

Item 9.**Development Application: 890-898 Bourke Street, Zetland****File No.:** D/2017/1672**Summary****Date of Submission:** 4 December 2017Final package of amended information and plans received
17 May 2020.**Applicant:** Baozheng Development Pty Ltd**Architect:** WMK**Developer:** Baozheng Development Pty Ltd**Owner:** Baozheng Development Pty Ltd**Cost of Works:** \$52,160,000**Zoning:** B4 Mixed Use zone. The proposed development is
permissible with consent.**Proposal Summary:** Detailed development application for the demolition of
existing buildings, excavation, remediation and the
construction of a 6 storey mixed used development. The
development includes two levels of basement car parking,
142 apartments, 1 ground floor commercial tenancy, and
landscaping works.The application is Integrated Development requiring the
approval of Water NSW under the Water Management Act
2000.The development has been the subject of a competitive
design alternatives process, with WMK preparing the
winning scheme. The proposal is generally consistent with
the overall intent of the winning scheme.

The proposal has been amended a number of times to address concerns raised by City staff and by the City's Design Advisory Panel and recommendations of the competitive design jury report. These concerns mainly related to compliance with the Apartment Design Guide (ADG), acoustics and ventilation, interface with the public domain and servicing.

The proposal was notified and advertised between 13 December 2018 and 22 January 2019. As a result of the notification, 12 submissions including 1 survey was received. The submissions raised issues in relation to the height, bulk and scale of the development, impact on the adjoining conservation area and traffic impacts. The issues raised have been addressed within this report.

The applicant has submitted a Deed of Variation which amends the existing Voluntary Planning Agreement (VPA) associated with the site. The Deed includes additional land dedication for footpath widening on Kingsborough Way and has been publicly exhibited. No submissions were received.

The proposal complies with the maximum height of buildings and floor space ratio development standards prescribed by the Sydney Local Environmental Plan 2012. The proposal is acceptable in terms of compliance with requirements of SEPP 65 and the ADG subject to conditions.

A Clause 4.6 written request has been submitted and proposes to vary the floor to ceiling height within a section of Level 1.

The proposal seeks to utilise the design excellence provisions pursuant to Clause 6.21 of the Sydney LEP 2012. If supported this allows for a further 10% floor space ratio (FSR). The development therefore includes a maximum FSR of 2.2:1.

The amended proposal is generally compliant with the relevant planning controls, and results in a form and scale that achieves the desired future character of the area.

The subject development application requires amendments to the approved concept envelope. A Section 4.55(2) application D/2015/98/B has been lodged and has been assessed concurrently with the subject DA. The modification application is also being reported to the CSPC and is recommended for approval.

It is recommended the application is supported subject to deferred commencement conditions requiring the execution and registration of the Deed of Variation on the title of the land.

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 No. 65 - Design Quality of Residential Flat Development
- (iii) State Environmental Planning Policy (Infrastructure) 2007
- (iv) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (v) Sydney Local Environmental Plan 2012
- (vi) Sydney Development Control Plan 2012
- (vii) Sydney Development Contributions Plan 2015

Attachments:

- A. Recommended Conditions of Consent
- B. Proposed Plans
- C. Clause 4.6 Variation Request - Floor to Ceiling Height
- D. Competitive Design Alternatives Report
- E. Draft Deed of Variation

Recommendation

It is resolved that -

- (A) the variation requested to the floor to ceiling heights in accordance with Clause 4.6 Exceptions to development standards of the Sydney Local Environmental Plan be supported; 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/2017/1672 subject to the conditions set out in Attachment A to this report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposed development is consistent with Section 4.15 of the Environmental Planning and Assessment Act 1979, in that, subject to the imposition of appropriate conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) The proposed development complies with the permitted height and floor space ratio under the Sydney Local Environmental Plan 2012 and has a height and form which is considered to be generally suitable for the condition of the site and its context.
- (C) The proposed development exhibits design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (D) The proposed development is consistent with the provisions of the State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development and the Apartment Design Guide.
- (E) The Clause 4.6 written request to vary the floor to ceiling height is acceptable.

Background

The Site and Surrounding Development

1. A number of site visits were carried out since the application was lodged, the most recent on 21 January 2020.
2. The site is irregular in shape with area of 5,193sqm, and is located close to the intersection of Bourke Street and O'Dea Avenue. It has a primary street frontage measuring 70m to Bourke Street, and secondary frontages to the west measuring 48m and south measuring 59m to Kingsborough Way.
3. The site currently contains two, two storey buildings that are occupied by units used for commercial, warehouse, and industrial purposes.
4. Vehicular access is via a driveway from Bourke Street, located centrally along the frontage. There is no significant vegetation within the site.
5. The site adjoining immediately to the east at 888 Bourke Street currently contains a two-storey complex with similar commercial and warehouse uses. Concept envelopes for two six storey residential buildings has been approved on this site. The detailed development application for the site is currently under assessment.
6. The site adjoining immediately to the south-west at 900 Bourke Street contains a Sydney Water utility building that is approximately 9.5m tall.
7. Recently completed residential flat buildings of 8, 9, and 13 storeys are located directly to the south and south east across Kingsborough Way. The development is known as 'The Reserve'.
8. The site is located approximately 150m north of Mary O'Brien Park.
9. A new public park is located directly to the west. Further west of the park and on the opposite side of Bourke Street contains low rise terrace dwellings, which form part of the Zetland Estate Heritage Conservation Area.
10. Kingsborough Way is a new two way road that will eventually connect Bourke and O'Dea Avenue. It is currently a dead end and will be completed upon the development of the adjoining site at 888 Bourke Street.
11. The site is not a heritage item and is not located in a heritage conservation area. The nearest heritage items are a group of terraces located to the north-west across Bourke Road. Kennards Self Storage is a heritage item located on O'Dea Avenue to the east.
12. In the wider context, the site is located within the green square urban renewal area and is approximately 400m north east of the Green Square Town Centre and approximately 4km south of the Sydney CBD.

13. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site (bound in red) and surrounding area.





Figure 3: Site viewed from the opposite side of Bourke Street looking south east.



Figure 4: Site viewed from the opposite side of Bourke Street looking directly south, including 'The Reserve' complex of apartments buildings to the rear.



Figure 5: Site (highlighted green) viewed from the opposite side of Bourke Street adjoining the site at 888 Bourke Street. Kennards self storage to the left.



Figure 6: Site viewed from the opposite side of Kingsborough Way at the intersection of Bourke Street looking east.



Figure 7: Adjoining Sydney Water site located at the south west corner of the site, with subject site highlighted in green.

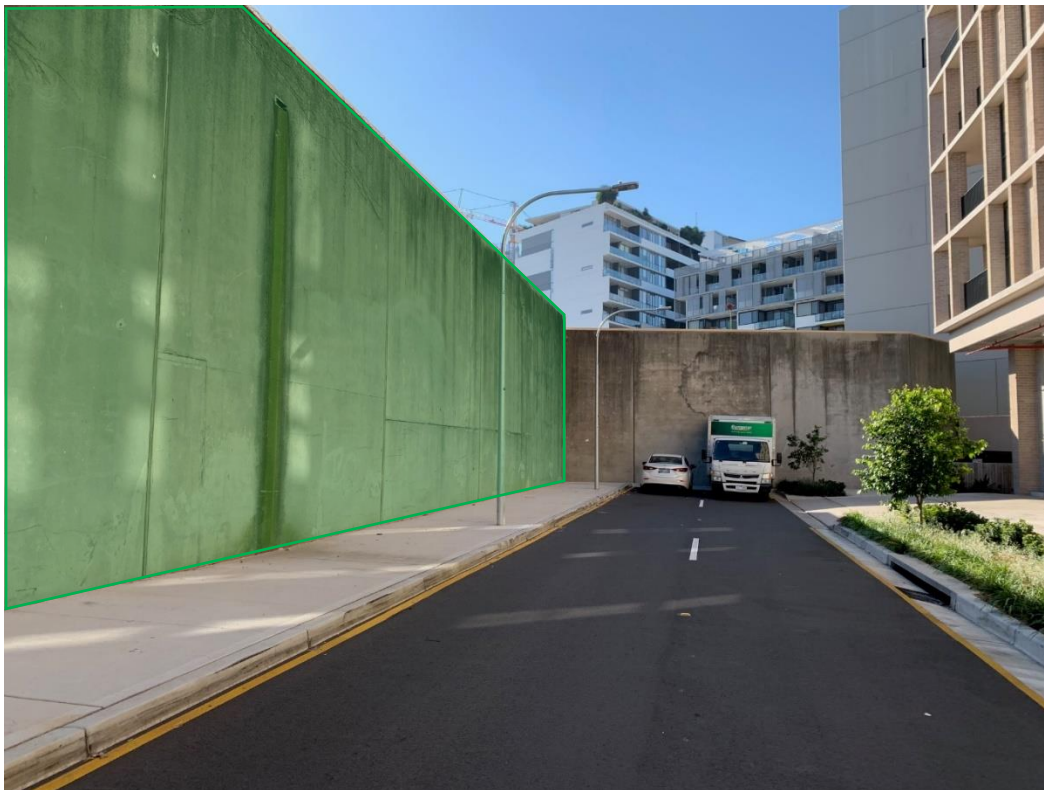


Figure 8: Subject site highlighted green and Kingsborough Way, with adjoining site at 888 Bourke Street located at the terminus of the carriageway.



Figure 9: Adjoining development 'The Reserve' at 6 Kingsborough Way located directly to the south of the site on the opposite side of Kingsborough Way.



Figure 10: Adjoining development at 6 Kingsborough Way, located to the south west of the site on the opposite side of Kingsborough Way.



Figure 11: New reserve at 906 Bourke Street located to the west of the site on the opposite side of Kingsborough Way.

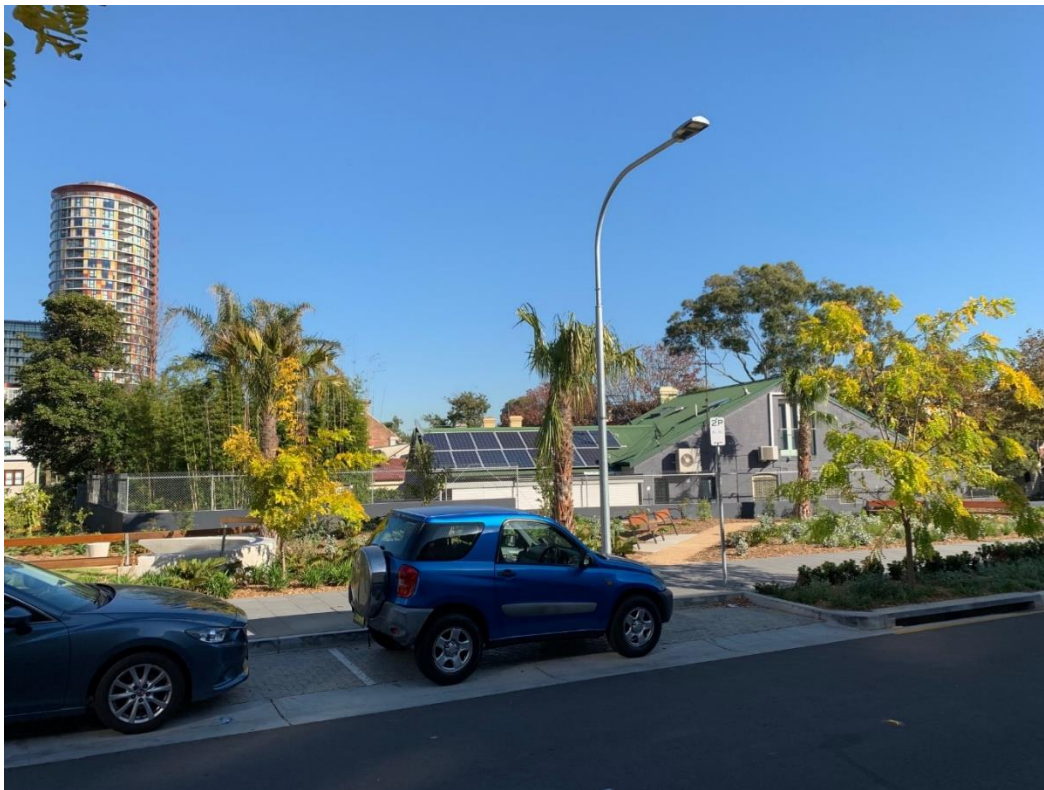


Figure 12: Residential properties within the heritage conservation area further west of the site and the public park.



Figure 13: Residential properties and listed heritage items on the opposite side of Bourke Street, located to the north west of the site.



Figure 14: Properties of mixed uses located to the north on the opposite side of Bourke Street

History Relevant to the Development Application

Concept Approval D/2015/98

14. A concept development application for the site, known as D/2015/98, was approved by Planning Committee on 1 October 2015. The application was subject to a deferred commencement approval, which required execution of the Voluntary Planning Agreement and was satisfied on 21 December 2016, and the consent was activated.
15. The concept DA granted consent for a building envelope 22m in height for a mixed-use development with multi-level basement car parking and also included tree removal.

