept envelope is 40m in height and is capable of accommodating a tall building as defined by this provision.

4. Development Types	Compliance	Comment
4.2 Residential flat, commercial and mixed use developments		A condition is recommended for any tall building (>35m in height) to be vertically proportioned in height, form and architectural articulation, to be incorporated as a design requirement in any future competitive design process brief.
4.2.6 Waste and Recycling Management	Able to comply	A condition has been recommended for any subsequent DA for the detailed design of the building to comply with the requirements of this provision.

5. Specific Areas	Compliance	Comment
5.2.3 Community infrastructure	Yes	<p>The proposal relies on an additional 1.5:1 community infrastructure floor space.</p> <p>The applicant has made a public benefit officer and agreed to enter into a VPA - to deliver this infrastructure.</p> <p>Refer to the Issues section in this report.</p>
5.2.7 Stormwater management and waterways	Able to comply	Refer to the assessment against LEP clause 7.15 in the LEP compliance table above.
5.2.9 Building design	Able to comply	A condition is recommended for the relevant requirements of this provision to be incorporated into any future competitive design process brief.
5.2.12 Above ground and adaptable car parking spaces	Able to comply	While a very limited number of ground level car parking spaces are indicated in the reference scheme, the number and configuration of car parking spaces are not approved as part of this concept DA.

5. Specific Areas	Compliance	Comment
5.8.2.1 Development - Subdivision	Able to comply	Refer to the assessment against DCP provision 3.8 in the DCP compliance table above.
5.8.2.2 Development - Building setbacks	Yes	<p>In accordance with the DCP Public Domain Setbacks Map, a 1.4m setback to Botany Road and a 2.4m setback to O'Riordan Street are to be dedicated to Council for footpath widening through a Voluntary Planning Agreement (VPA).</p> <p>Refer to the Issues section in this report.</p>
5.8.2.3 Development - Building height	Able to comply	As noted elsewhere in this report, the concept envelope complies with the permitted LEP height limit and is able to accommodate a detailed building design that complies with the DCP height in storeys limit of 11 storeys.
5.8.2.4 Development - Building layout and design	Able to comply	<p>The reference scheme does not demonstrate how the requirements of this provision may be addressed in that it orients the building to its northern side boundary rather than to its primary Botany Road frontage and its facades are predominantly comprised of glass and steel rather than a variety of materials including masonry.</p> <p>A condition is recommended for the requirements of this provision to be incorporated into any future competitive design process brief.</p>
5.8.2.5.1 Development - Landscaping	Able to comply	<p>As discussed elsewhere in this report three iterations of the landscape concept plan have been submitted over the course of this assessment. However, none of these have adequately addressed all of the issues raised by Council officers in this regard.</p> <p>Notwithstanding this the reference scheme and submitted landscape plans demonstrate adequate deep soil and canopy cover can be achieved on the site.</p>

5. Specific Areas	Compliance	Comment
		A condition is recommended for these key landscape requirements to be incorporated into any future competitive design process brief.
5.8.2.6 Development - Parking, access, loading and servicing	Able to comply	Conditions have been recommended for the detailed design of the building to satisfy the requirements of this provision which largely replicate the requirements of LEP clause 7.25 and DCP provision 3.11.
5.8.2.7 Development - Storage areas	Able to comply	The requirements of this provision which are to mitigate environmental impacts of storage areas associated with employment uses are to be addressed at detailed design stage.
5.8.4 Adaptable Parking	Able to comply	Refer to the assessment against DCP provision 5.2.12 in the DCP compliance table above.
5.8.5 Managing Transport Demand	Able to comply	Refer to the assessment against LEP clause 7.25 in the LEP compliance table above.
5.8.7.1 Environment - Storm water management and waterways	Able to comply	Refer to the assessment against LEP clause 7.15 in the LEP compliance table above.
5.8.7.2 Environment - Urban ecology	Able to comply	Refer to the assessment against DCP provisions 3.5.2 and 3.5.3 in the DCP compliance table above.
5.8.7.3 Environment - Contamination	Yes	Refer to the assessment against <i>SEPP 55 - Remediation of Land</i> elsewhere in this report.
5.8.7.4 Environment - Green roofs and walls	Able to comply	A condition is recommended for the requirements of this provision, to encourage green roofs and walls, to be incorporated into any future competitive design process brief.

5. Specific Areas	Compliance	Comment
5.8.8 Social Infrastructure	Yes	The proposal is consistent with social infrastructure objectives for the southern employment lands in that it will provide local employment opportunities and will incorporate sustainable transport initiatives such as bicycle parking and end of journey facilities.