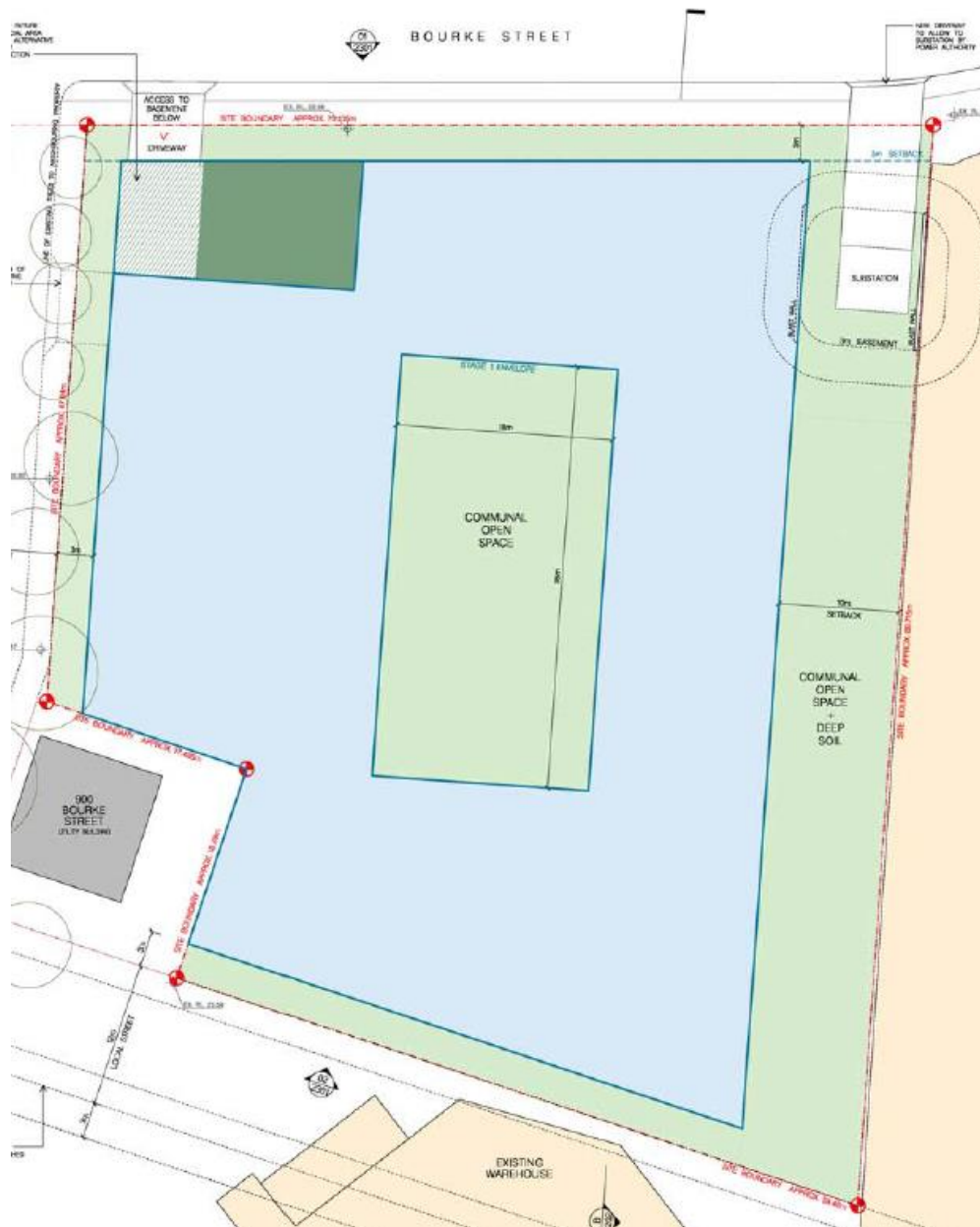


Figure 15 - Approved building envelope ground floor plan

16. The subject development application requires amendments to the approved concept envelope. The amendments include -
 - (a) Relocating the central internal courtyard 4m to the west and reducing the length of the courtyard by 5m. The amended courtyard will measure 18m wide and 30m in length.
 - (b) Replacing a deep soil planter measuring 25sqm with a deep soil planter to a depth of 1.2m for the entire courtyard area.
 - (c) Extending the basement envelope to accommodate two full basement levels.
 - (d) Including an additional lift pit in the basement level 2.
 - (e) Including 300mm setback for the land to be dedicated to the City of footpath widening on Kingsborough Way.
17. There is no change to the width of the courtyard as approved. Figure 15 below illustrates the proposed development and where it falls outside the originally approved building envelope.
18. There is no amendment required to the height or setbacks of the approved envelope.
19. A Section 4.55(2) application D/2015/98/B has been lodged and has been assessed concurrently with the subject DA. The modification application is also being reported to the CSPC for determination and is recommended for approval.

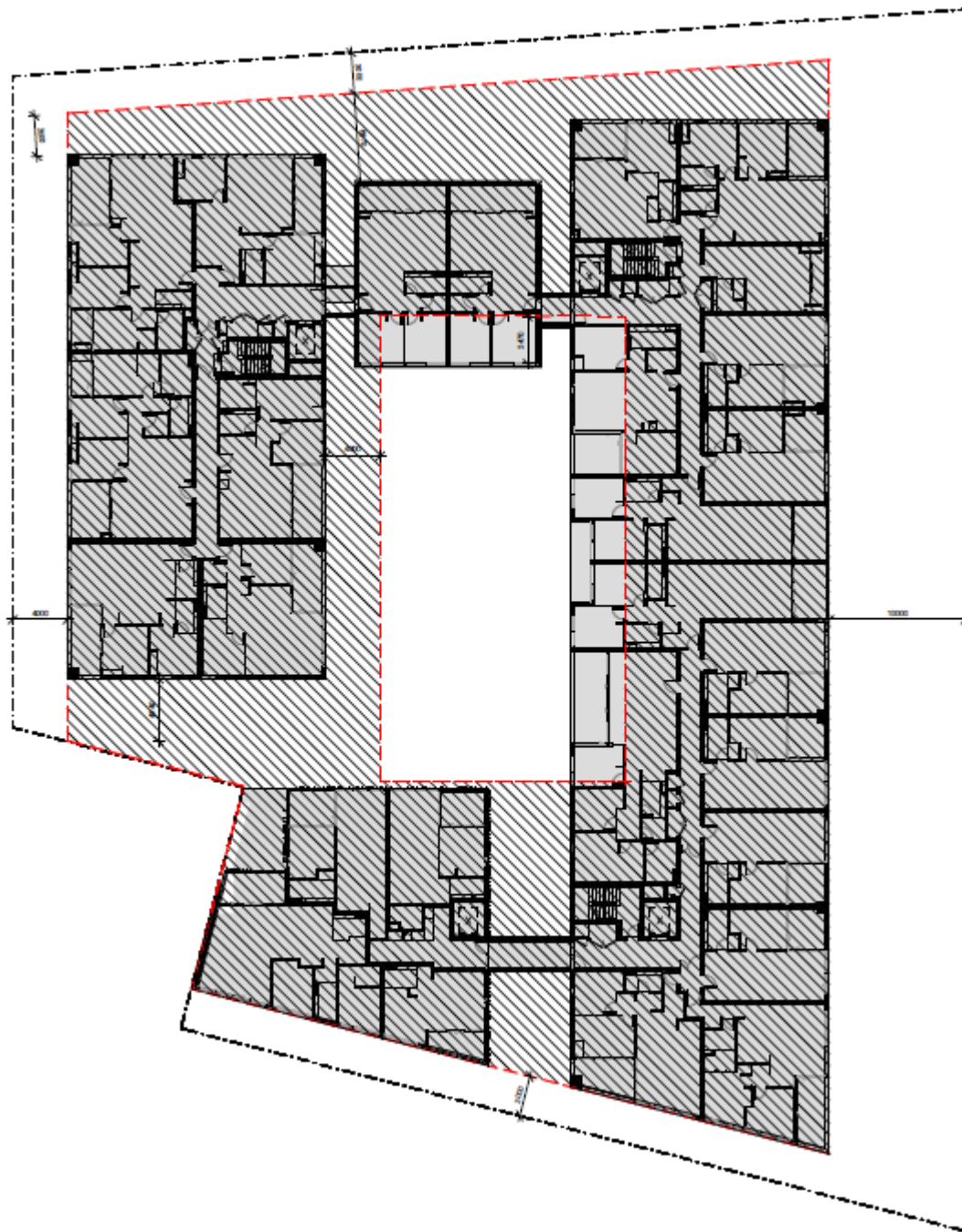


Figure 16 - Proposed building footprint in relation to the approved envelope plan (hatched)

Voluntary Planning Agreement

20. The concept DA was subject to a voluntary planning agreement (VPA). On 5 September 2016, the City entered into a planning agreement which provided for the following public benefits:
 - Dedication of 210sqm of land for footpath widening on Bourke Street;
 - Developer's works to construct new widened footpath on Bourke Street; and
 - Monetary contribution of \$1,123,164 towards community infrastructure in Green Square.
21. Council subsequently completed a concept design for a new road to be constructed on the adjoining development (Kingsborough Way). The road design required the dedication of an additional 300mm of land from the southern boundary of the subject site. This had not been anticipated when the original planning agreement was prepared.
22. Council's planning agreement officers agreed that the additional land dedication for Kingsborough Way and the footpath works can be included in the planning agreement. This requires a variation to the original planning agreement.
23. A draft Deed of Variation has been prepared and was publicly exhibited for 28 days in January 2019. No submissions have been received.
24. The Deed of Variation increases the area of land dedicated in the planning agreement by 17.5m² to accommodate an additional strip of land adjacent to Kingsborough Way. The nature of the Deed of Variation is to adjust the values in the planning agreement to:
 - Increase the total land being dedicated from 210.3sqm to 227.8sqm
 - increase the value attributed to the dedicated land from \$42,063 to \$44,963
 - Increase the value attributed to the developer's works from \$68,347 to \$73,059.50 and
 - Decrease the monetary contribution from \$1,123,164 to \$1,113,976.50.
25. The VPA or the Deed of Variation does not affect Section 7.11 contributions applicable under the City of Sydney Development Contributions Plan 2015.
26. A copy of the Deed of Variation is included in Attachment E.

Competitive Design Process

27. A design competition was undertaken and completed for the site in June 2017.
28. A competition brief set out the requirements for the proposed competitive design alternatives process, and three competitors participated. Of the three schemes presented, the scheme presented by WMK was considered by the selection panel most capable of demonstrating design excellence and was declared the winner.

29. The proposal, as amended is considered to address the recommendations made in the design competition jury report which included:
- Better integration of the building with the adjoining Sydney Water site;
 - Amended layout and acoustic treatment of apartments along Bourke Street
 - Consideration to privacy and noise transfer between communal open space areas and adjacent apartments
 - Elevational treatments need to address and recognise the environmental conditions of the different orientations, in particular wind, weather protection and solar access
 - Concern with the extensive use of aluminium composite cladding
 - Base of building to be reinforced by the solidity and substance of natural masonry materials
 - Better amenity to meet requirements of the Apartment Design Guide
 - Relocating substation to southern road frontage.
30. A copy of the competitive design alternatives report including the jury recommendations is provided at Attachment D.

History of Subject Application

31. The original application was lodged with the City on 12 December 2017.
32. The concept proposal was presented to the City's Design Advisory Panel on 15 March 2018. The Panel agreed with the concerns raised by City staff which primarily related to:
- acoustics and ventilation
 - non-compliance with the Apartment Design Guide for solar access and cross ventilation
 - servicing and waste management
 - poor public domain interface and the expression of the building.
33. The Panel did not consider the proposal demonstrated design excellence or addressed the recommendations made in design competitions jury report and recommended that proposal be amended to address the issues.
34. Council staff requested additional and amended documentation numerous times throughout the assessment process and worked with the applicant to resolve the issues. The proposal and assessment discussed below is based on the most recent set of amended drawings and documents submitted to the City on 8 May 2020.

Proposal

35. The proposal as amended includes the demolition of existing buildings, excavation, and the construction of a 6 storey mixed used development with two levels of basement car parking, comprising 142 apartments, one ground floor commercial tenancy, site remediation and landscaping works.
36. The development will measure 22m in height and have a total GFA of 11,426sqm.
37. A through site link varying in width between 6m and 10m is proposed along the eastern boundary of the site.
38. Specifically, the development comprises the following:

(a) Basement Levels 1 and 2

- (i) Excavation to a depth of approximately 9m below existing ground level
- (ii) A total of 121 car parking spaces including visitor, car share and service spaces
- (iii) Residential and bicycle storage facilities
- (iv) Waste storage areas, 3 loading and collection docks

(b) Ground Floor

- (i) 1 x commercial tenancy measuring 123sqm fronting Bourke Street
- (ii) Main lobby/entrance to Bourke Street
- (iii) 15 residential apartments (1 x studio, 2 x one bed, 6 x two bed, 6 x three bed)
- (iv) Internal landscaped courtyard/communal open space measuring 540sqm
- (v) Communal music room
- (vi) Vehicular access to the basement off Kingsborough Way

(c) Level 1

- (i) 26 residential apartments (1 x studio, 9 x one bed, 13 x two bed, 3 x three bed)
- (ii) Cantilevered awning with landscape planter over the entrance to the commercial tenancy

(d) Level 2

- (i) 27 residential apartments (2 x studio, 9 x one bed, 13 x two bed, 3 x three bed)

(e) Level 3

- (i) 26 residential apartments (2 x studio, 9 x one bed, 11 x two bed, 4 x three bed)

(f) Level 4

- (i) 26 residential apartments (2 x studio, 9 x one bed, 11 x two bed, 4 x three bed)

(g) Level 5

- (i) 22 residential apartments (1 x studio apartments, 9 x one bed, 8 x two bed, 4 x three bed)
- (ii) Roof top communal open space measuring 188sqm
- (iii) Non trafficable green roof

(h) Roof Level

- (i) Lift overruns and rooftop plant
- (ii) Photovoltaic panels

- 39. Breezeways are proposed at the upper levels on either side of the infill building facing Bourke Street and another breezeway connects the building at the south side.
- 40. The building will be constructed of concrete with textured stone at the base, aluminium cladding on upper levels in charcoal, dark grey, white/light grey and copper and clear glazing for windows and parts of the balconies.
- 41. A single vehicle entrance is proposed off Kingsborough Way and serves as the basement entry for all vehicles including services vehicles.
- 42. The application also includes a Deed of Variation to the original Voluntary Planning Agreement associated with the site. The Deed of Variation increases the area of land dedicated in the planning agreement by 17.5sqm to accommodate an additional strip of land adjacent to Kingsborough Way. This is discussed in the section above under concept DA and the Voluntary Planning Agreement.