Issues

Height of Buildings

34. A maximum height of 40m is permitted. At its south-eastern corner the height of the proposed envelope is RL 53.65 and which is 40.09m above the ground level (RL 13.56), as shown in **Figure 33** below.

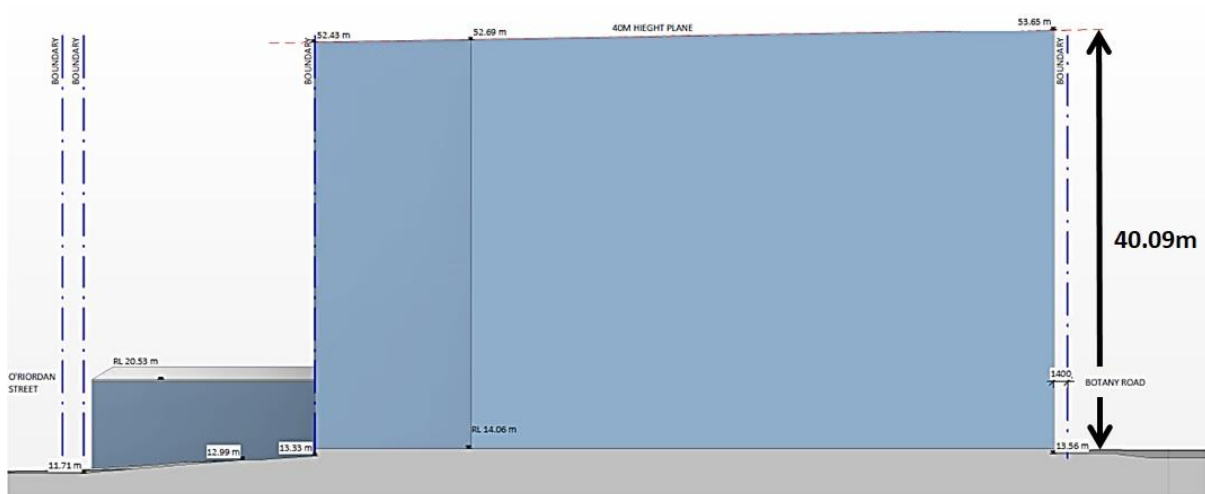


Figure 33: Envelope - south elevation illustrating minor height non-compliance.

35. A condition is recommended for:

- (a) the height of the building envelope to be reduced by 0.09m to RL 53.56 (40m) at its south-eastern corner; and
- (b) for an amended 3D CAD model to be submitted and approved by Council officers prior to the commencement of any competitive process. This is so a 3D CAD model, that is consistent with the approved envelope and that has been prepared in accordance with the City's requirements can be provided to all architectural firms participating in the competitive design process.

Voluntary Planning Agreement

36. DA documents submitted at lodgement included correspondence dated 19 June 2019 from the owner of the site making an offer to Council to enter into a Voluntary Planning Agreement (VPA) to provide the public domain setbacks as required under DCP provision 5.8.2.2(1) and a monetary contribution towards community infrastructure provision in Green Square.
37. The offer was accepted and the subsequent draft VPA that has been prepared in association with the subject development application provides for the following public benefits:
 - (a) dedication of a 1.4 metre wide strip of land along the Botany Road frontage and a 2.4 metre wide strip of land along the O'Riordan Street frontage of the development site (with an area of 65sqm) to allow for widened pedestrian footpaths;
 - (b) construction of a new concrete footpath over the dedicated land in accordance with Council's technical specifications; and
 - (c) a monetary contribution towards community infrastructure provision in Green Square with a value of \$755,007.
38. The draft VPA will undergo a 28 day public exhibition period in accordance with the requirements of section 7.5 of the Environmental Planning and Assessment Act 1979. The public exhibition period commenced on 3 December 2019. At the time of preparing this report, no submissions had been received.
39. The application is recommended for deferred commencement consent to require the owner of the site to execute this planning agreement and register it on title before the consent becomes operative. This will ensure that the consent cannot be acted upon without assurance that the public benefits will be delivered in accordance with the provisions of this agreement.

Through Site Link

40. As noted in the section of this report titled History of the Subject Development Application (paragraphs 14 to 17), the proposed concept DA was presented to DAP in September 2019. While the concept envelope presented to DAP did not prescribe a through-site link (TSL), the provision of a TSL had informed the reference scheme (refer to **Figure 34** below) and other aspects of the proposal such as the landscape concept plan.

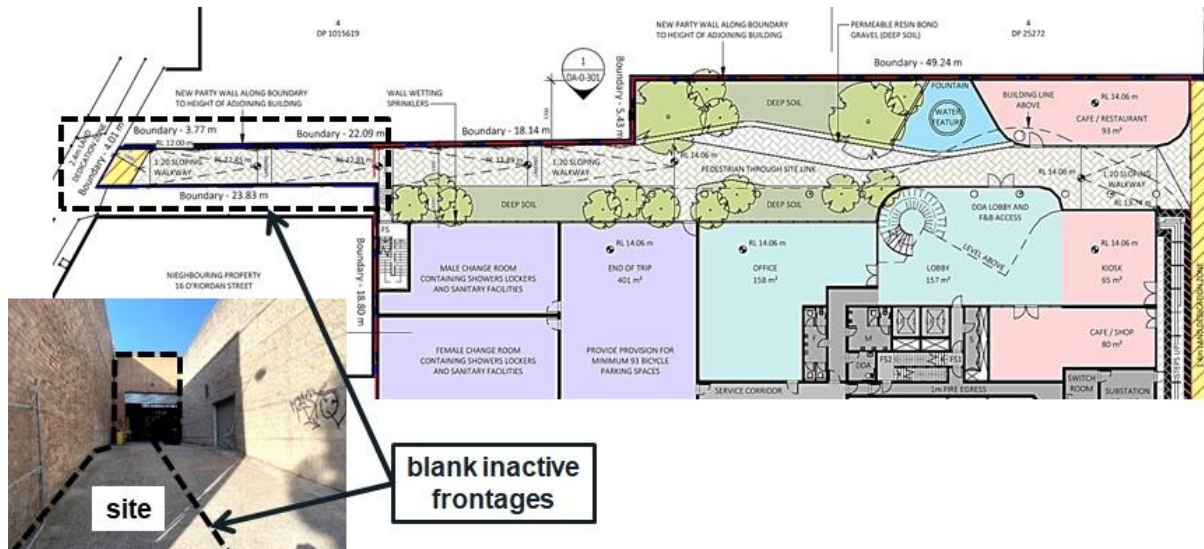


Figure 34: Reference scheme (ground level) incorporated a TSL prior to the current iteration of amendments.

41. The DCP does not identify the site as being required to provide a TSL. Fifty metres to the north along O’Riordan Street is the proposed location of a new public plaza currently known as Transport Place. Transport Place will be a new transport hub associated with the existing Green Square train station. Approximately 110m to the south, is a proposed new east-west street to connect the Green Square Town Centre to O’Riordan Street and beyond. For these reasons it is considered that a TSL is not required in the location of the subject site to increasing permeability through the block.
42. Subsequently, the DAP advice included the recommendation that a TSL was not supported for this site. The reasons for this were that:
 - (a) the site is not capable of accommodating a TSL that meets the minimum physical requirements for TSLs specified in the DCP;
 - (b) it would have a blank, inactive frontage for a substantial length which raises safety and security concerns; and
 - (c) it is not required to achieve block permeability.
43. The amended DA package submitted 30 October 2019 included an amended reference scheme which deleted the portion of the through site link circled in **Figure 34** above, and which is a narrow piece of land that connects the site to O’Riordan Street, currently comprising a driveway.
44. To provide clarity to architectural firms participating in the competitive design process, a condition is recommended to be included in the design requirements of any competitive design process brief, that a through site link must not be provided on this site.

Building Setbacks

45. As noted in the section of this report titled History of the Subject Development Application (paragraphs 14 to 17), DAP recommended that the envelopes be simplified. This advice has been adopted in the amended envelope design by simply extruding the site boundaries up to the 40m LEP height plane.

46. The reference scheme demonstrates that this simplified or 'loose-fit' envelope will provide some flexibility as to how floor space may be configured on the site in the competitive design process.
47. As the DCP does not prescribe side or rear boundary setbacks it will be up to the competing architects' designs to respond to contextual matters in this regard, such as to provide natural light / ventilation to or separation from windows on adjacent sites (such as existing windows to the small light well at the eastern end of the hotel development at 16 O'Riordan Street shown in **Figure 35** below).