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



Figure 17 - Photomontage of proposed building viewed from the north west on Bourke Street



Figure 18 - Photomontage of proposed building viewed from the south west on the corner of Bourke Street and Kingsborough Way



Figure 19 - Photomontage of proposed building viewed from the existing park to the west



Figure 20 - Photomontage of proposed building fronting Kingsborough Way to the south

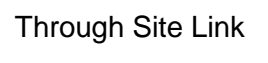


Figure 21 - Proposed ground floor plan



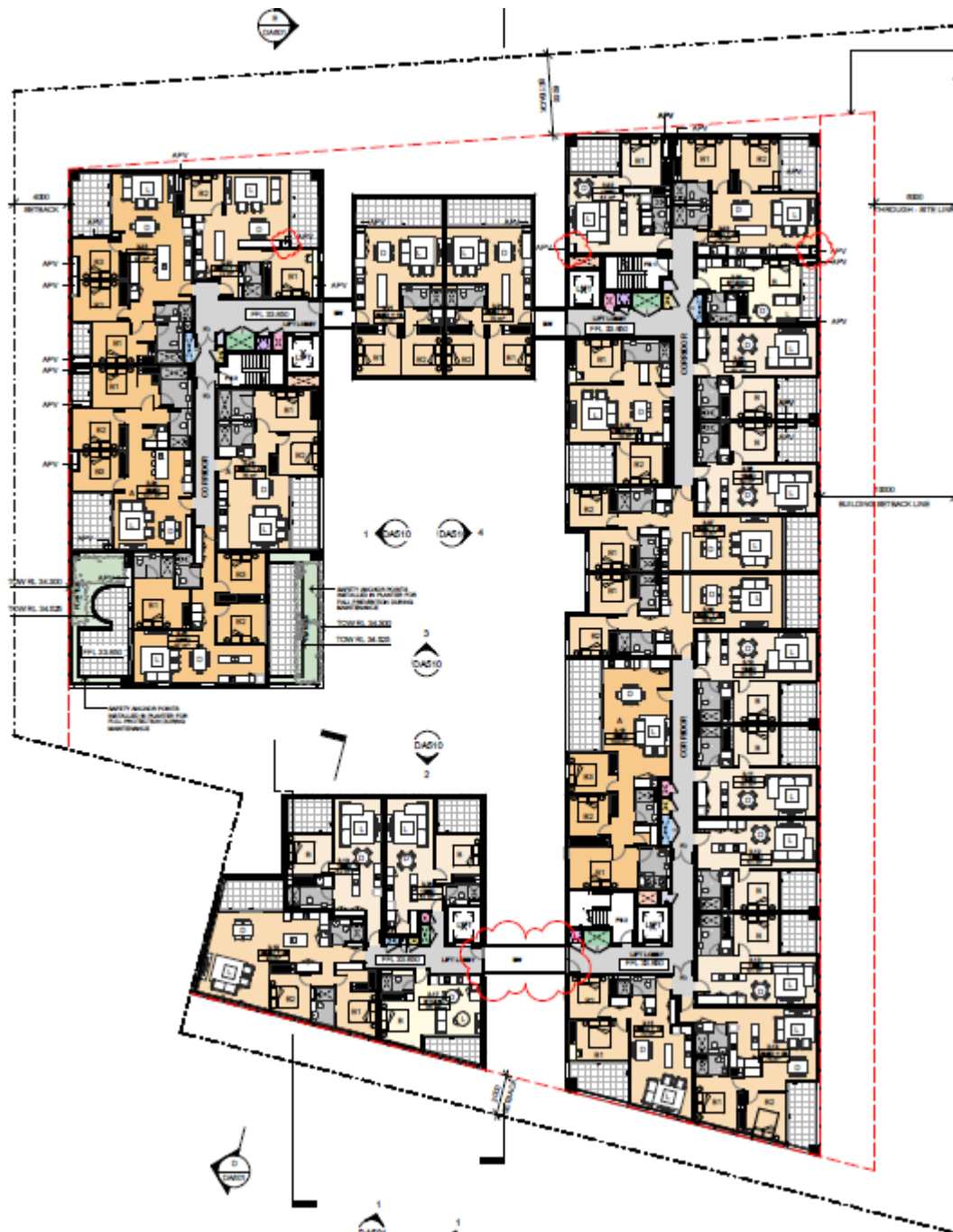


Figure 23 - Proposed Level 3 floor plan

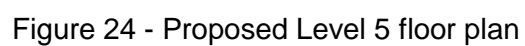




Figure 25 - Proposed eastern elevation facing through site link



Figure 26 - Proposed Bourke Street (north) elevation



Figure 27 - Proposed south elevation on Kingsborough Way



Figure 87 - Proposed west elevation on Kingsborough Way

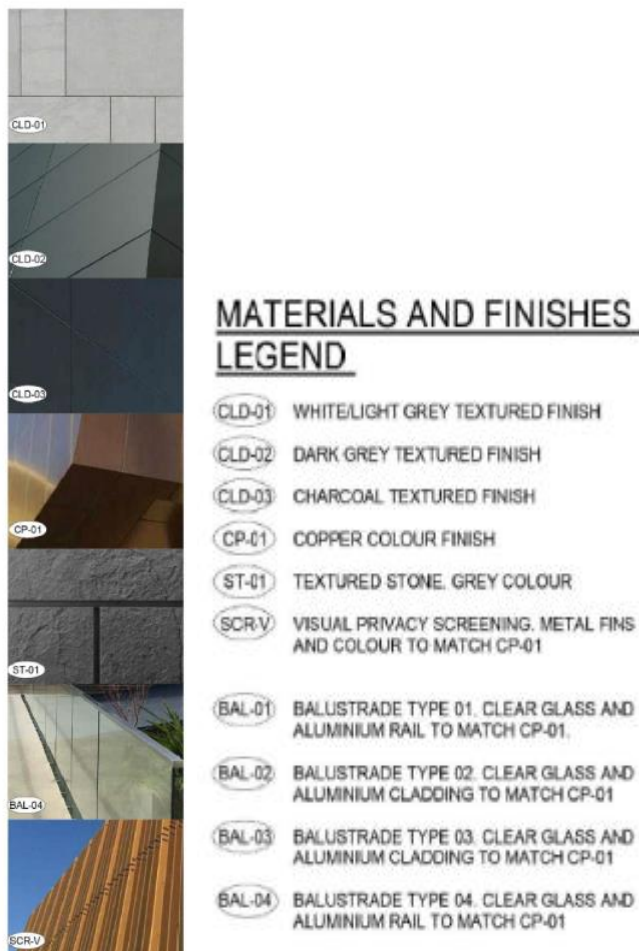


Figure 29 - Proposed materials and finishes

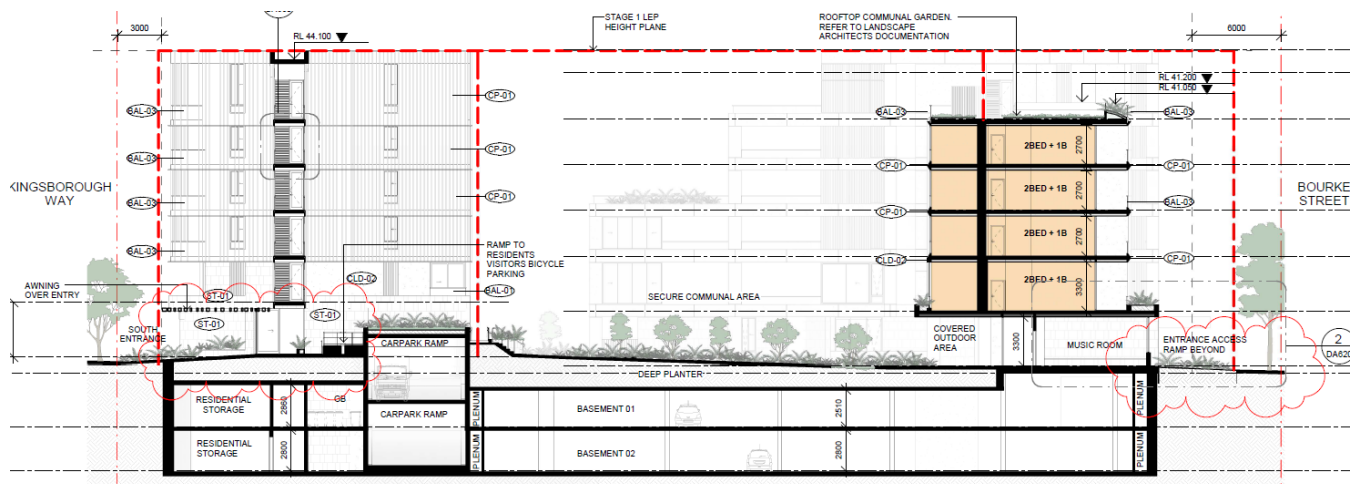


Figure 30 - Proposed section

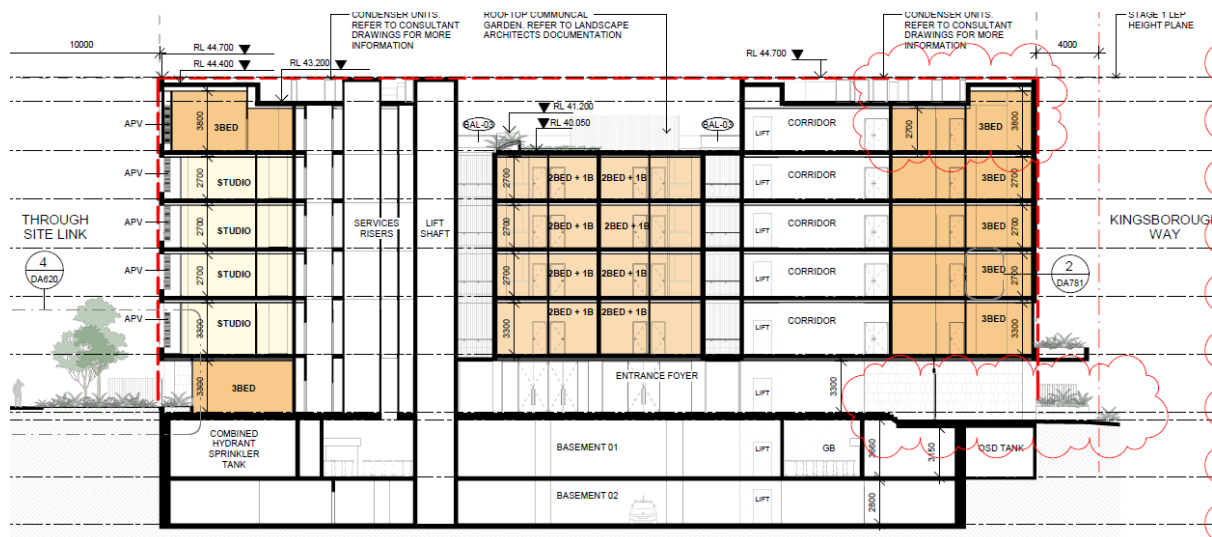


Figure 31 - Proposed section

44. Refer to Attachments B1 and B2 for a copy of the proposed plans.

Economic/Social/Environmental Impacts

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

- (a) Environmental Planning Instruments and DCPs.

Airports Act 1996

46. The application did not require referred to Sydney Airport Ltd as the proposed building does not penetrate the prescribed airspace for Sydney Airport.

Water Management Act 2000

47. The application constitutes integrated development. It requires separate approval under the Water Management Act 2000. The application was referred to the Water NSW who provided General Terms of Approval. The conditions required by the general terms of approval are included in schedule 3 of Attachment A.

Sydney Water Act 1994 No. 88

48. In accordance with clause 78 of the Sydney Water Act 1994 No 88, the application was referred to Sydney Water as the development may increase the demand for water supplied by the Corporation. Relevant conditions relating to the development are recommended to be included in the consent.

State Environmental Planning Policy No 55—Remediation of Land

49. 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.
50. A Detailed Site Investigation, Remedial Action Plan (RAP) and Acid Sulfate Soil Assessment has been submitted to support the development application.
51. The investigations identified historical filling (up to 6 metres below ground level) and past industrial activities on the site has resulted in soil and groundwater contamination including heavy metals and hydrocarbons.
52. The RAP specifies that the remediation strategy proposed for the site is excavation and offsite disposal of contaminated material. This is considered the most appropriate remediation method in view of the type of contamination on the site and the volumes of soil that is expected to require remediation.
53. A letter of interim advice from a NSW Site Auditor has been submitted which confirms the RAP and the proposed remediation strategy are adequate to make the land suitable for the proposed residential use.
54. The City's Environmental Health officer is satisfied with the remediation strategy and that subject to conditions, the site can be made suitable for the proposed use.
55. The applicant's environmental consultant has confirmed that the land to be dedicated to the City for footpath widening will be remediated in accordance with the RAP to be approved. A condition is recommended accordingly.

State Environmental Planning Policy No 65—Design Quality of Residential Flat Development

56. 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).
57. The applicant has submitted a design verification statement and SEPP 65 design report with the application addressing the design quality principles and the ADG.

58. 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 Green Square Urban Renewal Area, approximately 400m to the north-west of the Green Square Town Centre & train station. The site is approximately 4km south of Central Sydney and is well serviced by bus key routes along Bourke Street, Joynton Avenue, and Botany Road.

The proposal contributes to the vitality of the Green Square Urban Renewal Area by providing appropriate land uses within the B4 Mixed Use zone and is consistent with the City's strategic vision for the Green Square Urban Renewal Area.

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

The area is currently in transition from former industrial and warehouse uses to a mixed use precinct. The scale of development anticipated within the locality, as reflected in the key provisions of the Sydney LEP 2012, is consistent with the height and typology of this proposal. The development, by way of its form and scale is consistent with the Sydney LEP and DCP controls.

(c) **Principle 3: Density**

The proposal complies with the maximum Floor Space Ratio development standard, and the number of apartments proposed is appropriate given the site's proximity to established and proposed infrastructure, public transport, and community and recreation facilities. The proposed density responds to the future context and does not result in 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 exceeds the water and energy targets. A condition is recommended to ensure that the development complies with the commitments contained on its BASIX certificate.

(e) **Principle 5: Landscape**

The proposal incorporates landscaped areas within the through site link, ground floor internal courtyard, within the setbacks on all three road frontages, on balconies on Level 1 and a green roof and landscaped roof top communal open space on Level 5.

Deep soil areas are generally provided in the same location as landscaped areas mainly along the through site link and are equal to 780m² (15%) exceeding ADG requirement of 7%.

Additional details are required to ensure that the proposed landscape component of the scheme is a success. Information is to be submitted relating to green roofs, soil profiles and detailed landscape conditions have been recommended.

(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 ADG assessment table below

(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 with individual and lobby entries located on all street frontages on Bourke Street and Kingsborough Way. In all instances security and safety for residents is maximised.