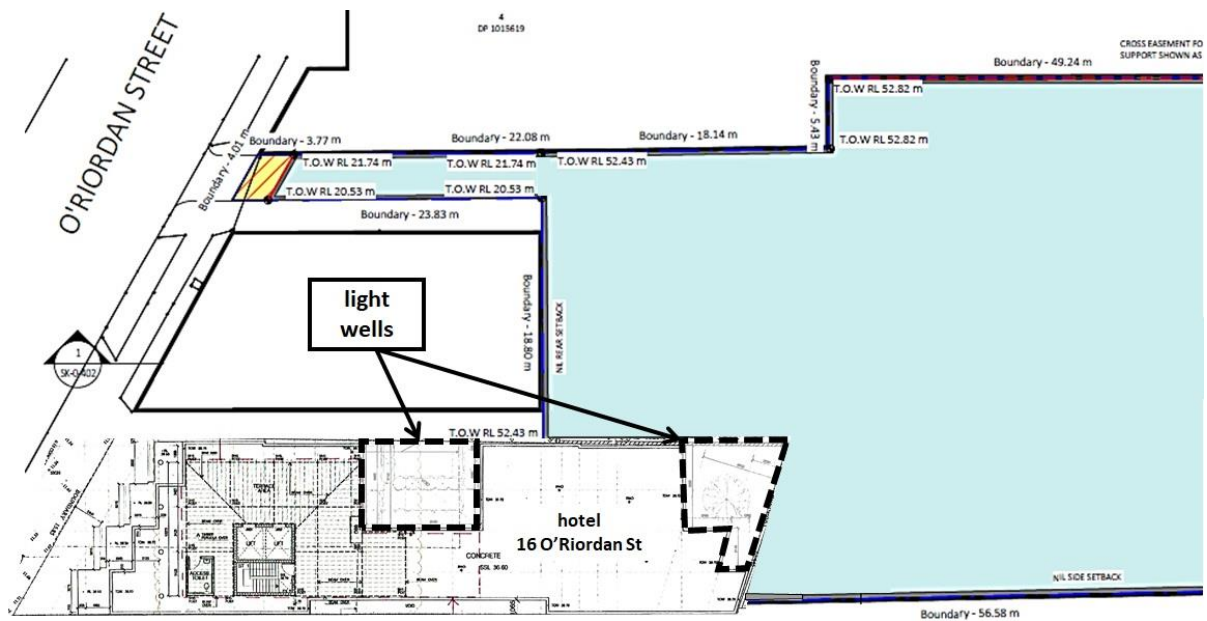


Figure 37: Envelope plan relative to adjacent hotel light-wells at 16 O'Riordan Street.

48. A condition is recommended for side and rear building setbacks to respond to the surrounding context including to provide natural light / ventilation to or separation from windows on adjacent sites, to be included as design requirements to be incorporated into any future competitive design process brief.

Other Impacts of the Development

49. The proposed development is capable of complying with the BCA.
50. It is considered that the proposed development 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

51. The proposal is suitable for the site.

Internal Referrals

52. The assessment process has been informed by advice from Council's Specialist Surveyor, Environmental Health Specialist, Heritage Specialist, Urban Design Specialist, Design Excellence Unit, Public Domain Specialist, Landscape Design Specialist, Transport Planner, Legal Officers, Strategic Planner, VPA Coordinator, ESD Specialist, Waste Management Specialist and the Design Advisory Panel (DAP).
53. Where appropriate, conditions recommended by these referrals have been included for imposition on any consent given.

External Referrals

Integrated Development

54. On 3 July 2019, Integrated Development Application (IDA) referral CNR-755 was created and referred to Water NSW through the Planning Portal and in accordance with section 4.47 of the Environmental Planning and Assessment Act 1979 (the Act).
55. On 2 September 2019, submissions received during the exhibition period were uploaded and forwarded to Water NSW through the Planning Portal and in accordance with clause 69 of the Environmental Planning and Assessment Regulation 2000 (the Regulation).
56. In accordance with clause 70 of the Regulation, Water NSW is required to give its decision 21 days after the date that it was notified of any submissions received in response to the public exhibition period. On 23 September 2019 this period lapsed.
57. In accordance with section 4.47 of the Act, the consent authority may determine the subject application notwithstanding that Water NSW had not informed the consent authority as to whether it will grant the approval or not.

Notification, Advertising and Delegation

58. The application constitutes integrated development and as such it was notified and advertised for 30 days between 27 June and 27 July 2019 in accordance with the Environmental Planning and Assessment Regulation 2000. As a result of this notification one submission was received in support of the proposal on the basis that it would be an improvement on the warehouse that currently exists on the site.
59. On 30 October 2019, amended plans were submitted and which increased the massing of the proposed concept envelope. In accordance with section 1.3 of Schedule 1 of the Sydney DCP 2012 the amended proposal was notified for 14 days between 4 and 20 November 2019. No submissions were received in response to the re-notification of the amended proposal.

Roads Act 1993

60. The proposed development seeks in-principle approval for a vehicle crossover to the Botany Road frontage of the site, which is a classified road.
61. Section 138 of the Roads Act 1993 specifies that works cannot be carried out in a public road or connect a site to a classified road without the concurrence of RMS.

62. In accordance with Section 138 of the Roads Act the application was notified to Roads and Maritime Services (RMS) on 27 June 2019.
63. On 17 July 2019, RMS provided its concurrence subject to Council's approval and the recommended conditions being imposed on any consent granted. These conditions are included in Schedule 1E of the Recommended Conditions of Consent.

Sydney Airport Referral Act 1996

64. Section 182 of the Commonwealth Airports Act 1996 (the Act) specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.
65. Airports (Protection of Airspace) Regulations 1996 identifies the Obstacle Limitations Surface as being at a height of 51m AHD above the site. At a maximum height of 53.65m AHD, the building will penetrate the OLS by 2.7m and constitutes a 'controlled activity' under the Act.
66. In accordance with the concurrence requirements contained in LEP clause 7.16, the subject DA was referred to Sydney Airport on 27 June 2019.
67. On 1 July 2019, the Sydney Airport responded to request amended plans that indicated the maximum height of the proposed concept envelope.
68. On 17 July 2019, the Proponent submitted amended plans. On 23 July 2019 those amended plans were forwarded to Sydney Airport and an application was made to the Federal Department of Infrastructure, Transport, Cities and Regional Development (the Department).
69. On 2 October 2019, the Department issued an approval subject to conditions.
70. On 30 October 2019, amended plans were submitted in response to issues raised by Council officers. Amended plans were forwarded to the Department on 1 November 2019.
71. On 22 November 2019, Council officers advised the Department that no submissions were received in response to the re-exhibition of the amended plans and DA information.
72. On 22 November 2019, the Department issued its final approval subject to the conditions of the approval granted 2 October 2019.
73. These conditions are included in Schedule 1F of the Recommended Conditions of Consent.

Public Interest

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

S7.11 Contribution

75. Section 7.11 contributions will be imposed upon any consent granted to any subsequent DA for the detailed design of the building.

Affordable Housing Contribution

76. An affordable housing contribution will be imposed upon any consent granted to any subsequent DA for the detailed design of the building.

Relevant Legislation

77. Environmental Planning and Assessment Act 1979.

Conclusion

78. The subject application seeks in-principle approval for demolition of the existing warehouse building on site, a concept envelope up to 40m in height and indicative future land uses comprising kiosk, shop, office and food and drink premises.
79. The concept proposal relies on the utilisation of community infrastructure floor space pursuant to LEP clause 6.14. As such, the owner of the site has made a formal offer to enter into a voluntary planning agreement (VPA) for dedication of a 1.4 metre wide strip of land along the Botany Road frontage and a 2.4 metre wide strip of land along the O'Riordan Street frontage for footpath widening and a monetary contribution towards community infrastructure provision in Green Square.
80. The draft VPA will undergo a 28 day public exhibition period in accordance with the requirements of section 7.5 of the Environmental Planning and Assessment Act 1979. The public exhibition period commenced on 3 December 2019. At the time of preparing this report, no submissions had been received. A deferred commencement condition is recommended to enable the draft VPA to be executed and registered on title.
81. Subject to the recommended conditions, the proposed envelope and Design Excellence Strategy provide suitable parameters for a competitive design process to provide a detailed building design that is able to comply with the relevant 40m height and FSR controls contained in the Sydney Local Environmental Plan 2012 and that is capable of achieving design excellence.

82. As Integrated Development the period during which time Water NSW must give its decision to the consent authority lapsed on 23 September 2019. Subsequently, the consent authority may determine the subject application notwithstanding that Water NSW have not informed the consent authority as to whether it will grant the approval or not.
83. It is recommended that authority be delegated to the Chief Executive Officer (CEO) to determine the application, subject to receipt of an approval from the Federal Department of Infrastructure, Transport, Cities and Regional Development pursuant to the Airports (Protection of Airspace) Regulations 1996. Following receipt of an approval, consideration should be given to granting a deferred commencement development consent subject to the recommended conditions.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Ben Chamie, Senior Planner