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) 9 studios (6%)
- (ii) 47 x 1 bedroom (33%);
- (iii) 62 x 2 bedroom (44%);
- (iv) 24 x 3 bedroom (17%); and

The unit mix as proposed is supported.

(i) **Principle 9: Aesthetics**

The proposal, on balance, demonstrates good design. The proportion, height and setbacks of the building respond well to the street context, including the neighbouring heritage conservation area. The internal layout achieves a reasonable level of amenity, and the overall design and materiality of the buildings match the design and materiality of the design competition winning scheme.

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

59. 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 glass to glass depth of the building varies from 11.4m to a maximum of 18.9m.</p> <p>This is a minor non compliance as the units have an acceptable level of residential amenity and the aims of building depth provisions have been met.</p>

2F Building Separation	Compliance	Comment
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> 12m between habitable rooms / balconies 9m between habitable and non-habitable rooms 6m between non-habitable rooms 	Yes	<p>The development complies separation distances from adjoining properties recommended by the ADG.</p> <p>The development will be setback over 25m from the terraces to the north on the opposite side of Bourke Street.</p> <p>The proposal provides a 10m setback from the boundary with 888 Bourke Street to the east. The concept approval for that site provides a 6m setback from the boundary. This provides a minimum 16m separation distance, ensuring compliance.</p> <p>Kingsborough Way wraps around the site and has a 12.5m wide carriageway which provides separation distances in excess of the ADG to the south and west.</p>
<p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> 18m between habitable rooms / balconies 12m between habitable and non-habitable rooms 	Yes	<p>The concept approval for 888 Bourke Street provides a 9m setback from the boundary on Levels 4 and 5. This provides a minimum 19m separation distance for the upper levels.</p>

2F Building Separation	Compliance	Comment
<ul style="list-style-type: none"> 9m between non-habitable rooms 		The development will be setback 18m from the existing balconies and living areas of the flat building directly to the south.
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.	Yes	All the adjoining land is zoned B4 mixed use. The building is setback 6m from the existing Bourke Street frontage and 3m from Kingsborough Way which increases the separation distances between the development and lower scale development on the opposite side of both Bourke Street and west of Kingsborough Way.

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	<p>The proposal provides approximately 1,578sqm of communal open space including the internal courtyard at ground level, rooftop garden and the through site link.</p> <p>It is noted that the through-site link has been included on the basis that the definition of communal open space in the ADG states "Communal open space may be accessible to residents only, or to the public"</p> <p>This equates to 30% of the total site area.</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	<p>It is acknowledged that the internal courtyard is constrained by overshadowing from the surrounding built form throughout the day, particularly during winter months. The orientation of the site and the approved building envelope which provide for a perimeter block arrangement of buildings around a central courtyard are not conducive to satisfying the 2 hours of solar access to 50% of the principle communal open space in the ground level internal courtyard.</p> <p>The rooftop communal open space and through site link will receive 2 hours of solar access through the middle of the day mid winter. The development is considered to comply.</p>

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	Yes	<p>A consolidated area of approximately 780m² (15%) with a minimum dimension of 10m is provided along the north eastern boundary.</p> <p>It is noted that permeable paving will be installed over parts of the deep soil area along the through site link.</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
<p>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> 6m between habitable rooms / balconies 	Partial compliance	The ADG requires buildings on the same site to combine the required separation distances, and that gallery access circulation space should be treated as habitable space.

3F Visual Privacy	Compliance	Comment
<ul style="list-style-type: none"> 3m between non-habitable rooms 		<p>Due to the courtyard arrangement, some apartments facing the internal courtyard do not comply at the pinch points.</p> <p>Refer to discussion of Visual Privacy under the heading Issues.</p>
<p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> 9m between habitable rooms / balconies 4.5m between non-habitable rooms 	No	As above.
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Partial compliance	<p>While the proposal does not strictly comply, efforts have been made to locate windows of affected rooms as far as possible from the breezeways.</p> <p>It is not anticipated that rooms located close to the breezeways will be adversely impacted as both breezeways on the northern part of building service only 1 unit per floor.</p> <p>The breezeway on the southern portion of the site is only anticipated to be used for residents accessing the waste chute, Level 5 roof top open space or the fire stairs. The breezeways are not anticipated to be highly trafficked areas.</p>

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.	Yes	A detailed solar access report and sun's eye diagrams have been submitted which demonstrate that the 73% (104/142 units) receive 2 hrs of solar mid winter.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	15% of apartments do not receive solar access at midwinter.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	All habitable rooms are naturally ventilated. 58 noise-affected apartments rely on natural ventilation devices in the form of natural ventilation plenums. This is discussed in detail in the Issues section.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	63% (90/142 units) are cross ventilated. This includes units that are reliant on plenums.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	No crossover apartments exceed 15.1m in overall depth.

Measured from finished floor level to finished ceiling level, minimum ceiling heights are as follows in the table below.

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	All rooms comply.
Non-habitable rooms: 2.4m	Yes	All rooms comply.
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	No	This non-compliant area relates to only 11 apartments and will have a floor to ceiling height of 2.7m consistent with requirement for habitable residential rooms See Clause 4.6 discussion below.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> • Studio: 35m² • 1 bed: 50m² • 2 bed: 70m² • 3 bed: 90m² <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p>	Yes	All proposed apartments meet the minimum apartment sizes specified by the ADG.
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	The proposal complies.
Habitable room depths are to be no more than 2.5 x the ceiling height, or 8m for open plan layouts.	Yes	All apartments are open plan and provide habitable areas within 8m from a window.
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> • master bedroom: 10m² • all other bedrooms: 9m² <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>	Yes	The proposal complies.
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> • Studio and one-bedroom: 3.6m • Two-bedroom or more: 4m 	No, but acceptable	<p>The majority of apartments are compliant. In some instances, two bedroom apartments provide living/dining room widths of 3.9m rather than 4m.</p> <p>Despite the minor non-compliance, the proposal has demonstrated that the rooms are all satisfactory in terms of their utility, with furniture layouts provided to demonstrate this.</p>

4D Apartment Size and Layout	Compliance	Comment
4m minimum width for cross over and cross through apartments.	Yes	The proposal complies.

4E Private Open Space and Balconies	Compliance	Comment
<p>Studio apartments are to have a minimum balcony area of 4m² with a minimum depth of 1m.</p> <p>One bed apartments are to have a minimum balcony area of 8m² with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m² with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m² 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 two balconies with variable depths and meet overall area requirements of the ADG and in all instances provide usable balcony areas.</p>
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m ² and a minimum depth of 3m.	Yes	All areas of private open space on the ground floor meet the minimum size requirements.

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	The proposal has been amended to provide four lift cores. The maximum number of units for each lift is 8.
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	<p>Windows do not open on to common circulation spaces.</p> <p>6 units have windows that open onto the through site link and internal courtyard at ground level. These windows have been setback within the building and landscaping is provided to obscure views.</p>

4F Common Circulation and Spaces	Compliance	Comment
		Visual and acoustic privacy from communal open spaces is discussed in the Issues section below.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	<p>The common circulation spaces on the upper levels 1 to 4 are connected to breezeways that link the buildings. All breezeways are open sided.</p> <p>Light and ventilation will be provided to all circulation spaces by way of glazed door and louvred windows. This detail has been submitted and will be included in the stamped plans.</p> <p>A further condition is recommended requiring the corridors on the top floor to be provided with a skylight.</p>

4G Storage	Compliance	Comment
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ <p>(Minimum 50% storage area located within unit)</p>	Yes	All units have storage within the units and in the basement and comply with the minimum size 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>The development is required to respond to traffic noise from Bourke Street.</p> <p>The amended layout is considered acceptable and has minimised the number of units reliant on plenums for natural ventilation.</p>

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45

61. 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 electricity distribution poles. A substation is also proposed.
62. In accordance with the Clause, the application was referred to Ausgrid for a period of 21 days. Ausgrid advised that they had no objection to the application, and the conditions are included in recommended conditions of consent.

Clause 101 and Clause 102

63. The application is subject to Clause 101 of the SEPP as the site has frontage to Bourke Street, which is a classified road and Clause 102 of the SEPP as the development will be impacted by road noise from Bourke Street.
64. The amended development provides a building layout and appropriate acoustic treatments for noise impacted units. The updated acoustic report submitted has been reviewed by the City's acoustic engineer and is considered that the noise levels in the residential units will not exceed the levels specified by the SEPP.
65. The amended application is considered to satisfy Clauses 101 and 102 of the Infrastructure SEPP, subject to recommended conditions.

Clause 104

66. The application is subject to Clause 104 of the SEPP and is traffic generating development as the proposal involves the construction of more than 75 dwellings, with access being from a road that connects with a classified road, with the access point being within 90m of the intersection. The application was submitted to RMS for comment, no objection was raised subject to recommended conditions.

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

67. A BASIX Certificate has been submitted with the development application.
68. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

69. The plans to be stamped approved will list all the BASIX requirements accordingly.

Sydney LEP 2012

70. The site is located within the B4 'Mixed Use' zone. The proposed use is defined as a residential flat building with a ground floor commercial use and are permissible.

71. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	Yes	<p>A maximum height of 22m is permitted.</p> <p>A maximum height of 22m (RL44.70 AHD) is proposed.</p> <p>All roof top plant, lift overruns and PV are located behind the top of building parapet and do not encroach above the 22m height limit.</p>
<p>4.4 Floor Space Ratio</p> <p>6.14 Community infrastructure floor space at Green Square</p> <p>6.21(7) Design Excellence</p>	Yes	<p>An FSR of 1.5:1 is permitted for the site as per clause 4.4 of Sydney LEP 2012.</p> <p>An additional 0.5:1 bonus FSR is permitted pursuant to clause 6.14 of Sydney LEP 2012.</p> <p>This additional 0.5:1 bonus FSR is available as a planning agreement was executed as part of the concept consent ensuring community infrastructure will be provided as required under the LEP.</p> <p>An additional 0.2:1 FSR is also permitted as per clause 6.21(7) of Sydney LEP 2012. This is because the subject development is a 'building demonstrating design excellence' and as such is eligible for an additional 10% floor space.</p> <p>An FSR of 2.2:1 is proposed (GFA of 11,426m²).</p>

Development Control	Compliance	Comment
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the development standards prescribed under Clause 30 (1) and (3) of SEPP 65, floor to ceiling heights specified in Part 4C of the ADG.</p> <p>See discussion under Clause 4.6 in the Issues section.</p>
5.9 Preservation of trees or vegetation	Yes	<p>Tree removal was approved as part of the concept DA.</p> <p>No tree removal is proposed as part of this DA.</p> <p>Conditions of consent are recommended to ensure all street trees directly outside the site remain viable during and following construction and development of the site.</p>
5.10 Heritage conservation	Yes	<p>The site is not a heritage item or within a heritage conservation area.</p> <p>Refer to the Issues for discussion on impact to adjoining heritage conservation area.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
6.21 Design excellence	Yes	<p>The amended development is considered to satisfy these provisions. This is discussed in the Issues section below.</p>

Part 7 Local Provisions - General	Compliance	Comment
<p>Division 1 Car parking ancillary to other development</p> <p>7.5 Residential flat buildings</p>	Yes	<p>A maximum of 114 car spaces are permitted in accordance with the LEP. (111 residential spaces and 3 retail).</p> <p>The site is in Category B of the Land Use and Transport map and as such additional visitor parking is permitted. A condition is recommended that these spaces cannot be associated with the residential units.</p> <p>A total of 121 parking spaces are proposed in the following breakdown:</p> <ul style="list-style-type: none"> • 104 residential car parking spaces (including 22 accessible spaces and 9 motorcycle spaces) • 14 residential visitor spaces • 3 retail spaces • 3 car share spaces • 3 service spaces (2 residential and 1 commercial) <p>Noting car share spaces and service spaces are not included in the total spaces permitted. The total number of car spaces complies with the LEP provisions.</p>
7.13 Contribution for the purpose of Affordable housing	Yes	An affordable housing contribution is required. This is discussed further in the contributions section below.
7.14 Acid Sulphate Soils	Yes	The site is identified as containing class 5 Acid Sulphate Soil. The site is located within 500m of adjoining Class 3 Acid Sulphate Soil, however the proposal will not lower the water table by 1m. As a consequence, the requirements of Clause 7.14 are not triggered.

Part 7 Local Provisions - General	Compliance	Comment
		Notwithstanding this, on site testing identified Acid Sulphate Soils in one location on the site. Accordingly, an Acid Sulphate Soils Management Plan (ASSMP) has been prepared. The ASSMP has been reviewed by Council's Environmental Health Officers and is satisfactory. It is recommended that a condition of consent requiring compliance with the ASSMP be imposed.
7.15 Flood Planning	Yes	The application is accompanied by a flood report which demonstrates that compliance with the general flood protection control of floor levels. A condition is recommended specifying the minimum floor levels to be achieved to satisfy the flooding provisions.
7.20 Development requiring preparation of a development control plan	Yes	The site is subject to a concept consent. Pursuant to section 4.23 of the Environmental Planning and Assessment Act 1979, the approval of a concept consent satisfies this requirement.

Sydney DCP 2012

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

2. Locality Statements – Mary O'Brien Park

The subject site is located in the Mary O'Brien Park locality. The proposed residential flat building with a ground floor commercial use is considered to be in keeping with the unique character of the area and design principles in that the development -

- provides a building which responds to the applicable planning controls for the site.
- provides an active frontage and well-designed entry to Bourke Street
- provides public domain improvements along Bourke Street and Kingsborough Way including widened footpaths and setback areas to enhance the public domain and generate pedestrian activity

3. General Provisions	Compliance	Comment
<p>3.1 Public Domain Elements</p> <p>3.1.2.1 Bike network</p> <p>3.1.2.3 Through site links</p>	Yes	<p>There is an existing two-way bike lane constructed along the front of the site on Bourke Street.</p> <p>There is no through site link specifically nominated in the DCP for the site, however the proposal provides a through site link along the eastern boundary of the site connecting Bourke Street to Kingsborough Way. The TSL varies in width between 6m and 10m and will be fully accessible to the public.</p> <p>The landscape treatments and paving of the TSL will ensure it is easily identifiable as a public space.</p>
3.1.5 Public Art	No	<p>A public art strategy was submitted and approved as part of the concept consent. A further revised preliminary public art plan was submitted as part of the subject application, however this is not supported by the City's Public Art officers as the budget proposed for artwork is not commensurate with the size of the development.</p> <p>The public art plan as proposed is not aligned with the public art strategy approved as part of the concept DA.</p> <p>A revised public art plan will be required and is recommended to be provided as a condition of consent.</p>
3.1.6 Sites greater than 5000sqm	Partial compliance	<p>The proposal complies with the provisions to provide a range of housing types, including single storey apartments and garden apartments, however does not provide any terrace houses or maisonette apartments as recommended for sites over 5,000m².</p> <p>An economic assessment of the proposed development mix has been submitted to support the application.</p>

3. General Provisions	Compliance	Comment
		The development provides a diverse range of housing types without maisonettes or terraces. There is overall a good unit mix in terms of apartment sizes and types including studios and 3 bedroom units, all units being single storey and 14 units have ground floor courtyards.
3.2.1.1 Sunlight to publicly accessible spaces	Yes	The shadow diagrams submitted demonstrate that the proposed development will have some overshadowing impact on the public park to the west of the site in the morning mid winter. There will be no overshadowing on the park after 12 midday. The entire park will receive solar access for 3 hours from midday to 3pm mid winter.
3.2.2 Addressing the street and public domain	Partial Compliance	<p>The building has entries and access to residential units directly from all three street frontages and has individual residential entries off the through site link.</p> <p>Not all residential entries are 1m above the ground level. This is discussed in the Issues section below.</p>
3.3 Design Excellence and Competitive Design Processes	Yes	<p>The development underwent a competitive design process which was undertaken in accordance with the City of Sydney Competitive Design Policy. The design excellence strategy was endorsed as part of the concept consent.</p> <p>As a consequence of the competitive design process, the amended development is considered to be a 'building demonstrating design excellence' as discussed above under clause 6.21 of Sydney LEP 2012, and is recommended to be awarded up to an additional 10% floor space.</p>

3. General Provisions	Compliance	Comment
3.5 Urban Ecology	Yes	<p>There is no tree removal proposed as part of the concept proposal.</p> <p>A condition is recommended to require street trees along the Bourke Street frontage to be retained and protected during construction.</p>
3.6 Ecologically Sustainable Development	Yes	<p>The proposal exceeds the minimum BASIX targets by 6 points for both water and energy.</p> <p>The applicant has also agreed to install photovoltaic panels on the roof which will further reduce carbon emissions from the development.</p>
3.7 Water and Flood Management	Yes	<p>The development complies with City's Interim Floodplain Management Policy.</p> <p>The floor levels and the basement entrance to the proposed development achieve Flood Planning Level requirements.</p> <p>The application is accompanied by a detailed storm water management report addressing storm water quantity and quality management.</p>
3.8 Subdivision, Strata Subdivision and Consolidation	N/A	<p>There is no subdivision proposed as part of this DA. Future applications will deal with the subdivision to excise the land to be dedicated to the City and strata subdivision of units.</p>
3.9 Heritage	Yes	<p>This is discussed in the issues section below.</p>
3.11 Transport and Parking	Yes	<p>A detailed traffic report has been submitted to support the application.</p> <p>Councils Traffic Engineers are satisfied with the location of the vehicular access and 7.5m wide driveway proposed on Kingsborough Way.</p>

3. General Provisions	Compliance	Comment
		<p>An adequate amount of visitor and accessible car spaces and bike parking is proposed for the residential units and the commercial tenancy. 162 bike parking spaces are proposed and are located on the ground floor and basement levels.</p> <p>Service vehicle parking spaces are proposed in an easy to access area in the basement level 1 and are beside the waste/bin storage area.</p> <p>The proposed access ramp grade does not fully comply with DCP or the Australian Standards. Swept path analysis have been submitted to demonstrate that ramp grade and 4m clearance height is sufficient to accommodate a 9.25m long Council's Waste truck.</p> <p>A condition is recommended that the traffic engineer provides certification that ramp as proposed will accommodate the Council's waste truck prior to the issue of any construction certificate.</p> <p>A recommended condition requires a Loading Dock Management Plan to be submitted and approved by Council prior to the issue of a construction certificate.</p>
3.12 Accessible Design	Yes	<p>The development including the commercial tenancy, main entry and all communal open space including Level 5 roof top is accessible to all.</p> <p>22 adaptable dwellings are proposed which complies with the DCP requirement of 15%.</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. General Provisions	Compliance	Comment
3.14 Waste	Yes	<p>As discussed above the amended plans show that waste collection can be accommodated in the basement and the designated loading dock.</p> <p>Council's Waste Unit are satisfied that adequate waste holding areas are provided for residential waste and recycling and bulky waste.</p> <p>A condition is recommended to require an amended waste management plan to be submitted.</p>
3.16 Signage and Advertising	N/A	No signage proposed.
3.16.1 Signage Strategy	Yes	The site does not require a signage strategy as it is not located within a heritage conservation area, does not involve a heritage item and does not contain more than four business premises.

4. Development Types	Compliance	Comment
4.2 Residential flat, commercial and mixed use developments		
4.2.1 Building height	Yes	<p>The development complies with the 6 storey height control.</p> <p>No street frontage height in storeys is applicable to the site.</p>
4.2.1.3 Floor to ceiling heights and floor to floor heights	Partial compliance	<p>A non-compliance of 2.7m instead of 3.3m is proposed for the eastern portion of Level 1.</p> <p>This is discussed in the Clause 4.6 section below.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.2 Building setbacks	Yes	<p>There are no specified building setbacks for this site. The development complies with setbacks established by the concept envelope and is setback 3m from the Bourke Street frontage and 3m to Kingsborough Way frontage on both sides.</p> <p>The setbacks within the development and between neighbouring properties are acceptable.</p>
4.2.3 Amenity	Partial compliance	<p><i>Solar access</i></p> <p>As discussed in the ADG assessment the proposed development has demonstrated that 104 of 142 units achieve 2 hrs solar access to the private open space and living areas mid winter.</p> <p>Overshadowing of adjoining properties is limited to the site directly south and is discussed in the Issues section below.</p> <p><i>Internal common areas</i></p> <p>As discussed in the ADG assessment, communal corridors will have access to light and air through glazed doors and louvred windows that open onto the breezeways.</p> <p><i>Deep Soil</i></p> <p>Total deep soil area of approximately 780sqm (15%) is provided. An area with a minimum dimension of 6m is provided along the north eastern boundary. Parts of this deep soil area are 10m wide.</p> <p>The Sydney DCP 2012 requires a minimum of 10% deep soil, which is consolidated and has a minimum dimension of 10m. The deep soil area proposed is considered acceptable.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
		<p>Overall the proposal will result in an acceptable level of amenity.</p> <p><i>Common open space</i></p> <p>As discussed in the ADG assessment, 30% of communal open space is provided which complies with the DCP requirement.</p> <p><i>Acoustics</i></p> <p>The acoustic report submitted demonstrates that the noise generated by the development from traffic, mechanical plant, communal open space and music room can comply with external noise criteria and will not impact surrounding buildings. Conditions are recommended accordingly.</p> <p><i>Ventilation</i></p> <p>This is discussed in the Issues section.</p> <p><i>Unit mix</i></p> <p>The proposal provides the following unit mix -</p> <p>9 studios (6%)</p> <p>47 x 1 bedroom (33%);</p> <p>62 x 2 bedroom (44%);</p> <p>24 x 3 bedroom (17%)</p> <p>It is noted that the number of 3 bedrooms units exceeds the DCP provision which requires 10% 3 beds. This is considered acceptable.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The proposal as it presents to Bourke Street comprises two built forms, which are separated by a lower infill building setback from the main building line.</p> <p>The north-eastern elevation facing the through site link has also been divided by a central recess which articulates the building.</p> <p>The building on Kingsborough Way facing south east presents as two separate buildings where the building is linked by the open sided breezeways.</p> <p>The street frontage length of each building façade is approximately 20m and varied architectural characters and elements have been adopted for each façade.</p> <p>The scale, modulation and articulation of the facade responds appropriately to all four site frontages that are visible from the public domain.</p>
4.2.5.3 Development on busy roads and active frontages	Yes	See discussion in the Issues section.
4.2.5.4 Residential uses on the ground and first floor	No, but acceptable	<p>The proposed development satisfies the 3m primary building setback on all three street frontages. However 5 apartments facing Kingsborough Way to the south (at ground and first floor) do not achieve the required 4m setback to the glassline. This minor non-compliance of 1m is considered to be acceptable.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
		Given these apartments are located at the rear of the site and face Kingsborough Way, which will generally provide local access to the site and adjoining properties only. The 3m setback together with the proposed landscape treatment along this frontage will provide adequate separation to maintain resident privacy at ground and first floor level. The objective of the control is achieved.
4.2.6 Waste and recycling management	Yes	<p>Garbage chutes are provided for 3 of the 4 lift cores and can be accessed on all levels of the building and go down to the basement.</p> <p>Sufficiently sized waste storage areas are provided for each chute and a centralised bin collection area is located close to the loading and servicing spaces.</p> <p>The development can comply with the City's Guidelines for Waste and Recycling.</p>
4.2.7 Heating and Cooling Infrastructure	Yes	All heating and cooling infrastructure are centrally located in the basement and are accessible if need be for maintenance.
4.2.8 Letterboxes	Yes	A mail room is located within the building close to the main entrance.
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	The proposed commercial tenancy has a floor area of 123sqm. It is not anticipated that it will have an amenity impact on the surrounding residential properties.

5. Specific Areas 5.2 Green Square	Compliance	Comment
5.2.3 Community infrastructure	Yes	<p>As discussed previously the applicant has entered into a Voluntary Planning Agreement (VPA) with the City for the construction and dedication of land for footpath widening and the provision of a monetary contribution for community infrastructure to be delivered in Green Square in accordance with Clause 6.14 of the Sydney LEP 2012.</p> <p>A Deed of Variation is proposed to include a 300mm public domain setback to be dedicated to the City for footpath widening on Kingsborough Way.</p> <p>In this instance, the proposed public domain works and monetary contribution are considered acceptable with regard to the provisions of Section 5.2.3 of the SDCP 2012.</p> <p>In accordance with section 5.2.3 of the DCP, a 3m wide public domain setback for footpath widening is along the Bourke Street frontage is required.</p> <p>The applicant will undertake the works for footpath widening on Bourke Street and Kingsborough Way and dedicate the land to Council through the Voluntary Planning Agreement and Deed of Variation in accordance with Clause 6.14 of the LEP.</p>
5.2.5 Pedestrian and bike networks	Yes	<p>The development provides for a 3m public domain setback which will be dedicated for footpath widening on Bourke Street and 300mm setback for footpath widening to Kingsborough.</p>
5.2.5.2 Through site links	Yes	<p>The proposed development includes a through site link along the eastern portion of the site. As required by the DCP, entries, balconies and windows on the ground level front the through site link. There are no blank walls and the development is well designed to activate the through site link.</p>

5. Specific Areas	Compliance	Comment
5.2 Green Square		
5.2.7 Stormwater management and waterways	Yes	This issue is discussed under section 3.7 of the DCP.
5.2.9 Building design	Yes	<p>The proposed building is compatible with the surrounding area, has a cohesive architectural expression.</p> <p>The provision of the through site link provides a visual connection between Bourke Street and Kingsborough Way.</p>
5.2.10 Setbacks	Yes	<p>The proposal complies with the public domain setbacks required under 5.2.3 of the DCP and the building complies with 3m setback from the street frontages required for residential units at ground floor.</p> <p>All street frontage setbacks will be landscaped and will positively contribute to the streetscapes and the desired future character of the area.</p>

Consistency with Concept DA building envelopes (as amended) and Concept DA conditions

73. Pursuant to Section 4.24 of the Environmental Planning and Assessment Act 1979, where a concept development application for a site remains in force, a determination of any further development application in respect to that site cannot be inconsistent with the concept development consent.
74. The concept approval relating to this proposal is D/2015/98/B. As previously stated an amendment of the concept plan has been lodged alongside this detailed development application. This has been reported concurrently to CSPPC and is recommended for approval. The amendment does not significantly alter the approved envelopes.
75. The table below provides an assessment of the proposed development against the key conditions imposed on the concept development consent.
76. A Section 4.55(2) application D/2015/98/B is proposed and has been assessed concurrently to amend the building envelope to modify the location and size of the internal courtyard and basement level. Conditions 2, 4 and 11 are recommended to be amended accordingly.

No.	Condition	Assessment
Part A 1	Voluntary Planning Assessment	The proposal includes a Deed of Variation to the existing VPA to include the additional land to be dedicated on Kingsborough Way. This is discussed in detail above.
2	Approved Development	Condition 2 is recommended to be amended to refer to the amended envelope plans.
4	Compliance with VPA	As above the proposed development complies with the VPA and includes a Deed of Variation. The condition is proposed to be amended to ensure both the concept DA and the detailed DA comply with the Deed of Variation.
5	Stage 2 To Be Contained Within Approved Envelope	The detailed DA is consistent with the amended envelopes as proposed.
6	Building Height	The proposed development complies with the max RL44.70(AHD)
7	Floor Space Ratio	The proposal complies with the 2.2:1 FSR which is permitted for the development
8	Design Excellence and Competitive Design Process	A competitive design process has been undertaken and the development exhibits design excellence.
9	Basement Car Park	The basement car park is setback 4 metres from the western property boundary as required.
10	Activation Along Existing and Future Street Frontages	The ground floor interfaces with the public domain along the Bourke Street and Kingsborough Way frontages are adequately activated as required.
11	Stage 2 Development Application To Comply With Relevant Planning Controls	The detailed DA complies with all parts of the condition with the exception of parts a, b and c which relate to the ADG visual separation distances, the ADG floor to ceiling height and the requirement for 5% of the yield to be in the form of terraces or maisonettes. All three non compliance have been discussed in this report and are considered acceptable.

No.	Condition	Assessment
12	Access and Circulation	The sections of Kingsborough Way adjoining the site are now completed. All entries and ground floor apartments have access directly from the public domain.
13	Acoustic Report	Acoustics reports have been submitted which demonstrates that the development will be capable of achieving adequate levels of acoustic amenity for future occupants.
14	Acid Sulfate Soils Management Plan	An Acid Sulfate Soils Management Plan is to be submitted with the application.
15	Access and Facilities for Persons with Disabilities	The development has been designed to provide access and facilities for people with a disability in accordance with the Building Code of Australia.
21	Public Art	The public art strategy submitted is not accepted by the City's Public Art team. A condition is recommended that an updated public art strategy is submitted prior to a construction certificate.
24	Trees that must be retained	<p>Some of trees specified to be retained in the concept consent have already been removed by the City during construction of new Kingsborough Way.</p> <p>New street trees have been planted. Conditions are recommended on this consent that all existing street trees on Bourke Street and newly planted street trees on the Kingsborough Way frontages must be retained and protected during construction.</p>
30	Loading within Site	All loading and unloading operations associated with servicing the site can be carried out within the basement.
34	Electricity Substation	The siting of the substation has been relocated to the southern frontage off Bourke Street as required.

Issues

Clause 4.6 request to vary a development standard - Floor to ceiling height

77. The request seeks to vary the recommended minimum floor to ceiling heights specified in Part 4C of the Apartment Design Guide (ADG) – deemed a development standard by Clause 30 of State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65).

78. The ADG recommends a floor to ceiling height for habitable and non habitable rooms and communal areas on both ground and first floor levels in mixed uses zones to be a minimum of 3.3m.
79. The proposed ground and first floors have a minimum floor to ceiling height of 3.3m as set out in the ADG, with the exception of Level 1 in the eastern portion of the site. This non-compliant area relates to only 11 apartments (and associated circulation spaces) as shown in Figure 31 and will have a floor to ceiling height of 2.7m consistent with the requirement for habitable residential rooms.
80. It is noted that the mechanical ventilation to kitchens have been designed and located so they do not reduce the floor to ceiling height of kitchens, living rooms and bedrooms. All habitable rooms, including kitchens achieve a minimum floor to ceiling height of 2.7m.

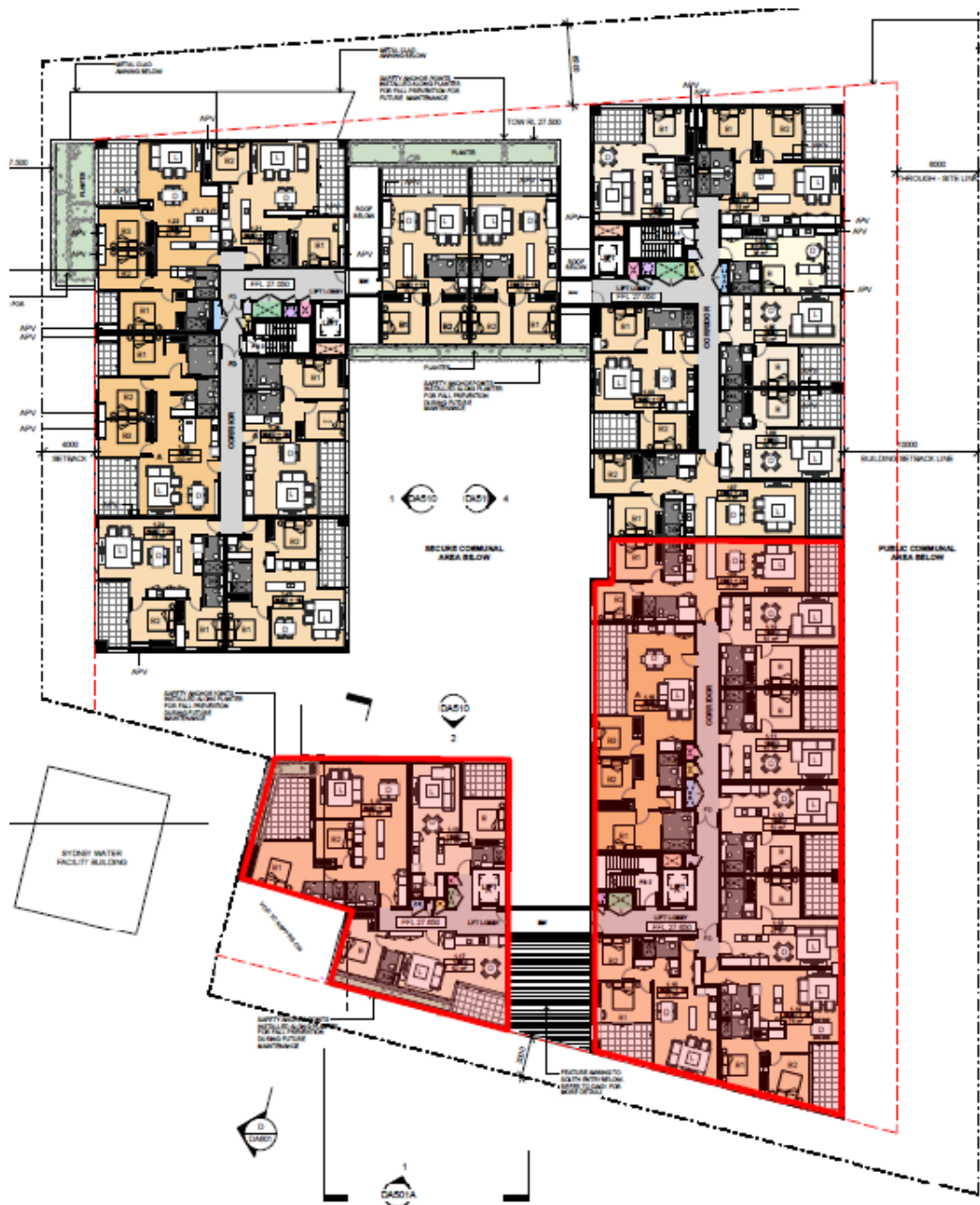


Figure 32 - Level 1 where non compliant 2.7m floor to ceiling height is proposed.

81. 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.
82. A copy of the applicant's Clause 4.6 written request is provided at Attachment D.
- Applicant's Written Request - Clause 4.6(3)(a) and (b)
83. The applicant seeks to justify the contravention of the floor to ceiling 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 objectives of the development standard are achieved notwithstanding non-compliance with the standard.
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The 2.7m floor to ceiling height in the eastern portion of the first floor is consistent with the requirement for habitable residential rooms and will therefore not compromise the amenity of future residents in terms of natural ventilation and daylight access.
 - (ii) There is flexibility to convert the lower levels to non-residential uses, with the entire ground floor and a large portion of the first floor achieving a minimum 3.3m floor to ceiling height.
 - (iii) The reduced floor to ceiling height at the first floor ensures that the development complies with the approved building envelope and Sydney LEP 2012 height limit (22m). This in turn will ensure that the building does not unreasonably overshadow surrounding properties, in particular, the site to the south.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

84. 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)?

85. The applicant's written request has adequately addressed that compliance with the floor to ceiling height standard is unnecessary in this case.

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

86. The applicant's written request has adequately addressed that there is sufficient planning grounds to justify varying the floor to ceiling height standard in this case.

Is the development in the public interest?

87. The proposed development is consistent with the objectives of Part 4C of the ADG

- *Objective 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access*
- *Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.*
- *Objective 4C-3 Floor to ceiling heights of ground and first floor levels promote flexibility of use*

88. Despite the non-compliance with the recommended ceiling heights within the first floor level, the impacted apartments achieve sufficient natural ventilation and daylight access. Apartment depths are limited to maximise ventilation and airflow and include well-proportioned rooms that meet the minimum room dimensions recommended by the ADG.

89. The entire ground floor achieves the recommended 3.3m floor to ceiling height. In addition, the ground floor commercial tenancy achieves a 4m floor to ceiling height to provide flexibility for a future café use in accordance with the ADG.

90. The non-compliant first floor area is located to the rear of the site, with separate access provided from Kingsborough Way, a street which provides local access only. The limited exposure to a main road and the surrounding residential context at the rear is unlikely to support non-residential uses at the first floor in the future in this location.

91. The proposal is also consistent with the objectives of the B4 Mixed Use zone that apply to the site.

- *To provide a mixture of compatible land uses*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To ensure the uses support the viability of centres.*

92. The proposed development includes a commercial tenancy at ground floor level and residential apartments on the ground floor and upper floor levels. These uses will contribute to the viability of the site and the wider Green Square Urban Renewal area and are compatible with the desired future land use outcomes for the precinct.

93. The site is located in close proximity to Green Square Railway Station. It is well connected to the greater Sydney metropolitan area. The provision of bicycle parking will encourage cycling and the limited vehicular parking will encourage public transport patronage.
94. The multiple uses will result in an increase in employment and housing opportunities in a highly accessible location. The development contributes to the commercial uses in the locality with a commercial tenancy on the prime street corner.

Conclusion

95. For the reasons provided above the requested variation to the floor to ceiling height 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 Part 4C of the Apartment Design Guide (ADG) and the B4 Mixed Use zone.

Overshadowing

96. Both the ADG and DCP require overshadowing to adjoining properties to be minimised and that private open space and living areas are to receive a minimum of 2 hours' solar access mid-winter.
97. Sun eye diagrams submitted demonstrate there will be some overshadowing impacts on adjoining residential flat building directly to the south between 9.00am and 3.00pm mid-winter. Sections of the bottom two levels of the development directly to the south at 6 Kingsborough Way will be overshadowed at different times throughout the day. Objective 3B-2 of the ADG recommends solar access to neighbouring properties is not reduced by more than 20%.
98. Eight of the units that currently get two hours' solar access mid-winter will not get a full two hours. Two units of the eight units will get no solar access between 9.00am and 3.00pm mid-winter. The other six units will get between 30 minutes and one hour solar. The diagrams below show in purple the units overshadowed but still receive two hours of sun mid-winter and in orange the units that do not receive two hours of sun mid-winter.

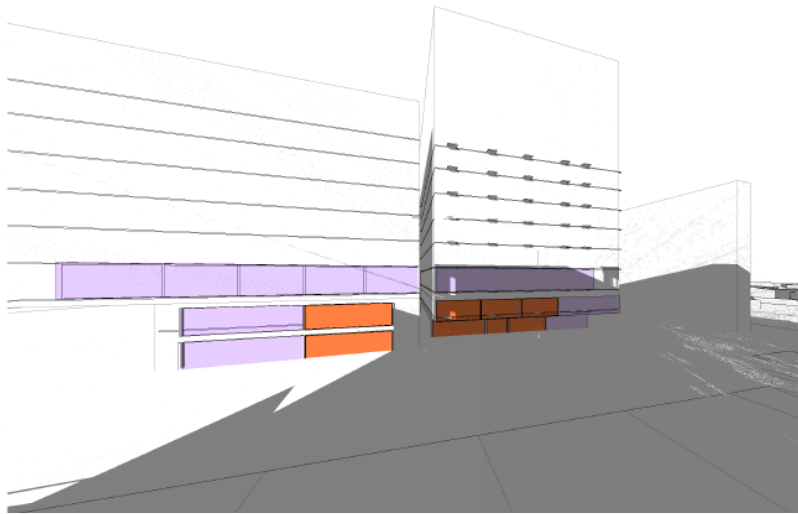


Figure 33 - Overshadowing of building to the south at 9.00am mid winter



Figure 34 - Overshadowing of building to the south at 2.45pm mid winter

99. Due to the location of this site being due south of the proposed development some overshadowing of the lower levels is inevitable. The proposed development complies with the 22m height LEP control and provides a setback of 3m from Kingsborough Way on the southern frontage.
100. The building form at the south of the site is broken in two elements connected by an open sided breezeway which reduces the bulk of the building and associated overshadowing on the development to the south.
101. Removing or further setting back of the sixth storey on the southern frontage is not considered to be warranted in this instance as solar access to the bottom levels would still not be achieved.
102. The overall overshadowing impact of the development and non compliance is considered acceptable in this instance.

Impact on Heritage Conservation Area

103. The site is separated from the Zetland Estate heritage conservation area to the north by Bourke Street which is 19.7m wide. The proposed 6 storey 22m building will be setback a further 6m from the existing site boundary on Bourke Street (3m public domain setback plus an additional 3m). The development will not have any overshadowing impacts and limited overlooking opportunities on the low scale (single-storey) dwellings located on the northern side of Bourke Street within the Zetland Estate heritage conservation area.
104. The height, scale, setbacks and design of the building is acceptable in the context of the adjacent heritage item directly across the road at 866-882 Bourke Street.

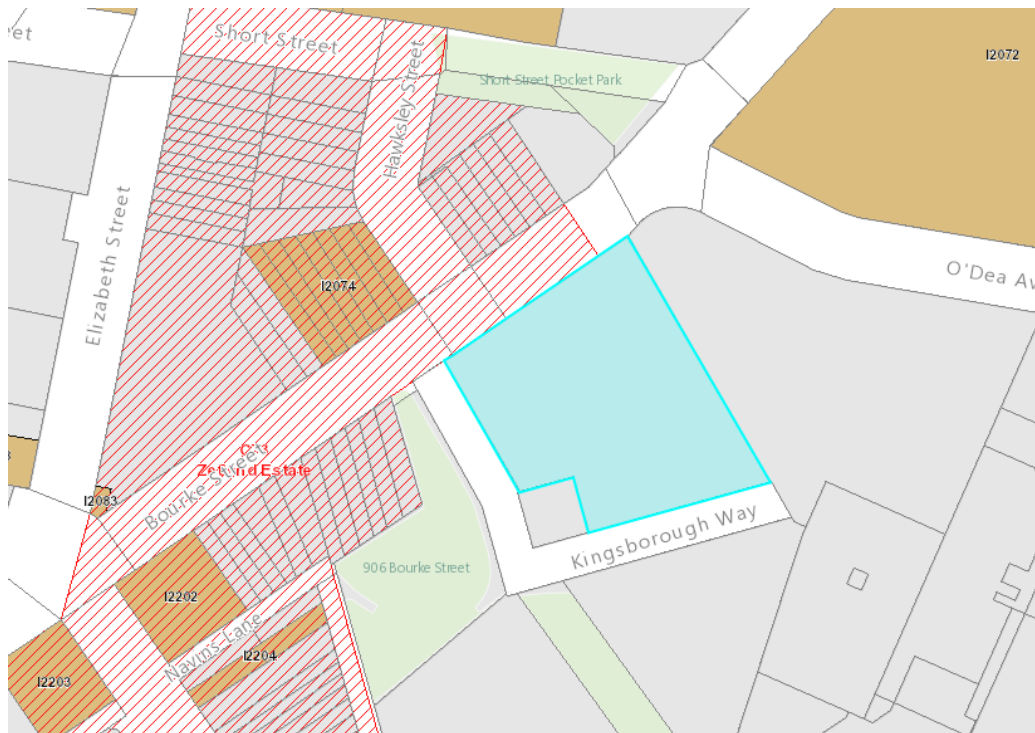


Figure 35 - Plan showing Zetland heritage conservation area and nearby heritage items in relation to the subject site

105. The site is separated from the heritage conservation area to the west by Kingsborough Way and the new public park. The proposed building is setback 4m from the Kingsborough Way frontage so is setback approximately 24m from the nearest terrace to the west.
106. The Sydney DCP controls recommend that existing residential development receive a minimum of 2 hours solar access between 9.00am and 3pm mid winter to living areas and private open space. The sun eye and shadow diagrams submitted show that some overshadowing of the terraces to the west will occur in the morning between 9.00am and 10.15am mid winter. The windows, private open space and solar panels on the dwellings to the west will not be overshadowed by the proposed development after 10.15am and will receive solar access for 4 hours 45mins between 9.00am and 3.00pm mid winter.

107. The bulk of the development has been reduced on the south western corner by a providing setback and stepping the building down towards the adjoining Sydney Water building to the south, as recommended in the design competition report. The bulk and scale of the building as viewed from the park and the heritage conservation area is considered acceptable.



Figure 36 - Proposed western elevation



Figure 37 - Photomontage of development viewed from the west

108. The application was discussed with Council's Heritage Advisor who is satisfied that the proposed development will not have any adverse impact on the heritage conservation area.

Traffic Impacts

109. A traffic impact assessment is provided with this application and demonstrates that the proposed development will generate a minor increase to traffic volumes on local street network from the 4000sqm commercial premises that previously operated from the site.

110. 121 car parking spaces will be provided within the development which is consistent with the maximum number of car parking spaces permitted under the Sydney LEP 2012. Waste collection and servicing will occur within the basement and will not occur on the street. Subject to recommended conditions, the proposed vehicle access, servicing and parking arrangements will comply with Council's requirements.
111. The development proposes 162 bicycle parking spaces on site and is well connected by the existing shared pedestrian/bike paths to the city and surrounding areas. This will encourage the use of bicycle facilities for residents and visitors to the site.
112. The site is located approximately 400m from Green Square train station and is serviced by a number of bus routes on Bourke Street, O'Dea Avenue, Botany Road and Joynton Avenue.
113. It is not considered that the development will have any significant adverse impact on traffic on the road network once complete.

Visual Privacy Within the Site

114. The ADG requires development within the same site to be setback a minimum of 6m at ground level up to the fourth storey and 9m for the storeys above between habitable rooms and balconies. This was an issue raised in the design competition report to be resolved.
115. Although the proposed internal courtyard is 18m wide and 30m long, there are some pinch points at the corners of the building and areas between the breezeways that do not comply with the recommended ADG separation distances.
116. The proposal includes privacy screening as a means of achieving the intent of building separation provisions. 150mm thick vertical screens are designed to be fixed in position angled to avoid direct overlooking between apartments and directing views into the internal courtyard and/or to the street frontages.

117. The diagrams below show the locations of the proposed privacy screening.

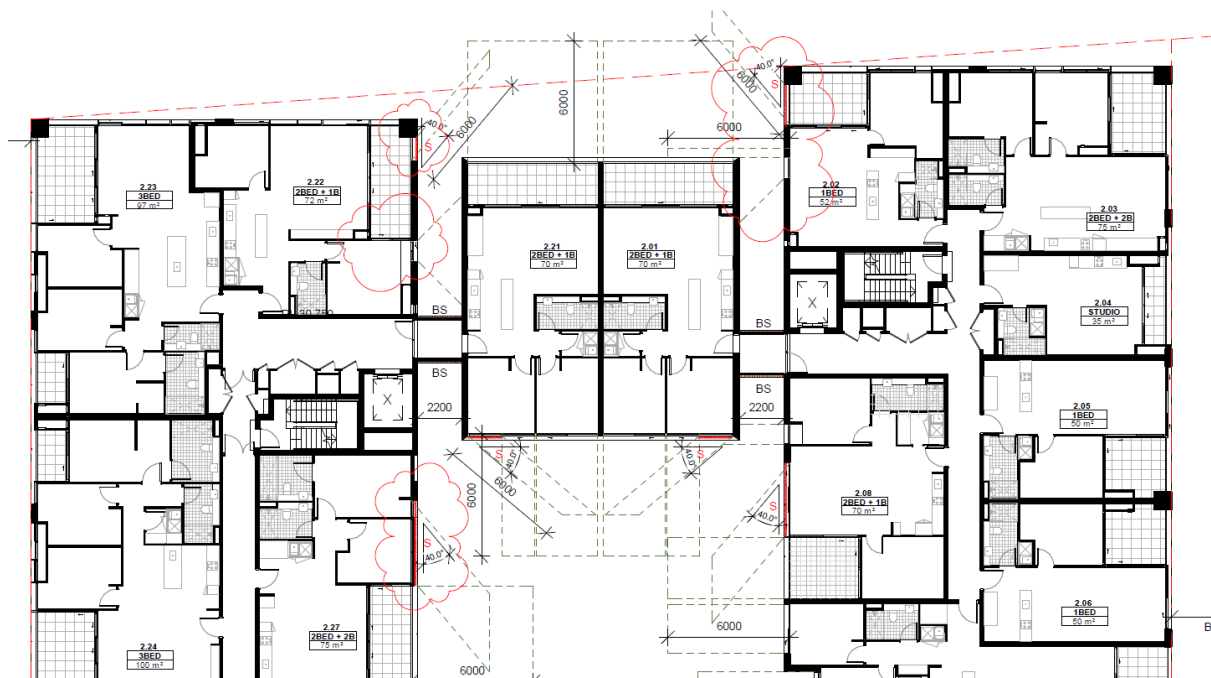


Figure 38 - Windows on northern portion of the building where screens are required at corners

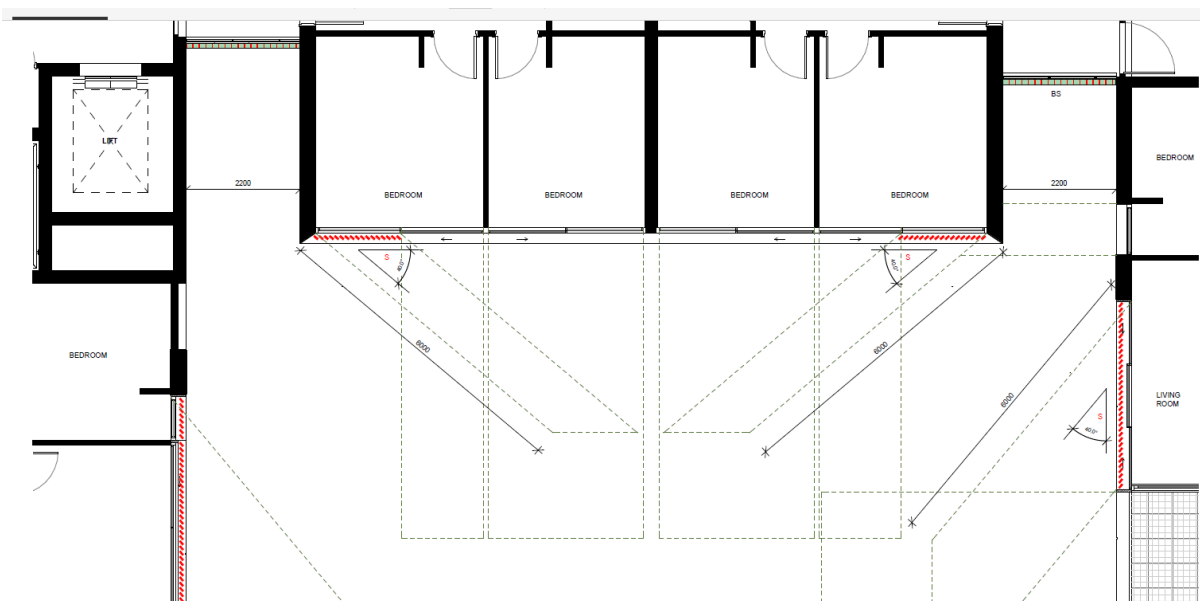


Figure 39 - Vertical louvres are proposed on windows facing the internal courtyard

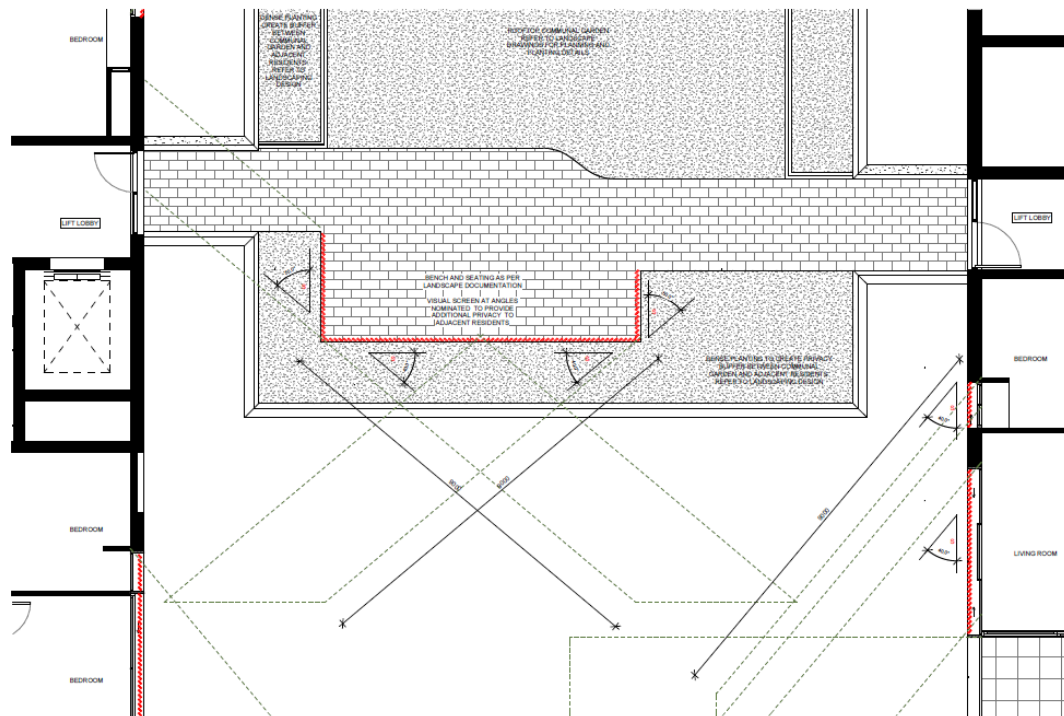


Figure 40 - Similar screening proposed on Level 5 roof terrace to prevent overlooking to nearby windows

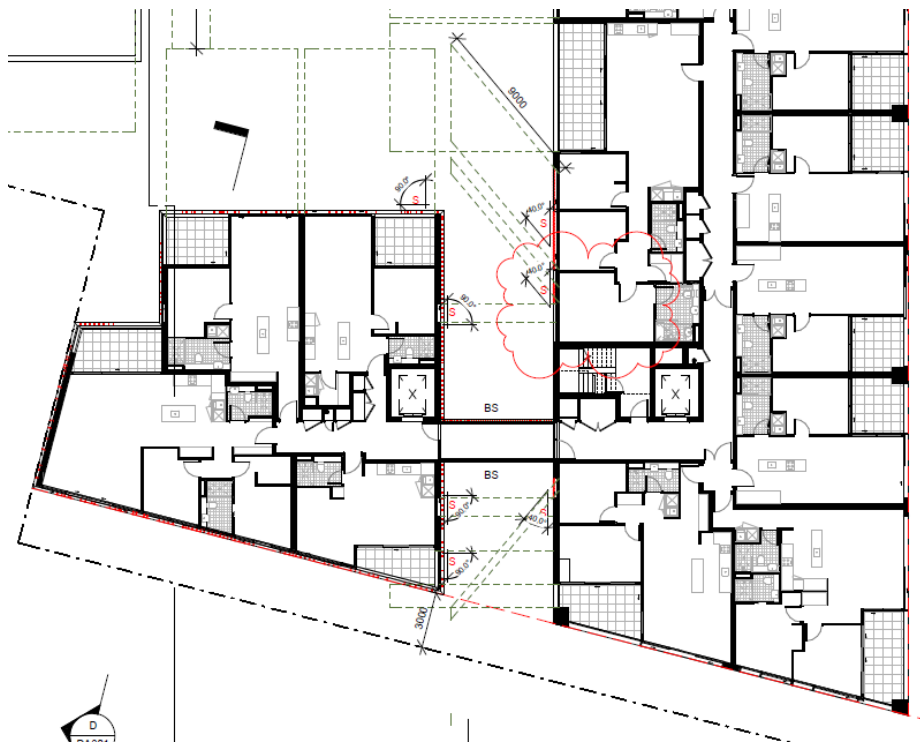


Figure 41 - Southern portion of building where vertical louvres are proposed

118. The use of privacy screening is limited to the pinch point of the building and is considered appropriate. The screening will ensure that visual privacy between apartments is achieved while maintaining an appropriate outlook for future residents. The screening will not impact ventilation or solar access compliance of the development.
119. Visual privacy of units close to the two breezeways on the northern portion of the building will be obscured through the same vertical louvres.
120. The screening has been integrated into the design of the building and are a positive feature.



Figure 42 - Perspective of the breezeway with louvres and opening for light and ventilation

121. It is considered that the separation distances and screening devices as proposed are acceptable and that visual privacy between the units, the Level 5 communal open spaces and the breezeways can be achieved.

Visual privacy from through site link

122. The DCP requires residential at ground level to be 1m above the level of the adjoining public domain to ensure privacy to the adjoining private open space and units is maintained. The majority of the units at ground floor fronting the streets are level or above the level of the public domain. However, some of the ground floor units along the eastern side of the site facing the through site link are slightly below the adjoining ground level.

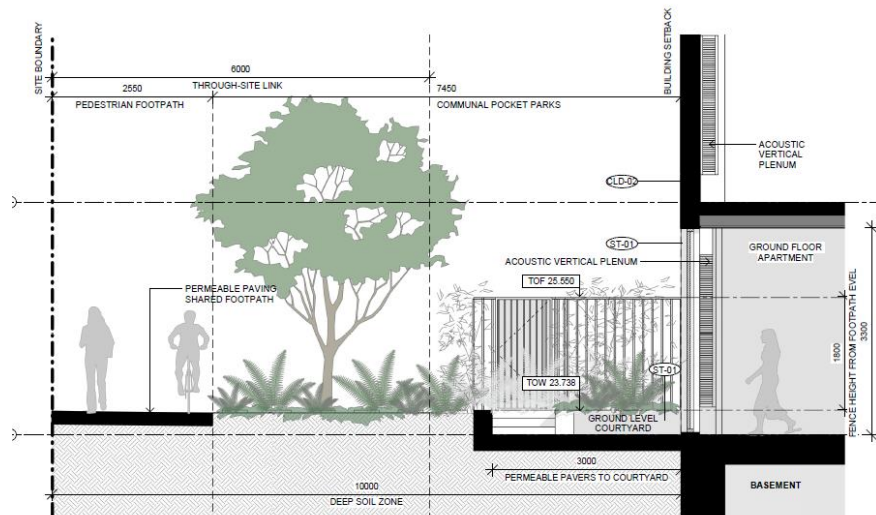


Figure 43 - Proposed section of through site link at north eastern corner

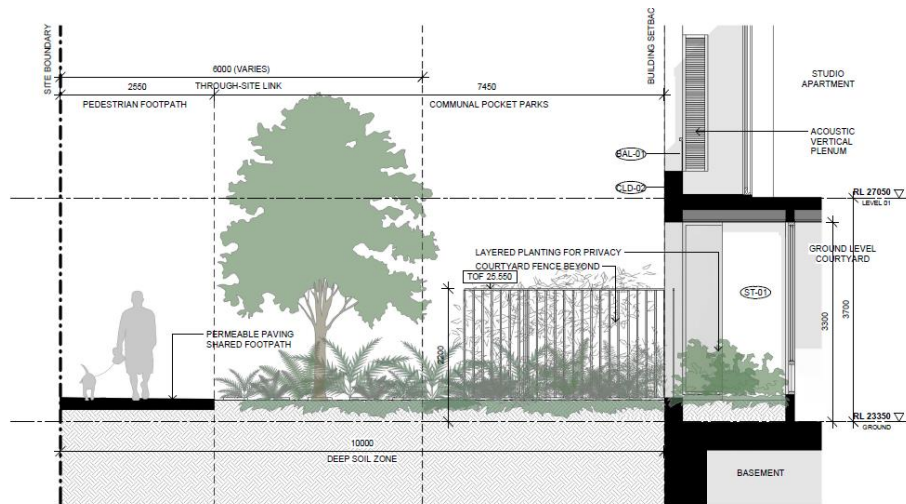


Figure 44 - Proposed section of through site link at south eastern corner

123. Landscaped areas between 4m and 10m wide are proposed along the through site link. These are deep soil areas and will allow for larger trees and plantings and will provide adequate separation and screening between the publicly accessible through site link and the ground floor residential units.
124. The proposal achieves intent of the DCP control and the entry level and private open space is considered acceptable.

Acoustics and Natural Ventilation

125. The SEPP Infrastructure 2007 mandates that the NSW Department of Planning Development near Rail Corridors and Busy Roads – Interim Guideline be applied to any residential developments located near roads with an annual average daily traffic volume greater than 20,000. Based on the RMS data the average daily traffic volume along Bourke Street is approximately 24,000 vehicles.

126. The development also needs to satisfy the requirements of the Sydney DCP for development on busy roads. The Sydney DCP 2012 outlines criteria for internal noise levels in residential developments to ensure that occupants have an acceptable level of amenity in noisy environments. Compliance guidance is provided within the City of Sydney's Draft Alternative Natural Ventilation of Apartments in Noise Environments – Performance Pathway Guideline.
127. Due to the internal noise level conditions applicable to the development, an alternative means of natural ventilation is required to habitable spaces as the development cannot meet the DCP criteria for internal noise if windows are open.
128. An acoustic assessment report that relates specifically to the alternate ventilation solution has been submitted. The report recommends 58 of the 142 units are noise impacted and require plenums. Two different types of vertical plenums are required to supply air to the bedrooms and living rooms in the impacted units the details of which are provided in Figures 45 and 46 below.

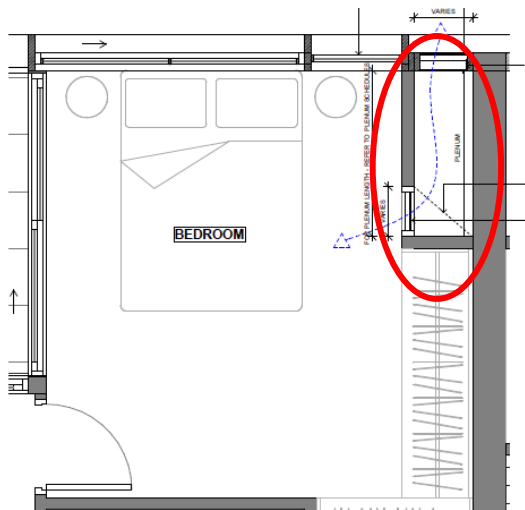


Figure 45 - Typical location and size of vertical plenum

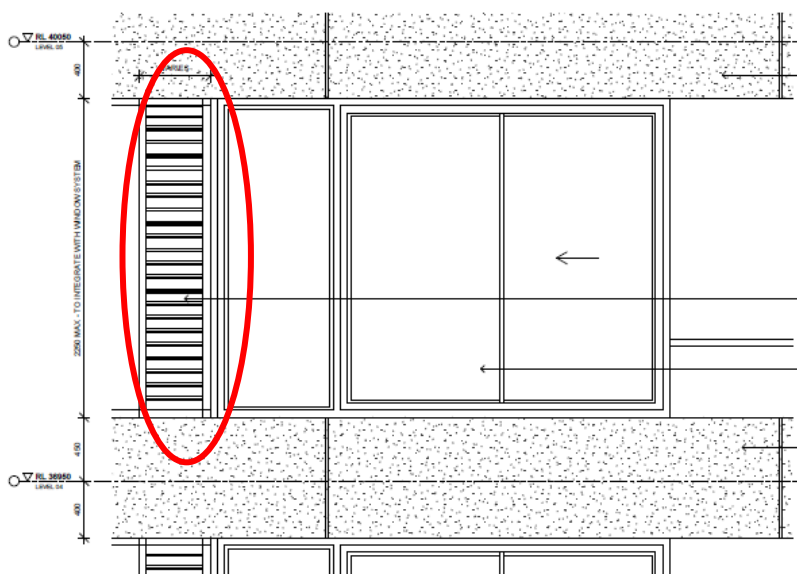


Figure 46 - Plenum in elevation integrated into the building facade

129. An amended natural ventilation report has also been submitted and was reviewed by an external ventilation consultant on behalf of the City. The consultant deems the natural ventilation strategy and proposed plenums design acceptable and allows the development to meet the requirements of the ADG and DCP for natural ventilation.
130. The architectural plans have been updated to show the location of the plenums. Both the acoustic report and natural ventilation report will be approved as part of the consent to ensure plenums are constructed and installed in accordance with the specific details in approved reports.
131. The plenums like the screening have been successfully integrated into the building facades.

Design Excellence

132. The proposal is the winner of a competitive design process and has retained the key elements of the winning proposal. The development has been amended to address recommendations of the design competition jury report and the issues raised by the City staff and the Design Advisory Panel.
133. The amended development is considered to achieve a high standard of architectural design. The development as two main built forms running north-south, with two smaller infill buildings breaks up the massing and bulk of the development. The proposed depth and contrast across the facades of the development articulate the built form and together with the 'stepped' built form to the public park, provides visual interest when viewed from the public domain.
134. The materials and detailing as proposed are appropriate to the building type and location of the site.
135. The form and external appearance of the proposed development will improve the quality and amenity of the public domain with active street edges. Further, the public domain is enhanced with a pedestrian through-site link.
136. The proposed commercial and residential uses are compatible with the existing and proposed future uses in Green Square.
137. The proposal achieves environmental sustainable design through passive and active design elements, including orientation, glazing, operable windows and screening on the façade. Energy efficient fixtures and appliances will assist in reducing the environmental building footprint.
138. The public domain will be improved with the widened footpaths along Bourke Street and Kingsborough Way and proposed commercial tenancy at the north-west corner of the site. The ground level public domain interface will be improved along Bourke Street through the provision of a commercial tenancy, residential lobby and new apartments facing the street. The ground floor has been amended so the main residential entry to Bourke Street is at a similar level to the public domain.
139. A high quality landscape design is proposed for both the private and public spaces.

140. The amended proposal achieves a very high level of compliance with the ADG, Sydney LEP 2012 and Sydney DCP 2012. The proposal is considered to exhibit design excellence as required by clause 6.21 of Sydney LEP 2012 and is recommended to be awarded up to an additional 10% floor space.

Other Impacts of the Development

141. 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

142. The proposal is of a nature in keeping with the overall function of the site. The development is in a mixed use area and is surrounded and amongst similar uses to that proposed.

Internal Referrals

143. The application was presented to the City's Design Advisory Panel. Issues raised by the panel included have been addressed by the amended proposal.
144. The conditions of other sections of Council have been included in the proposed conditions.
145. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Public Domain; Flood Engineer; Acoustic Specialist; Ventilation Specialist; Safe City; Surveyors; Transport and Access; Tree Management; Waste Management; who advised that the proposal is acceptable subject to the recommended conditions.

External Referrals

Notification, Advertising and Delegation

146. The application constitutes integrated development and as such the application was notified and advertised for 41 days between 13 December 2017 and 22 January 2018 in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this notification 12 submissions were received (including a survey answered by 13 residents). The issues raised in the submissions are summarised as follows:

(a) *Excessive height, density, bulk and scale*

Response - The development complies with the 22m and 6 storey height controls applicable to the site. The development complies with the floor space ratio and provides compliant setbacks from all three street frontages and a generous 10m setback from the adjoining site to the east.

The bulk and scale of the proposed development is appropriate for its context.

- (b) *Impact on the heritage conservation area particularly overshadowing and overlooking*

Response - Discussed in the Issues section above.

- (c) *Traffic impacts and pressure on public transport in the area*

Response - Discussed in the Issues section above.

- (d) *Setback of development from Bourke Street*

Response - The development provides a 3m public domain setback for footpath widening and the building will be setback a further 3m from the new site boundary. This complies with the DCP controls and is considered acceptable.

- (e) *Use of the music room*

Response - The music room has been relocated from Level 5 to the ground floor facing Bourke Street. The music room will be used by residents of the development only. It is not anticipated that noise generated in the communal music room will have any impact on surrounding residential properties. This room will be acoustically attenuated.

- (f) *Impact on the water table*

Response - The application was referred to Water NSW who have granted General Terms of Approval for the excavation. These are included as recommended conditions. It is not anticipated that there will be any impact on surrounding properties as a result of the excavation and penetration of the water table.

- (g) *Noise and pollution and impact on residents during construction*

Response - It is acknowledged that additional construction traffic and noise is anticipated while the development is under construction. Standard conditions of consent are recommended to manage and mitigate where possible noise and emissions associated with construction traffic and works. Such conditions include but are not limited to restricting construction hours and loading and unloading on site, requirement for a separate construction traffic management plan and construction noise and vibration management plan to be submitted, conditioning the use of noise intrusive machinery, conditions to ensure the public footpaths are kept clear etc.

When breaches of the recommended conditions including matters regarding illegal parking of construction vehicles are evident residents are encouraged to report these to the City.

- (h) *Concern with notification of application being done over the Christmas period*

Response - The application was notified for 41 days from 13 December 2017 to 22 January 2018. The notification period was extended by 11 days due the notification occurring over the Christmas period. This is consistent with the DCP requirements and is considered sufficient time for submissions to be lodged.

(i) General overdevelopment of Zetland

Response - The site and surrounding area is located in the Green Square urban renewal area. The site is proposed to be developed in accordance with the City's strategic vision for the area and complies with all the key planning controls relevant to the site.

Public Interest

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

Section 7.11 Contribution

148. The development is subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015.

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

Open space	\$1,511,835.91
Community facilities	\$ 309,464.14
Traffic and transport	\$ 186,636.38
Stormwater and drainage	\$ 73,830.49
Total	\$2,081,766.93

150. While the final use of the commercial tenancy is unknown, it is considered likely it will be a food a drink premises, and contributions have been calculated on that basis.
151. The calculation includes a credit for the existing light industrial building on the site based on a GFA of 4,708sqm.
152. A condition requiring payment of the contribution is recommended.

Affordable Housing Contribution

153. Pursuant to clause 7.13 of Sydney LEP 2012 and the Green Square affordable housing program, the development is subject to an affordable housing contribution (to be indexed at the time of payment). This figure totals \$3,436,139.70 and is broken down as follows:

- \$3,427,362.50 (\$214.17 per square metre, with a total area of 16,003m² for residential floor area);
- \$8,777.28 (\$71.36 per square metre, with a total area of 123m² for non residential floor area).

154. A condition requiring payment of the affordable housing contribution is recommended.

Relevant Legislation

- 155. Environmental Planning and Assessment Act 1979
- 156. Environmental Planning and Assessment Regulations 2000
- 157. Water Management Act 2000
- 158. Roads Act 1993

Conclusion

- 159. The application seeks consent for the demolition of existing buildings, excavation, remediation and the construction of a 6 storey mixed used development with two levels of basement car parking, comprising 142 apartments, 1 ground floor commercial tenancy, and landscaping works
- 160. The proposal is consistent with the amended concept approval for the site, being D/2015/98/B.
- 161. Subject to the implementation of conditions, it is considered that the proposed development is generally compliant with the relevant planning controls for the site. In the instance where the numeric compliance with the controls is not achieved for floor to ceiling height and internal separation distances there is considered to be reasonable justification to support the variation.
- 162. It is recommended that development application D/2017/1672 is approved subject to conditions in Attachment A.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Aisling McGrath, Area Planning Coordinator